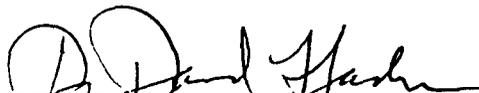


EXTENSION TO THE
INTERAGENCY AGREEMENT BETWEEN
THE OHIO DEPARTMENT OF HUMAN SERVICES
AND THE
OHIO DEPARTMENT OF HEALTH
FOR THE
CERTIFICATION OF LONG-TERM CARE FACILITIES

Pursuant to Section V. General Provisions, Paragraph E., the interagency agreement between the Ohio Department of Human Services and the Ohio Department of Health relating to the certification of long-term care facilities is hereby extended to provide for the continuation of the agreement until such time as the agreement is terminated in accordance with conditions mutually agreed upon by both parties.

EXECUTED THIS 1ST DAY OF JULY, 1985.



DAVID L. JACKSON, DIRECTOR
OHIO DEPARTMENT OF HEALTH



PATRICIA K. BARRY, DIRECTOR
OHIO DEPARTMENT OF HUMAN SERVICES

HCFA-179 # 85-36 Date Rec'd 10/7/85
Supercedes _____ Date Appr. 10/24/85
State Rep. In. _____ Date Eff. 7/1/85

**OHIO DEPARTMENT OF HUMAN SERVICES
AND
THE OHIO DEPARTMENT OF HEALTH
FOR
THE SURVEY AND CERTIFICATION OF LONG-TERM CARE FACILITIES,
ENFORCEMENT, AND
RESIDENT ASSESSMENT DATA COLLECTION
INTERAGENCY AGREEMENT
A-00-07-262**

**I.
PURPOSE**

This agreement is entered into by the Ohio Department of Human Services, (hereinafter Human Services), and the Ohio Department of Health, (hereinafter Health), for the purpose of defining the responsibilities of the two parties as they relate to Human Services' administration of the Ohio Medical Assistance program (hereinafter the Medicaid program), Health's survey and certification of long-term care facilities, enforcement actions against long-term care facilities with deficiencies, and activities regarding resident assessment data collection and use.

**II.
AUTHORITY**

This agreement is written in accordance with and pursuant to:

- Sections 1902(a)(5), 1902(a)(9), 1902(a)(33), 1819 and 1919(h)(2) of the Social Security Act as amended;
- 42 CFR, Part 431, Subpart A and M;
- 42 CFR, Part 442, Subpart A;
- 42 CFR, Part 483 & Part 488;
- The Ohio State Plan for Medical Assistance, as authorized by Section 5111.01 of the Revised Code; and
- Sections 3721.022, 3721.52, 5111.37, and 5111.38 of the Revised Code.

**III.
RESPONSIBILITIES AND DUTIES OF HUMAN SERVICES**

A. General

In accordance with Section 1902(a)(5) of the Social Security Act, as amended, 42 CFR 431.610, and the Ohio State Plan for Medical Assistance, and pursuant to Section 5111.01 of the Revised Code, Human Services is designated as the single state agency responsible for supervising the administration of the Medicaid program under Title XIX of the Social Security Act.

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Survey, Certification and Complaints

Human Services shall perform the following duties relating to the certification process for long-term care facilities:

