
DEPARTMENT OF AGING (AGE)

- Specifies that long-term acute care hospitals are subject to the authority of the Office of the State Long-Term Care Ombudsman and that they are required to pay an annual fee of \$6 per bed to fund the regional long-term care ombudsperson programs.
- Authorizes the Ohio Department of Aging (ODA) to adopt rules establishing a fee to be charged for certification of community-based long-term care agencies.
- Authorizes ODA to suspend a community-based long-term care agency's certification or require the agency to submit evidence of compliance with requirements identified by ODA after a hearing when required to do so by rules.
- Specifies the conditions under which ODA is not required to hold a hearing when it imposes a disciplinary sanction against a community-based long-term care agency.
- Requires ODA to promote the development of a statewide aging and disabilities resource network to provide older adults, adults with disabilities, and their caregivers with information on available long-term care service options and streamlined access to public and private long-term care services.
- Requires area agencies on aging to establish the network and to collaborate with centers for independent living and other locally funded organizations to establish a cost-effective and consumer-friendly network.
- Specifies that the annual fees that ODA charges long-term care facilities relative to its Ohio Long-Term Care Consumer Guide are charged for purposes of publishing the Guide, rather than only for purposes of the customer satisfaction surveys that are included in the Guide.
- Increases to \$650 (from \$400) the annual fee that may be charged to a nursing home for purposes of the Guide.
- Permits ODA to include in the Guide information on adult care facilities and providers of home and community-based services.
- Creates the Unified Long-Term Care System Advisory Workgroup for fiscal years 2012 and 2013 and requires the Workgroup to prepare two reports regarding a unified system of long-term care services.



- Requires the Workgroup to serve in an advisory capacity in the implementation of a unified system of long-term care services that facilitates (1) providing consumers choices of long-term care services that meet their health-care needs and improve their quality of life, (2) providing a continuum of long-term care services that meets consumers' needs throughout life and promotes independence and autonomy, and (3) assuring that Ohio has a system of long-term care services that is cost effective and connects disparate services across agencies and jurisdictions.
- Requires the Workgroup to convene four subcommittees to study, respectively, the following issues pertaining to nursing facilities and their services: (1) capacity, (2) Medicaid quality incentive payments to be paid in fiscal year 2013, (3) Medicaid eligibility determinations for individuals seeking services, and (4) Medicaid reimbursement.

Long-term acute care hospitals

(R.C. 173.14 and 173.26)

The act specifies that long-term acute care hospitals are long-term care facilities subject to the authority of the Office of the State Long-Term Care Ombudsman. For purposes of the act, a long-term acute care hospital has the following characteristics: (1) it provides medical and rehabilitative care to patients who require an average length of stay greater than 25 days, and (2) it is classified by the U.S. Centers for Medicare and Medicaid Services as a long-term care hospital.²⁰

The act specifies that long-term acute care hospitals are required to pay the annual fee of \$6 per bed that other long-term care facilities must pay under continuing law. These fees fund the regional long-term care ombudsperson programs.

Certification of community-based long-term care agencies

Fee

(R.C. 173.391(A)(1) and (G))

The act authorizes the Director of the Ohio Department of Aging (ODA) to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) establishing a fee to be charged for certification of community-based long-term care agencies. Prior law referred to such agencies as "service providers."

²⁰ 42 C.F.R. 412.23(e).

The act requires that all fees for certification collected by ODA or its designee be deposited in the state treasury to the credit of the Provider Certification Fund created by the act. Money credited to the fund must be used to pay for community-based long-term care services, administrative costs associated with community-based long-term care agency certification, and administrative costs related to the publication of the Ohio Long-Term Care Consumer Guide.

Suspensions; evidence of compliance

(R.C. 173.391(A)(2)(f))

The act authorizes ODA to impose two additional disciplinary sanctions after an administrative hearing when required to do so by rules: suspend a community-based long-term care agency's certification or require the agency to submit evidence of compliance with requirements identified by ODA.

Continuing law authorizes ODA to impose the following disciplinary sanctions: issue a written warning, requiring the submission of a plan of correction, suspend referrals, remove clients, impose a fiscal sanction (such as a civil monetary penalty or an order that unearned funds be repaid), revoke the certification, or impose another sanction. With respect to this last item, the act authorizes ODA through rules adopted in accordance with the Administrative Procedure Act to determine what constitutes "another sanction."

