



## Ohio Revised Code Section 5165.87 Appeals.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

---

(A) Except as provided in division (B) of this section, the following remedies are subject to appeal under Chapter 119. of the Revised Code:

(1) An order issued under section 5165.71, 5165.72, 5165.77, or 5165.85 of the Revised Code terminating a nursing facility's participation in the medicaid program;

(2) Appointment of a temporary manager of a facility under division (A)(1)(b) or (2)(b) of section 5165.72, or division (A)(1)(d) of section 5165.77 of the Revised Code;

(3) 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 facility for all medicaid eligible residents admitted after the effective date of the order;

(4) An order issued under section 5165.72, 5165.73, or 5165.74 of the Revised Code denying medicaid payments to a facility for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(5) A fine imposed under section 5165.72, 5165.73, or 5165.74 of the Revised Code.

(B) The department of medicaid or contracting agency may do any of the following prior to or during the pendency of any proceeding under Chapter 119. of the Revised Code:

(1) Issue and execute an order under section 5165.72, 5165.77, or 5165.85 of the Revised Code terminating a nursing facility's participation in the medicaid program;

(2) Appoint a temporary manager under division (A)(1)(b) or (2)(b) of section 5165.72 or division (A)(1)(d) of section 5165.77 of the Revised Code;



(3) Issue and execute an order under section 5165.72, 5165.73, 5165.77, or 5165.84 of the Revised Code denying medicaid payments to a facility for all medicaid eligible residents admitted after the effective date of the order;

(4) Issue and execute an order under section 5165.72 or 5165.73 or division (A), (B), or (C) of section 5165.74 of the Revised Code 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.

(C) Whenever the department or agency imposes a remedy listed in division (B) of this section prior to or during the pendency of a proceeding, all of the following apply:

(1) The provider against whom the action is taken shall have ten days after the date the facility actually receives the notice specified in section 119.07 of the Revised Code to request a hearing.

(2) The hearing shall commence within thirty days after the date the department or agency receives the provider's request for a hearing.

(3) The hearing shall continue uninterrupted from day to day, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the provider and the department or agency.

(4) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations within ten days after the close of the hearing.

(5) The provider shall have five days after the date the hearing officer files the report and recommendations within which to file objections to the report and recommendations.

(6) Not later than fifteen days after the date the hearing officer files the report and recommendations, the medicaid director or the director of the contracting agency shall issue an order approving, modifying, or disapproving the report and recommendations of the hearing examiner.



(D) If the department or agency imposes more than one remedy as the result of deficiencies cited in a single survey, the proceedings for all of the remedies shall be consolidated. If any of the remedies are imposed during the pendency of a hearing, as permitted by division (B) of this section, the consolidated hearing shall be conducted in accordance with division (C) of this section. The consolidation of the remedies for purposes of a hearing does not affect the effective dates prescribed in sections 5165.60 to 2165.85 of the Revised Code.

(E) If a contracting agency conducts administrative proceedings pertaining to remedies imposed under sections 5165.60 to 5165.89 of the Revised Code, the department of medicaid shall not be considered a party to the proceedings.