

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION	1. TRANSMITTAL NUMBER: <u>9 6 - 1 1</u>	2. STATE: Ohio
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) Title XIX	

TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE January 1, 1996
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5. TYPE OF PLAN MATERIAL (Check One):

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION: Section 1919(h) of the Act and 42 CFR 488.400	7. FEDERAL BUDGET IMPACT: a. FFY <u>1996</u> \$ <u>-0-</u> b. FFY <u>1997</u> \$ <u>-0-</u>
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: <table border="0"> <tr><td><u>Text pages</u></td><td><u>Attachment 4.35</u></td></tr> <tr><td>79c.1</td><td>4.35A 4.35G</td></tr> <tr><td>79c.2</td><td>4.35B 4.35H</td></tr> <tr><td>79c.3</td><td>4.35C</td></tr> <tr><td></td><td>4.35D</td></tr> <tr><td></td><td>4.35E</td></tr> <tr><td></td><td>4.35F</td></tr> </table>	<u>Text pages</u>	<u>Attachment 4.35</u>	79c.1	4.35A 4.35G	79c.2	4.35B 4.35H	79c.3	4.35C		4.35D		4.35E		4.35F	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): <table border="0"> <tr><td><u>Text pages</u></td><td><u>Attachment 4.35</u></td></tr> <tr><td>79c</td><td>4.35A</td></tr> <tr><td></td><td>4.35B</td></tr> </table>	<u>Text pages</u>	<u>Attachment 4.35</u>	79c	4.35A		4.35B
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79c	4.35A																				
	4.35B																				

10. SUBJECT OF AMENDMENT:
This amendment provides the state plan preprint pages for the survey, certification, and enforcement regulation for nursing facilities set forth under Section 1919(h) of the Social Security Act and 42 CFR 488.400.

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED The governor's office has delegated
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL review to the director of ODHS.

12. SIGNATURE OF STATE AGENCY OFFICIAL: <i>Arnold R. Tompkins</i>	16. RETURN TO: Judith Stanford Office of Legal Services Ohio Department of Human Services 30 East Broad Street, 31st floor Columbus, Ohio 43266-0423
13. TYPED NAME: Arnold R. Tompkins	
14. TITLE: Director	
15. DATE SUBMITTED: MARCH 25, 1996	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 3/27/96	18. DATE APPROVED: <i>6/6/01</i>
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: <i>JANUARY 1, 1996</i>	20. SIGNATURE OF REGIONAL OFFICIAL: <i>Cheryl Harris</i>
21. TYPED NAME: Cheryl A. Harris	22. TITLE: Associate Regional Administrator Div. of Medicaid & Children's Health

23. REMARKS:

RECEIVED
MAR 27 1996
HCFA-V-DMMCP

Revision: HCFA-PM-95-4 (HSQB)
JUNE 1995

State/Territory: OHIO

Citation 4.35 Enforcement of Compliance for Nursing Facilities

42 CFR
§488.402(f)

(a) Notification of Enforcement Remedies

When taking an enforcement action against a non-State operated NF, the State provides notification in accordance with 42 CFR 488.402(f).

(i) The notice (except for civil money penalties and State monitoring) specifies the:

- (1) nature of noncompliance,
- (2) which remedy is imposed,
- (3) effective date of the remedy, and
- (4) right to appeal the determination leading to the remedy.

42 CFR
§488.434

(ii) The notice for civil money penalties is in writing and contains the information specified in 42 CFR 488.434.

42 CFR
§488.402(f) (2)

(iii) Except for civil money penalties and State monitoring, notice is given at least 2 calendar days before the effective date of the enforcement remedy for immediate jeopardy situations and at least 15 calendar days before the effective date of the enforcement remedy when immediate jeopardy does not exist.

42 CFR
§488.456(c) (d)

(iv) Notification of termination is given to the facility and to the public at least 2 calendar days before the remedy's effective date if the noncompliance constitutes immediate jeopardy and at least 15 calendar days before the remedy's effective date if the noncompliance does not constitute immediate jeopardy. The State must terminate the provider agreement of an NF in accordance with procedures in parts 431 and 442.

(b) Factors to be Considered in Selecting Remedies

42 CFR
§488.488.404(b) (1)

(i) In determining the seriousness of deficiencies, the State considers the factors specified in 42 CFR 488.404(b) (1) & (2).

N/A The State considers additional factors. Attachment 4.35-A describes the State's other factors.

TN No. 96-11

Supersedes

TN No. 90-52

NEW

Approval Date: MAY 22 2000

Effective Date: 1/1/96

JUN 10 1996

Revision: HCFA-PM-95-4 (HSQB)
JUNE 1995

State/Territory: OHIO

Citation

c) Application of Remedies

42 CFR
§488.410

(i) If there is immediate jeopardy to resident health or safety, the State terminates the NF's provider agreement within 23 calendar days from the date of the last survey or immediately imposes temporary management to remove the threat within 23 days.

42 CFR
§488.417(b)
§1919(h)(2)(C)
of the Act.

(ii) The State imposes the denial of payment (or its approved alternative) with respect to any individual admitted to an NF that has not come into substantial compliance within 3 months after the last day of the survey.