1. Accept and refer to Health applications submitted by long-term care facilities requesting certification and participation in the Medicaid program.
2. Receive, review, and process all certification and transmittal forms submitted by Health to ensure the timely certification and recertification of long-term care facilities.
3. Issue provider agreements in accordance with the certification of compliance set forth by Health (or if a Medicare-participating facility, the U.S. Department of Health and Human Services, hereinafter referred to as DHHS.) This shall not be construed to prevent Human Services from refusing to execute a provider agreement, or from canceling an agreement with a certified facility, if it has determined that such an agreement would not be in the best interests of the recipients or of the State in accordance with the Ohio Revised Code and Administrative Code, or the facility has failed to meet the civil rights requirements set forth in 42 CFR Part 488.8 and 45 CFR Parts 80, 84 and 90, or other pertinent statutes or regulations.
4. Notify Health in a timely fashion of all issuances, assignments, amendments, expirations, terminations, and denials of provider agreements.
5. Receive, process, and refer to Health any complaints regarding alleged violations of certification standards, including, but not limited to, hazards to the health and safety of residents in long-term care facilities participating in the Medicaid program.
6. Receive, process, and investigate or refer to Health for investigation complaints alleging violation of a civil rights requirement by a long-term care facility.
7. Accept and evaluate recommendations from Health following Health's investigation of a long-term care facility's alleged violation of civil rights.
8. Certify state funds available and submit to HCFA, with a copy to Health, quarterly estimates of expenditures by the forty-fifth (45th) day before the beginning of the quarter covered by the report. Human Services shall also submit to HCFA, Quarterly Expenditure Reports by the thirtieth (30th) day following the end of the quarter.
9. Notify Health when Human Services identifies any discrepancies in a facility's number of certified beds.
10. Notify Health when Human Services received an initial notice from a facility about a change in the legal entity operating the facility, including sales, leases, corporate mergers, partnership changes, and stock exchanges.

C. Enforcement

Human Services shall perform the following duties relating to the enforcement process for long-term care facilities.

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1. Human Services will develop any rules or procedures necessary for the functions listed in Section III (C)(2) to Section III (C)(10) of this agreement in coordination with Health.
2. Human Services will establish, maintain, and administer the Residents Protection Fund created by Section 5111.62 of the Revised Code. Human Services, in coordination with Health and the Ohio Department of Aging, will develop rules for maintenance and administration of the Fund and will adopt those rules in accordance with Chapter 119 or Chapter 111 of the Revised Code.
3. Human Services will collect fines and interest imposed by Health in accordance with applicable federal and state law and regulation.
4. Human Services will withhold Medicaid payments for Medicaid-eligible residents of nursing facilities when Health has issued an order denying payment in accordance with applicable federal and state law and regulation.
5. Human Services will determine whether Medicaid provider agreements may be issued to nursing facilities under reimbursement-related statutes and rules of the Administrative Code.
6. Human Services will issue, deny, and terminate provider agreements to nursing facilities in accordance with Health's decisions regarding the facilities' certification under applicable federal and state law and regulations, guidelines, and procedures, subject to the facilities' compliance with the reimbursement-related requirements referenced in Section III (C)(5) of this agreement. Human Services will not provide facilities with adjudication hearings when Health terminates their Medicaid participation.
7. Human Services will make available or deny reimbursement to nursing facilities during appeals of Health enforcement actions in accordance with applicable state and federal law and regulation.
8. Human Services will decide reimbursement issues arising from operation of nursing facilities by temporary managers and special masters.
9. Human Services will arrange for transfer of residents of nursing facilities when they are closed or their Medicaid participation is terminated under applicable federal and state law and regulation.
10. Human Services will monitor and oversee Health's operation of enforcement by:
 - a. Reviewing the monthly report on enforcement action taken required by Section IV(E)(15) of this agreement. Health shall submit this report to Human Services upon commencement of enforcement activity.
 - b. Reviewing compliance with the terms of this agreement, including hiring and training of staff to perform enforcement-related functions, submission to Human Services of specified reports, and completion of documentation that allows Human Services to issue provider agreements as required by applicable state and federal law and regulation.
 - c. Reviewing Health's budgets and expenditures related to enforcement activities, insofar as federal funding of this function is concerned.

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Reimbursement

In consideration of the services rendered in accordance with a currently effective interagency agreement, Human Services shall reimburse Health, upon proper invoicing and preparation of intra-state transfer vouchers (ISTV), the Federal share of the actual costs allowable under applicable federal regulations and guidelines associated with the performance of Health's duties and responsibilities.

This amount shall not exceed the level of federal financial participation available for the execution of this agreement; such reimbursement may not exceed the amount of the federal survey and certification grant for federal fiscal years 2000 and 2001. Health shall submit the ISTV'S to Human Services' Office of Fiscal Services.

E. Notification of changes to Ohio Administrative Code

Human Services shall notify Health of rule changes related to this agreement no later than ten (10) days before initial filing of said rules with the Joint Committee on Agency Rule Review.