Actions that do not require a hearing

(R.C. 173.391(E) and (F))

The act specifies that ODA is not required to hold administrative hearings if any of the following conditions apply:

(1) Rules adopted by the ODA Director require the community-based long-term care agency to be a party to a provider agreement; hold a license, certificate, or permit; or maintain a certification, any of which is required or issued by a state or federal government entity other than ODA, and either of the following is the case: (a) the provider agreement has not been entered into or the license, certificate, permit, or certification has not been obtained or maintained, or (b) the provider agreement, license, certificate, permit, or certification has been denied, revoked, not renewed, suspended, or has otherwise been restricted.

(2) The agency's certification has been denied, suspended, or revoked for any of the following reasons:



(a) A government entity in Ohio, other than ODA, has terminated or refused to renew any of the following held by, or has denied any of the following sought by, a community-based long-term care agency: a provider agreement, license, certificate, permit, or certification. This provision applies regardless of whether the agency has entered into a provider agreement in, or holds a license, certificate, permit, or certification issued by, another state.

(b) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, or has been convicted of, an offense materially related to the Medicaid program.

(c) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea to, or been convicted for, an offense that disqualifies an applicant for employment with a public or private entity that provides home and community-based services to individuals through the Medicaid waiver program known as PASSPORT,²¹ but only if none of the personal character standards established by ODA in rules apply.

(d) The U.S. Department of Health and Human Services has taken adverse action against the agency and that action impacts the agency's participation in the Medicaid program.

(e) The agency has failed to enter into or renew a provider agreement with the PASSPORT administrative agency that administers programs on behalf of ODA in the region of Ohio in which the agency is certified to provide services.

(f) The agency has not billed or otherwise submitted a claim to ODA for payment under the Medicaid program in at least two years.

(g) The agency denied or failed to provide ODA or its designee access to the agency's facilities during the agency's normal business hours for purposes of conducting an audit or structural compliance review.

(h) The agency has ceased doing business.

(i) The agency has voluntarily relinquished its certification for any reason.

(3) The agency's Medicaid provider agreement has been suspended.

²¹ The offenses are listed in R.C. 173.394(C)(1)(a) (not in the act).

(4) The agency's Medicaid provider agreement is denied or revoked because the agency or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended.

If ODA does not hold a hearing when any condition, described above, applies, the act permits ODA to send a notice to the agency describing a decision not to certify the agency or the disciplinary action ODA proposes to take. The notice must be sent to the agency's address that is on record with ODA and may be sent by regular mail.

Aging and disabilities resource network

(R.C. 173.41)

The act requires ODA to promote the development of a statewide aging and disabilities resource network to provide older adults, adults with disabilities, and their caregivers with information on available long-term care service options and streamlined access to public and private long-term care services. Area agencies on aging are required to establish the network throughout Ohio. In doing so, the agencies are to collaborate with centers for independent living and other locally funded organizations to establish a cost-effective and consumer-friendly network that builds on existing, local infrastructures of services that support consumers in their communities.

Ohio Long-Term Care Consumer Guide

(R.C. 173.45 to 173.48; Section 209.30)

Fees

The act specifies that the annual fees ODA is authorized to charge certain long-term care facilities regarding its Ohio Long-Term Care Consumer Guide are charged for purposes of publishing the Guide, rather than only for ODA's conduct of the customer satisfaction surveys that are included in the Guide. In addition to the customer satisfaction survey, continuing law provides for this Guide to include, for each long-term care facility, information on the facility's compliance with state and federal requirements, information from the quality measures developed by the U.S. Centers for Medicare and Medicaid Services, and any other information ODA specifies in rules.

For nursing homes, the annual fee that is to be charged by ODA is increased to \$650 (from \$400). The fees charged to the other types of long-term care facilities included in the Guide are unchanged by the act.



Information on adult care facilities and home and community-based services

The act permits ODA to include in the Long-Term Care Consumer Guide information regarding adult care facilities, which serve 3 to 16 residents, and providers of home and community-based services. During fiscal years 2012 and 2013, ODA must identify methods and tools for assessing consumer satisfaction with these facilities and providers. ODA must consider developing a fee structure to support inclusion of information about the facilities and providers in the Guide.

