

3701-63-01 Medicaid certification appeal process.

- (A) This rule prescribes the procedure for appeal of proposals by the director of health to deny, terminate or not renew a long-term care facility's certification as an intermediate care facility or an intermediate care facility for individuals with intellectual disabilities for the purposes of participation in the medicaid program established by Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301 et seq., as amended (1981), and Chapter 5165. of the Revised Code. The appeal process shall include:
- (1) An opportunity for an evidentiary hearing, conducted in accordance with paragraph (D) of this rule; and
 - (2) An opportunity for an informal reconsideration if the evidentiary hearing cannot be completed before the facility's applicable medicaid provider agreement expires.
- The director shall not issue an adjudication order of denial, termination or nonrenewal of a facility's certification until an evidentiary hearing is completed or a hearing is not requested within the time period specified in paragraph (D) of this rule.
- (B) The director shall give written notice by certified mail of any proposal to deny, terminate or not renew a facility's certification to the facility.
- (1) The notice shall include a statement of the reasons for the proposal and citations of the applicable federal regulations. This information may be provided through incorporation by reference of the relevant statements of deficiencies (United States centers for medicare and medicaid services (CMS) form 2567). The notice also shall state that the facility will be afforded an evidentiary hearing or an informal reconsideration, as applicable, and shall state the time period, as specified by this rule, for requesting the hearing or reconsideration.
 - (2) A notice of the opportunity for an evidentiary hearing given after an opportunity for informal reconsideration has been afforded may incorporate by reference the reasons for the proposed action and the regulatory citations as included in the notice of the opportunity for the informal reconsideration. Notice of deficiencies cited as the result of surveys of or follow-up visits to the facility conducted after the initial notice may be provided by mailing or delivering a copy of the statement of deficiencies to the facility.
- (C) If the director offers a facility an informal reconsideration, the reconsideration shall be afforded if it is requested in writing within fifteen days of the date of mailing of the notice of the proposed action. The request shall be accompanied by any written documentation, arguments or other information that the facility wishes to present to refute the basis for the proposed action. The director may request that the facility supplement the initial submission. After considering the information provided by the facility and any other pertinent material, the director shall send written notice of the decision on reconsideration to the facility by certified mail. If the reconsideration does not result in certification of the facility or the facility does not request reconsideration within the time period specified by this paragraph, the director shall notify the facility of the opportunity for an evidentiary hearing on the proposed action, in accordance with paragraph (B) of this rule.

- (D) The director shall afford a facility an evidentiary hearing if the facility requests the hearing in writing within thirty days of the date of mailing of the notice of the proposed action or the notice of the director's decision on reconsideration, as applicable. The evidentiary hearing shall be conducted in accordance with Chapter 119. of the Revised Code.
- (E) Any facility with respect to which the director has issued an adjudication order of denial, termination or nonrenewal of certification may appeal the order to the court of common pleas of the appropriate county, in accordance with section 119.12 of the Revised Code.

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Date

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