



Ohio Revised Code

Section 5165.82 Residents to whom denial of medicaid payments applies.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A) An order issued under section 5165.72, 5165.73, 5165.74, 5165.77, or 5165.84 of the Revised Code denying medicaid payments to a nursing facility for all medicaid eligible residents admitted after its effective date, or an order issued under section 5165.72, 5165.73, or 5165.74 of the Revised Code denying medicaid payments to a nursing facility for medicaid eligible residents admitted after the effective date of the order who have specified diagnoses or special care needs, shall also apply to individuals admitted to the facility on and after the effective date of the order who are not medicaid eligible residents but become medicaid eligible residents after admission. Such an order shall not apply to any of the following:

- (1) An individual who was a medicaid eligible resident of the facility on the day immediately preceding the effective date of the order and continues to be a medicaid eligible resident on and after that date;
- (2) An individual who was a resident of the facility on the day immediately preceding the effective date of the order, continues to be a resident on and after that date, and becomes medicaid eligible on or after that date;
- (3) An individual who was a medicaid eligible resident of the facility prior to the effective date of the order, is temporarily absent from the facility on that or a subsequent date due to hospitalization or participation in therapeutic programs outside the facility, and chooses to return to the facility;
- (4) An individual who was a resident of the facility prior to the effective date of the order, is temporarily absent from the facility on that or a subsequent date due to hospitalization or participation in therapeutic programs outside the facility, becomes medicaid eligible on or after that date, and chooses to return to the facility.

(B) An order issued under section 5165.72 of the Revised Code denying medicaid payments to a nursing facility for all medicaid eligible residents admitted after its effective date, or denying



medicaid payments to a facility for medicaid eligible residents admitted after the effective date of the order who have specified diagnoses or special care needs shall not take effect prior to the fifth day after the order is delivered to the facility. Such an order issued under section 5165.73 or 5165.74 of the Revised Code shall not take effect prior to the twentieth day after it is delivered to the facility.

(C) No nursing facility that has received an order under section 5165.72, 5165.73, 5165.74, 5165.77, or 5165.84 of the Revised Code denying medicaid payments for all new admissions of medicaid eligible residents shall admit a medicaid eligible resident on or after the effective date of the order, unless the resident is described in division (A)(3) or (4) of this section, until the order is terminated pursuant to this section. No nursing facility that has received an order under section 5165.72, 5165.73, or 5165.74 of the Revised Code denying medicaid payments to a nursing facility for new admissions of medicaid eligible residents with specified diagnoses or special care needs shall admit such a resident on or after the effective date of the order, unless the resident is described in division (A)(3) or (4) of this section, until the order is terminated pursuant to this section.

(D) In the case of an order imposed under division (B) of section 5165.84 of the Revised Code, the department or agency shall appoint monitors in accordance with section 5165.70 of the Revised Code to conduct on-site monitoring.

(E)(1) A facility may give written notice to the department of health whenever any of the following apply:

(a) With respect to an order denying payment issued under section 5165.72, 5165.73, or 5165.74 of the Revised Code, either of the following is the case:

(i) The facility has completed implementation of the plan of correction it submitted under section 5165.69 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(ii) The facility has reduced the severity or scope of all of the deficiencies to a level at which sections 5165.72 to 5165.74 of the Revised Code do not authorize the order.



(b) With respect to an order denying payment issued under section 5165.77 of the Revised Code, the facility has eliminated the immediate jeopardy.

(c) With respect to an order denying medicaid payments issued under division (A) of section 5165.84 of the Revised Code, the facility has completed implementation of the plan of correction it submitted under section 5165.69 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(d) With respect to an order denying medicaid payments issued under division (B) of section 5165.84 of the Revised Code, both of the following are the case:

(i) The facility has completed implementation of the plan of correction it submitted under section 5165.69 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(ii) The facility is in compliance with certification requirements and has provided adequate assurance that it will remain in compliance with them.

(2) Within ten working days after it receives the notice under division (E)(1) of this section, the department of health shall conduct a follow-up survey that focuses on the cited deficiency or deficiencies, unless the department is able to determine, on the basis of documentation provided by the facility, that the facility has completed the applicable action described in divisions (E)(1)(a) to (d) of this section. If the department of health makes that determination on the basis of the documentation, the department of medicaid or contracting agency shall terminate the order denying medicaid payments as of the date the facility completed the applicable action, as subsequently verified by the department of health. If the department of health conducts a follow-up survey, the department of medicaid or contracting agency shall terminate the order denying medicaid payments as of the date the department of health makes the determination that the facility completed the applicable action.

(F) The department of medicaid or contracting agency shall provide public notice implementing an order under section 5165.72, 5165.73, 5165.74, 5165.77, or 5165.84 of the Revised Code denying medicaid payments to a nursing facility for all medicaid eligible residents by publishing in a



newspaper of general circulation in the county in which the facility is located an announcement stating: "By order of the (Ohio Department of Medicaid or name of contracting agency), effective on and after (effective date of order), (name of facility) is no longer authorized to admit Medicaid eligible residents." Immediately following termination of any such order, the department or agency shall publish in a newspaper of general circulation in the county in which the facility is located an announcement stating: "By order of the (Ohio Department of Medicaid or name of contracting agency), effective on and after (effective date of termination), (name of facility) is hereby authorized to admit Medicaid eligible residents." Neither the department nor the contracting agency shall issue public notice of an order under section 5165.72, 5165.73, or 5165.74 of the Revised Code denying payment to a nursing facility for medicaid eligible residents with specified diagnoses or special care needs; public notice is not required for such an order to take effect.

(G) A facility that complies with division (E) of this section shall not be considered to have admitted to the existence of the deficiency that constitutes the basis of the department's or agency's order.