

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**
FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:

0 2 - 0 0 8

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
May 16, 2002

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 1902 (a)13(A) of the Social Security Act

7. FEDERAL BUDGET IMPACT:

a. FFY 2002 \$ -0-
b. FFY 2003 \$ -0-

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19D: Rules 5101: 3-3-18
5101: 3-3-02.2 (new)

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

Attachment 4.19D: Rule 5101: 3-3-18

10. SUBJECT OF AMENDMENT:

The rules contained in this amendment pertain to the administration of Medicaid provider agreements and the Medicare Upper Payment Limit Calculation (MUPLC) for NFs and ICFs-MR.

11. GOVERNOR'S REVIEW (Check One):

- GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

The Governor's office has delegated review to the Director of ODJFS.

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME:

Thomas J. Hayes

14. TITLE:

Director

15. DATE SUBMITTED:

May 31, 2002

16. RETURN TO:

Becky Jackson
Bureau of Health Plan Policy
Office of Ohio Health Plans
Ohio Department of Job and Family Services
30 East Broad Street, 27th floor
Columbus, Ohio 43215-3414

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

6/3/02

18. DATE APPROVED:

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

May 16, 2002

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME:

Cheryl A. Harris

22. TITLE: Associate Regional Administrator
Division of Medicaid and Children's Health

23. REMARKS:

RECEIVED

JUN 03 2002

DMCH - IL/IN/OH

ACTION: FINAL
FILED

DATE: 05/06/2002
12:51 PM

5101:3-3-02.2 **Termination and denial of provider agreement: nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR).**

(A) For purposes of this rule, the following definitions apply:

- (1) ~~"Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in a nursing facility (NF) or intermediate care facility for the mentally retarded (ICF-MR) and to whom the administrator or manager (if different from the owner) is responsible.~~
- (2) ~~"Provider" means any individual, group of individuals, or a corporation licensed by the Ohio Department of health (ODH) or the Ohio department of mental retardation and developmental disabilities (ODMR-DD) [if required] and approved by ODH to provide NF or ICF-MR services.~~
- (3) ~~"Provider agreement" means a contract between the Ohio department of human services and a provider of NF or ICF-MR services as defined in rule 5101:3-3-02 of the Administrative Code.~~
- (4) ~~"Survey agency" means the Ohio department of health.~~ For purposes of this rule "survey agency" means the Ohio department of health (ODH).

(B) ~~The department~~ Ohio department of job and family services (ODJFS) may terminate, not enter into, or not renew the provider agreement upon thirty days written notice to the NF or ICF-MR, or the department may propose termination or denial of an agreement, any time continuation of provider status is not in the best interest of residents or the state, and if applicable, subject to Chapter 119. of the Revised Code.

"Best interest" shall include, but not be limited to, the following:

- (1) The provider, or owner, or the provider's agent or management employee has been indicted, been granted immunity, pled guilty, or been convicted of a criminal offense against the medicaid program, as required by state or federal law.
- (2) The provider does not fully and accurately disclose to ~~the department~~ ODJFS information as required by the "provider agreement" or any rule contained in division level designation 5101:3 of the Administrative Code. The provider

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fails to abide by or have the capacity to comply with the terms and conditions of the "provider agreement" and/or rules and regulations promulgated by the department.

- (3) The provider has been found liable by a court for negligent performance of professional duties.
 - (4) The provider fails to file cost reports as required according to rule 51013-3-20 of the Administrative Code.
 - (5) The provider makes false statements or alters records, documents, or charts (alterations does not include properly documented correction of records). For an audit or review of any provider activity by any federal, state, or local agency, the provider fails to cooperate or provide requested records or documentation.
 - (6) The provider is found in violation of section 504 of the Rehabilitation Act of 1973, as amended; the Civil Rights Act of 1964, as amended; or Public Law 101-336 (the Americans with Disabilities Act of 1990) in relation to the employment of individuals, the provision of services, or in the purchase of goods and services.
 - (7) The attorney general, auditor of state, or any board, bureau, commission, or department has recommended ~~the department~~ ODJFS terminate the provider agreement where the reason for the request bears a reasonable relationship to the administration of the medicaid program or the integrity of the state and/or federal funds.
 - (8) The provider has committed medicaid fraud as defined in rule 5101:3-1-29 of the Administrative Code.
 - (9) The provider has been decertified by ~~the Ohio department of health~~ ODH and/or the U.S. department of health and human services.
 - (10) The provider violates the prohibition against billing medicaid residents for covered services or factoring as found in rule ~~5101:3-1-13~~ 5101:3-1-13.1 or 5101:3-1-23 of the Administrative Code.
- (C) ~~The department~~ ODJFS shall terminate or deny a provider agreement when any of the following apply:

- (1) Any license, permit, or certificate that is required in the provider agreement or

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department rule has been denied, suspended, revoked, or not renewed; or

- (2) The provider is terminated, suspended, or excluded by the medicare program and/or by the U.S. department of health and human services and that action is binding on the provider's participation in the medicaid program or renders federal financial participation unavailable for provider's participation in the medicaid program; or
- (3) The provider has pled guilty to, or been convicted of, a criminal activity related to either the medicare or medicaid program.

Effective: 5/16/2002

R.C. 119.032 review dates: 3/1/2002 and 05/16/2007

CERTIFIED ELECTRONICALLY

Certification

05/06/2002 12:51 PM

Date

Promulgated Under: 119.03
Statutory Authority: 5111.02
Rule Amplifies: 5111.01, 5111.02, 5111.22,
5111.31
Prior Effective Dates: April 7, 1977, December 30,
1977, January 1, 1979, March
23, 1979, August 31, 1979,
November 1, 1979, July 1,
1980, July 7, 1980, October
1, 1987, June 16, 1988, July
1, 1990, January 1, 1995

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Date

Promulgated Under: 119.03
Statutory Authority: 5111.02
Rule Amplifies: 5111.01, 5111.02
Prior Effective Dates: December 30, 1977,
December 28, 1978, July 3,
1980, January 1, 1984,
October 15, 1987 (emer.),
December 31, 1987, October
1, 1991 (emer.), December
20, 1991, September 30,
1993 (emer.), January 1,
1994

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SUPERSEDES
TN #94-07 EFFECTIVE DATE 5/16/02