**IV.
RESPONSIBILITIES AND DUTIES OF HEALTH**

A. General

1. In accordance with Sections 1902(a)(9) and (33) of the Social Security Act, 42 CFR 431.610, Section 3721.022 of the Revised Code, and the Ohio State Plan for Medical Assistance, Health is designated as the state health standard setting authority and state health survey agency responsible for certifying and determining compliance of long-term care facilities with the requirements for participation in the Medicaid program.
2. As the designated survey agency, Health shall perform the following duties specifically related to the survey and certification of skilled nursing facilities (SNFs), or nursing facilities (NFs), and intermediate care facilities for the mentally retarded/developmentally disabled(ICF-MR).
3. In accordance with 42 CFR Part 488, Subparts A, E, and F and 42 CFR Part 431, Subpart M, conduct on-site surveys as frequently as required by Medicaid statutes and regulations to determine compliance.
4. Health shall notify Human Services of rules changes related to this agreement no later than ten (10) days prior to submission of said rules to the Public Health Council or filing of the rules with the Joint Committee on Agency Rule Review.
5. Health shall submit to Human Services quarterly estimates of expenditures at least fifty-five (55) days before the beginning of the quarter covered by the report. The above shall be submitted in accordance with federal and state guidelines unless otherwise specified in writing.
6. Health shall make available upon request any additional accounts, records, or other information as required by Human Services, DHHS, the U.S. Accounting Office, the Auditor of State, or their agents, to substantiate any estimate, expenditures, or report as necessary for auditing purposes to verify the allowability of expenditures under this agreement.
7. The Health Quarterly Expenditure Reports must be submitted to Human Services, Bureau of

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Accounting, within twenty-five (25) days following the end of each calendar quarter.

B. Survey and Certification

1. Health shall document findings regarding a facility's non-compliance with any Medicaid certification requirement, including a listing of deficiencies and findings as specified in 42 CFR 431, Subpart M.
2. Health shall notify Human Services in writing of certification determinations for new and existing facilities and of any changes in the status of certification for existing facilities.
3. Upon determining the facility's compliance or non-compliance with Medicaid participation requirements, Health shall certify to Human Services the facility's compliance status and take necessary action in accordance with 42 CFR Parts 431, 442, and 488 and applicable state law and rule.
4. Health shall submit to Human Services Bureau of Long Term Care Facilities (BLTCF) by the fifteenth (15th) day of each month, certification status and reconciliation reports for Health's preceding month, which shall include:
 - a. Long Term Care Adverse Actions
 - b. Certification Activity Summary
 - c. Summary of Certifications Due with Federal Financial Participation (FFP) At Risk, including Facility's Name and Number
 - d. Licensure Activity including:
 - 1) Applications Received (Name of Facility)
 - 2) Enforcement Actions (Name of Facility)
 - 3) Closed Homes (Name of Facility)
 - e. Changes in the legal entity operating the facility, including initial notices of sales, leases, mergers, partnership changes, and stock exchanges.
5. Health shall provide Human Services with one (1) copy of the statement of deficiencies and plan of correction for each facility and any letters to a long-term care facility regarding adverse administrative action.
6. Health shall take action to ensure that appropriate survey staff attend required hearings.

C. Complaints

1. Health shall receive and investigate complaints alleging a long-term care facility's non-compliance with Medicaid participation requirements, jeopardy to the health and safety of any long-term care facility residents, or a facility's failure to meet a civil rights requirement.
2. Health shall provide to Human Services the HCFA Form 562, which identifies each complaint filed, and

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provides the name of the Medicaid long-term care facility, the type of complaint, and the time frame for completing the complaint investigation.

3. Health shall comply with the time frames and requirements set forth in the State Operations Manual pertaining to the investigation of complaints.
4. Health shall submit to Human Services completed copies of all complaint reports concerning Title XIX providers reported to HCFA on Form 562 at least monthly.

D. Appeals

Health shall conduct an appeal process in accordance with applicable state law and rule, 42 CFR 431, Subpart D, and the State Operations Manual for facilities whose certification has been denied, terminated, or not renewed or in which other remedies have been imposed.