Unified Long-Term Care System Advisory Workgroup

(Sections 209.40 and 209.50)

Creation

The act creates the Unified Long-Term Care System Advisory Workgroup for fiscal years 2012 and 2013. The Workgroup is to serve in an advisory capacity in the implementation of a unified system of long-term care services. The act defines long-term care services as (1) services of long-term care facilities and (2) community-based long-term care services. The following are long-term care facilities: nursing homes, residential care facilities, facilities authorized to provide extended care services under Medicare, county homes, district homes, adult care facilities, facilities approved by the U.S. Veterans Administration and used exclusively for the placement and care of veterans, and adult foster homes. Community-based long-term care services are health and social services provided to persons in their own homes or in community care settings.

The Workgroup is to consist of the following members:

- (1) The ODA Director, or the Director's designee;
- (2) The following persons appointed by the Governor: advocates for individuals who use long-term care services, representatives of providers of long-term care services, representatives of Medicaid managed care organizations, and state policy makers.
- (3) The following persons appointed by the Speaker of the House of Representatives: one member of the House of Representatives from the majority party and one member from the minority party.
- (4) The following persons appointed by the Senate President: one member of the Senate from the majority party and one member from the minority party.

Members of the Workgroup must be appointed not later than July 15, 2011 (which is the date that is 15 days after the act's immediate effective date of June 30,



2011). Except to the extent that serving on the Workgroup is part of a member's regular employment duties, a member is not to be paid for serving on the Workgroup. Members are not to be reimbursed for their expenses incurred in serving on the Workgroup.

The ODA Director, or Director's designee, is to serve as the Workgroup's chairperson. ODA and the Ohio Department of Job and Family Services (ODJFS) are to provide staff and other support services for the Workgroup.

Duties

In serving in an advisory capacity in the implementation of a unified system of long-term care services, the Workgroup is to facilitate all of the following:

- (1) Providing consumers choices of long-term care services that meet their healthcare needs and improve their quality of life;
- (2) Providing a continuum of long-term care services that meets consumers' needs throughout life and promotes consumers' independence and autonomy;
- (3) Assuring that Ohio has a system of long-term care services that is cost effective and connects disparate services across agencies and jurisdictions.

Reports

The act requires the Workgroup, with the assistance of the ODJFS Director and Director of Budget and Management, to submit two reports to the General Assembly regarding a unified system of long-term care services. The first report is due not later than July 1, 2012. The second report is due not later than one year later. A report due before the unified system of long-term care services is established must discuss the progress being made in establishing the system. A report due after the system is established must discuss the system's effectiveness.

Subcommittees

The act requires the Workgroup to convene four subcommittees. The first subcommittee is charged with studying the current (i.e., as of the act's enactment) and future capacity of nursing facilities in Ohio, the configuration of that capacity, and strategies for addressing nursing facility capacity, including the ability of nursing facility operators to determine the number of beds to certify for participation in the Medicaid program. A report regarding the ability of nursing facilities to determine the number of beds for which to obtain Medicaid certification is due not later than September 1, 2011.

The second subcommittee is to study the quality incentive payments to be paid nursing facilities under the Medicaid program for fiscal year 2013. As part of the study, the subcommittee is to examine accountability measures to be used in awarding points for the quality incentive payments and the methodology for calculating the quality incentive payments. The subcommittee must complete a report of its study not later than September 1, 2011.

The third subcommittee is required to study the process of making Medicaid eligibility determinations for individuals seeking nursing facility services. A report is due not later than December 1, 2011.

The fourth subcommittee is charged with studying Medicaid reimbursement for nursing facility services, including issues related to the composition of peer groups, methodologies used to calculate reimbursement for capital costs, and the proportion of the total nursing facility reimbursement rate that should be based on the quality of care nursing facilities provide. The subcommittee must issue a report not later than December 31, 2012.

All of the subcommittee reports are to be submitted to the General Assembly, ODA Director, ODJFS Director, and Director of Health. A subcommittee is to cease to exist on the submission of its report.

