



## Ohio Administrative Code

### Rule 5160-3-02.3 Nursing facilities (NFs): institutions eligible to participate in medicaid as NFs.

Effective: June 24, 2016

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#### (A) Definitions.

(1) "Certification" means the process by which the state survey agency certifies its findings to the federal centers for medicare and medicaid services (CMS) or the Ohio department of medicaid (ODM) with respect to a facility's compliance with health, safety, and resident rights requirements of divisions (a), (b), (c), and (d) of section 1919 of the Social Security Act, 42 U.S.C. 1396r (December 20, 2006).

(2) "Certified beds" mean beds that are counted in a provider facility that meets medicaid standards. A count of facility beds may differ depending on whether the count is used for certification, licensure, eligibility for medicare or medicaid payment formulas, or other purposes.

(3) "Distinct part" means a portion of an institution or institutional complex that is certified to provide skilled nursing facility (SNF) and/or nursing facility (NF) services. A distinct part shall be physically distinguishable from the larger institution and fiscally separate for cost reporting purposes. A distinct part may be a separate building, wing, floor, hallway, or one side of a corridor. A hospital-based SNF or NF is a distinct part by definition. A long term care facility with both SNF and NF distinct parts is one facility, even though the distinct parts are certified separately for medicare and medicaid. "Distinct part", when applied to NFs or SNF/NFs, has the same definition and requirements as in 42 C.F.R. 483.5 (October 1, 2015).

(4) "Dually participating" means simultaneous participation of an institution or institutional complex in both the medicare and medicaid programs.

(5) "Dually participating long term care facility" means an institution that participates as both a SNF under the medicare program, and as a NF under the medicaid program. Such a facility is referred to as a SNF/NF.



(6) "Facility" means the entity subject to certification and approval in order for the provider to be approved for medicaid payment. A facility may be an entire institution such as a free-standing nursing home, or may be a distinct part of an institution such as a hospital or continuing care retirement community.

(7) "Long term care facility" means a NF, SNF, or dually participating SNF/NF.

(8) "Long term care institutional services" means those medicaid funded, institutional medical, health, psycho-social, habilitative, rehabilitative, and/or personal care services that may be provided to eligible individuals in a NF or SNF/NF.

(9) "NF services" means those services available in institutions, or parts of institutions, that are certified as nursing facilities by the Ohio department of health (ODH) or by the state survey agency of another state.

(10) "Religious non-medical health care institution" (RNHCI) means an institution as defined in section 1861(ss)(1) of the Social Security Act, 42 U.S.C. 1395x (ss) (1) (August 5, 1997), such as the "Christian Science RNHCI" accredited by the "Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc." RNHCI are subject to conditions of participation in the medicaid program according to 42 C.F.R. 403 subpart G (October 1, 2015).

(11) "State survey agency" means the agency 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. The state survey agency in Ohio is ODH.

(B) Types of long term care institutional services.

(1) The types of long term care institutional services covered in compliance with the provisions of Chapter 5160-3 of the Administrative Code are NF services provided to eligible residents requiring either a skilled level of care or an intermediate level of care as set forth in rule 5160-3-08 of the Administrative Code.



(2) Institutions not eligible for participation are:

(a) An institution licensed or approved as a tuberculosis hospital.

(b) A prison, juvenile criminal facility, or an institution used to incarcerate individuals involuntarily who have committed a violation of a criminal or civil law.

(c) An institution for mental diseases, as defined in rule 5160-3-06.1 of the Administrative Code, for persons under sixty-five years old.

(C) Requirements for participation.

To participate in the Ohio medicaid program and receive payment from ODM for long term care institutional services to eligible residents, operators of long term care facilities shall meet all of the following requirements:

(1) Operate an institution that meets the licensure, registration, and other applicable state standards as set forth in this rule.

(2) Operate an institution certified by ODH or by the state survey agency of another state as being in compliance with applicable federal regulations for medicaid participation as a NF with a minimum of four NF certified beds.