E. Enforcement

Health shall perform the duties listed in this Section relating to the enforcement process for nursing facilities. To the extent that such a delegation is required or permitted by law, Human Services hereby specifically delegates to Health the authority to perform these duties.

1. Health, pursuant to applicable state law and federal regulations, guidelines, and procedures, and Sections IV (A) through (D) of this agreement, will operate the Medicaid survey and certification process for NFs. Health will adopt any rules and/or procedures necessary for this function. Health's survey and certification responsibilities will include, but are not limited to, the following:
 - a. Determination of deficiencies.
 - b. Exit interviews.
 - c. Required notifications following surveys.
 - d. Preparation of statements of deficiencies.
 - e. Informal review of deficiency citations.
 - f. Follow-up surveys when necessary under applicable state law and federal regulations, guidelines, and procedures.
 - g. Complaint investigations under applicable state law and federal regulations, guidelines, and procedures.
2. Health, in accordance with applicable state and federal law and regulation, will determine which remedies to impose against NFs with deficiencies.
3. Health, in accordance with applicable state and federal law and regulations, will impose remedies against nursing facilities with deficiencies, including the following:
 - a. Termination of Medicaid participation. Health shall take this action by terminating certification.

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- b. Appointment of temporary managers.
 - c. Application to the court of common pleas for injunctions and appointment of special masters.
 - d. Issuance and termination of orders denying Medicaid payments for all Medicaid-eligible residents or for individuals in specific diagnostic categories. Health will immediately notify Human Services of the issuance of such orders.
 - e. Imposition of fines (Civil Money Penalties) and determination of the duration and amount of fines.
4. Health will approve or disapprove plans of correction submitted by facilities, in accordance with applicable state and federal laws and regulations, guidelines, and procedures.
 5. In accordance with applicable state and federal law and regulation, Health may permit a nursing facility to continue to participate in the Medicaid program for up to six months after the exit interview.
 6. Health will issue notice to NFs of remedies being imposed, in accordance with applicable state and federal laws and regulations.
 7. Health will provide notice to Human Services of survey results, certification decisions, remedies that have been imposed on nursing facilities, and emergency action, in accordance with applicable requirements.
 8. Health will appoint monitors for nursing facilities in accordance with applicable state and federal laws and regulations.
 9. Health will conduct administrative appeal proceedings in accordance with applicable state and federal laws and regulations when imposition of a remedy occurs prior to or during the pendency of the adjudication hearing.
 10. Health will conduct administrative appeal proceedings in accordance with applicable state and federal laws and regulations when imposition of a remedy will not occur until after the completion of an adjudication hearing.
 11. In the case of an emergency as defined in Section 5111.35 of the Revised Code, Health will take all appropriate actions in accordance with applicable state and federal laws and regulations.
 12. Health will appoint a temporary manager or petition the court of common pleas for appointment of a special master when necessary during closure of a NF or after termination of its Medicaid participation, in accordance with applicable state and federal laws and regulations.
 13. Health will issue orders denying Medicaid payments to NFs, in accordance with applicable state and federal laws and regulations, when the facilities fail to correct deficiencies in accordance with their plans of correction within three months after the exit interview or when they are cited for substandard quality of care on three consecutive standard surveys. Health will immediately notify Human Services of the issuance of such orders.
 14. Health will impose remedies on nursing facilities for purposes of the Medicare program to the extent

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authorized by federal regulations, guidelines, and procedures.

15. Health will provide Human Services, by the fifteenth (15th) day of each month, a report of all enforcement action initiated, pending, and completed against NFs during the previous month. This report will include, as a minimum, the following information: Facility name and location; nature of enforcement action taken; status of action; scheduled hearing dates; hearing status; and other relevant information agreed upon by Health and Human Services.

F. Records

Health shall maintain on file all information and reports used in determining each facility's compliance with federal and state standards for a minimum of five (5) years, and shall make such information readily accessible to Human Services, DHHS, the U.S. Government Accounting Office, the Auditor of State, and their respective agents. If a compliance review is in progress, or if compliance findings have not been resolved, the records required above shall be retained until final resolution.