42 CFR
§488.414
§1919(h)(2)(D)
of the Act.

(iii) The State imposes the denial of payment for new admissions remedy as specified in §488.417 (or its approved alternative) and a State monitor as specified at §488.422, when a facility has been found to have provided substandard quality of care on the last three consecutive standard surveys.

42 CFR
§488.408
§1919(h)(2)(A)
of the Act.

(iv) The State follows the criteria specified at 42 CFR §488.408(c)(2), §488.408(d)(2), and §488.408(e)(2), when it imposes remedies in place of or in addition to termination.

42 CFR
§488.412(a)

(v) When immediate jeopardy does not exist, the State terminates an NF's provider agreement no later than 6 months from the finding of noncompliance, if the conditions of 42 CFR 488.412(a) are not met.

(d) Available Remedies

42 CFR
§488.406(b)
§1919(h)(2)(A)
of the Act.

(i) The State has established the remedies defined in 42 CFR 488.406(b).

- ✓ (1) Termination
- ✓ (2) Temporary Management
- ✓ (3) Denial of Payment for New Admissions
- ✓ (4) Civil Money Penalties
- ✓ (5) Transfer of Residents; Transfer of Residents with Closure of Facility
- ✓ (6) State Monitoring

Attachments 4.35-B through 4.35-G describe the criteria for applying the above remedies.

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JUNE 1995

State/Territory: OHIO

Citation

42 CFR
§488.406(b)
§1919(h)(2)(B)(ii)
of the Act.

(ii) N/A The State uses alternative remedies. The State has established alternative remedies that the State will impose in place of a remedy specified in 42 CFR 488.406(b).

- N/A (1) Temporary Management
N/A (2) Denial of Payment for New Admissions
N/A (3) Civil Money Penalties
N/A (4) Transfer of Residents; Transfer of Residents with Closure of Facility
N/A (5) State Monitoring.

Attachments 4.35-B through 4.35-G describe the alternative remedies and the criteria for applying them.

42 CFR
§488.303(b)
1910(h)(2)(F)
of the Act.

(e) STA State Incentive Programs

- N/A (1) Public Recognition
N/A (2) Incentive Payments

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Approval Date: JUN 16 1996

Effective Date: 1/1/96

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OHIO

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

The State uses other factors described below to determine the seriousness of deficiencies in addition to those described at §488.404(b)(1):

N/A

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OHIO

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

Termination of Provider Agreement: Describe the criteria (as required at §1919(h)(2)(A)) for applying the remedy.

Specified Remedy

(Will use the criteria and notice requirements specified in the regulation.)

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Approval Date: 11/1/96

Effective Date: 1/1/96

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OHIO

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

Temporary Management: Describe the criteria (as required at §1919(h)(2)(A)) for applying the remedy.

Specified Remedy

(Will use the criteria and notice requirements specified in the regulation.)

Alternative Remedy

(Describe the criteria and demonstrate that the alternative remedy is as effective in deterring non-compliance. Notice requirements are as specified in the regulations.)

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TN No. 90-52

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Approval Date: JUN 05 2001

Effective Date: 1/1/96

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OHIO

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

Denial of Payment for New Admissions: Describe the criteria (as required at §1919(h)(2)(A)) for applying the remedy.

Specified Remedy

(Will use the criteria and notice requirements specified in the regulation.)

Alternative Remedy

(Describe the criteria and demonstrate that the alternative remedy is as effective in deterring non-compliance. Notice requirements are as specified in the regulations.)

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OHIO

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

Civil Money Penalty: Describe the criteria (as required at §1919(h)(2)(A)) for applying the remedy.

Specified Remedy

Alternative Remedy

(Will use the criteria and notice requirements specified in the regulation.)

(Describe the criteria and demonstrate that the alternative remedy is as effective in deterring non-compliance. Notice requirements are as specified in the regulations.)

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OHIO

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

State Monitoring: Describe the criteria (as required at §1919(h)(2)(A)) for applying the remedy.

Specified Remedy

(Will use the criteria and notice requirements specified in the regulation.)

Alternative Remedy

(Describe the criteria and demonstrate that the alternative remedy is as effective in deterring non-compliance. Notice requirements are as specified in the regulations.)

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OHIO

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

Transfer of residents; Transfer of residents with closure of facility: Describe the criteria (as required at §1919(h)(2)(A)) for applying the remedy.

Specified Remedy

(Will use the criteria and notice requirements specified in the regulation.)

Alternative Remedy

(Describe the criteria and demonstrate that the alternative remedy is as effective in deterring non-compliance. Notice requirements are as specified in the regulations.)

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OHIO

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

Additional Remedies: Describe the criteria (as required at §1919(h)(2)(A)) for applying the additional remedy. Include the enforcement category in which the remedy will be imposed (i.e., category 1, category 2, or category 3 as described at 42 CFR 488.408).

Directed Plan of Correction

Directed In-Service Training

May be imposed for any non-compliance in categories 1, 2, or 3.

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JUN 08 2001