(3) Operate an institution for which a current, completed, and signed ODM 03623 "Ohio Medicaid Provider Agreement for Long Term Care Facilities (NFs, SNF/NFs and ICFs-IID)" (rev. 4/2014) is on file with ODM.

(D) Qualified types of Ohio NFs.

To be eligible for certification as a NF, an institution shall qualify as one of the following:

(1) A nursing home licensed by ODH under section 3721.02 of the Revised Code, or a nursing home licensed by a political subdivision certified under section 3721.09 of the Revised Code. Licensed



nursing homes eligible for medicaid certification include:

(a) RHNCIs.

(b) Veterans' homes operated under Chapter 5907. of the Revised Code.

(2) A county home, county nursing home, or district home owned by the county and operated by the county commissioners in accordance with Chapter 5155. of the Revised Code, or operated by the board of county hospital trustees in accordance with section 5155.011 of the Revised Code; or

(3) A unit of any hospital registered under section 3701.07 of the Revised Code that contains beds categorized before August 5, 1989, as skilled nursing facility beds in accordance with section 3702.521 of the Revised Code; or

(4) A unit of any hospital registered under section 3701.07 of the Revised Code that contains beds categorized as long term care beds as defined in section 3702.51 of the Revised Code.

(E) Mandatory dual participation.

To participate as a NF, all Ohio facilities shall comply with the provisions in section 5165.082 of the Revised Code and in rule 5160-3-02.4 of the Administrative Code regarding dual participation in the medicare program as a SNF/NF.

(F) Certification of NFs and beds subject to certification survey.

(1) Certification.

A facility's certification as a NF by ODH or by the state survey agency of another state governs the types of services the operator of the facility may provide.

(2) Provider agreements.

(a) A provider agreement with the operator of an Ohio NF or SNF/NF shall include any part of the



facility that meets standards for certification of compliance with federal and state laws and rules for participation in the medicaid program.

(b) Exceptions to this provision are NFs or SNFs that between July 1, 1987 and July 1, 1993 added beds licensed as nursing home beds under Chapter 3721. of the Revised Code. Such facilities are not required to include those beds in a provider agreement, unless otherwise required by federal law. This exception continues to apply if such facilities subsequently undergo a change of operator.

(3) Beds subject to certification survey.

(a) All beds in a medicaid participating NF or SNF/NF, except those licensed nursing home beds added between July 1, 1987 and July 1, 1993, shall be surveyed to determine compliance with the applicable certification standards and, if certifiable, included in the provider agreement as NF or SNF/NF beds.

(b) Beds that could qualify as NF or SNF/NF beds and were added between July 1, 1987 and July 1, 1993 may be surveyed for compliance at the discretion of the operator. Such facilities are not required to include those beds in a provider agreement, unless otherwise required by federal law.

(c) All other beds that meet NF or SNF/NF standards shall be certified as NF or SNF/NF beds.

(4) The only other basis for allowing nonparticipation of a portion of an Ohio NF or SNF/NF that is not hospital-based is certification of noncompliance by ODH.

(G) Requirements for out-of-state providers of long term care institutional services.

(1) To participate in the Ohio medicaid program and receive payment from ODM for long term care institutional services to eligible Ohio residents, an operator of a long term care facility located outside Ohio shall meet all of the following requirements in their state of origin:

(a) The operator of the facility shall hold a valid state-required license, registration, or equivalent from the respective state that specifies the level(s) of care the facility is qualified to provide.



(b) The operator of the facility shall hold a valid and current medicaid provider agreement from the respective state as a NF or SNF/NF provider type.

(2) Additionally, out-of-state providers shall meet the following Ohio requirements:

(a) The operator of the facility shall have a current, completed and signed ODM 03623 on file with ODM.

(b) The operator of the facility shall obtain resident-specific and date-specific prior authorization from ODM in accordance with rule 5160-1-11 of the Administrative Code.