G. Delegation of Responsibility

The certification authority assigned to Health under this agreement shall not be delegated by Health to any other governmental or private entity. However, Health may subcontract for and utilize the services, facilities, and records of any state or local government agency or qualified private contractor to assist in performing its duties and responsibilities. Any subcontracts entered into by Health shall be written in accordance with this agreement, and no subcontract provision shall supersede any statements herein. Health shall submit to Human Services a copy of any subcontract which delegates any of Health's survey and certification responsibilities for Medicaid NFs.

1. Health, upon request, will provide Human Services with an update of the total number of individuals on the nurse aide registry. Human Services shall be provided an opportunity to review and provide feedback on all proposed contracts, including revisions and addendums, with the testing service chosen by Health to provide state-administered testing of NF nurse aides.

Health shall notify Human Services, BLTCF of any state or federal change or new development in NF nurse aide training and/or testing which might affect Medicaid reimbursement policy and/or procedure.

Health shall provide Human Services, BLTCF with current listings of all state-approved NF nurse aide training and competency evaluation (TCE) and train-the-trainer (TTT) programs. Health shall also notify Human Services of all TCE and TTT programs for which state approval is revoked.

2. Health is designated as the official contact for the Minimum Data Set (MDS). Human Services and Health shall participate jointly in the MDS Automation Project. Health or Human Services shall notify the other of any state or federal change in the MDS requirements which might affect the state's plan for implementing the MDS.

V.

RESIDENT ASSESSMENT INSTRUMENT

42 CFR Section 483.20 requires that NFs conduct comprehensive resident assessments consistent with the requirements for each state's specified resident assessment instrument (RAI) and perform quarterly reviews to assure continued accuracy of the assessments. Ohio has selected the Minimum Data Set (MDS 2.0) as the state-specified

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l and quarterly review document. The Ohio Medicaid NF payment system uses the MDS 2.0 to establish case mix levels of facilities and determine direct care rates.

Human Services and Health will cooperate in the joint development/implementation of any future changes of the state-specified RAI or quarterly review document, and in the joint development and maintenance of MDS training programs, manuals and other educational materials.

A. Health responsibilities:

1. Health shall report to Human Services for all nursing facilities surveyed,
 - (a) assessment-related survey findings, and
 - (b) consolidated resident-specific findings based on the survey sample that was selected in accordance with Health Care Financing Administration (HCFA) Guidelines and findings from surveyors' quality of care assessment.

The formats of the survey findings and the resident-specific reports shall be designed by Health in consultation with Human Services. Additional sampling methodology may be used if mutually agreed upon by Health and Human Services. Copies of the findings reports shall be sent to Human Services monthly.

2. Health shall report ICF-MR survey findings to Human Services if such facilities are out of compliance with the federal conditions of participation concerning active treatment (42 CFR 483.440).
3. Health shall cooperate in the provision of training of NF and SNF/NF providers on the RAI and its use in the facility certification and Medicaid case mix payment system. Training may be provided by state employees or entities with whom Health and/or Human Services has contracted. Health shall select and supervise content of training sessions related to certification of facilities, including use of resident assessment protocols and triggers, and development of care plans, and select and/or approve presenters.
4. Human Services and Health shall cooperate in the joint development and maintenance of an Ohio version of a MDS training manual if needed to promote accurate and consistent assessment practices in Ohio. Release of the Ohio MDS training manual is contingent upon approval by both departments.
5. Health, in consultation with Human Services, shall coordinate and shall develop a Quality Indicators (QI) data analysis and reporting system that utilizes Minimum Data Set information. Health shall have sole responsibility for the development and publication of quality indicator reports based on the MDS data and produced by this system. All QI data and reporting developed from this system will be made available to Human Services. Health and Human Services shall share information and consult with each other regarding the development of reports, other than the Quality Indicator reports, on an ongoing basis. Health and Human Services shall jointly develop reports, other than the Quality Indicator reports, as necessary to ensure consistency, reliability, and the efficient use of resources.

Health shall prepare and electronically transmit or mail QI reports to all Medicaid providers on a quarterly basis at no charge to the provider. Health shall provide Human Services with all data sent to providers in a mutually-acceptable electronic format within ten business days of distribution of Quality Indicator reports to the providers.

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