



Copies of Transfer/Discharge Notices to the Ombudsman Program *Frequently Asked Questions*

What do the new regulations say about sending a copy of transfer or discharge notices to the Ombudsman program?

As of November 28, 2016, according to section 483.15(c)(3)(i) of the new regulations, **a facility must send a copy of the written transfer or discharge notification to the representative of the Office of the State Long-Term Care Ombudsman before a resident is transferred or discharged.** It is mandated in section 483.15(c)(4)(i) that a facility must send the notification of transfer or discharge at least 30 days prior to a resident being transferred or discharged. This new requirement is part of the [Requirements for Participation](#) published in the Federal Register on October 4, 2016, by the Centers for Medicare & Medicaid Services (CMS).

Does this new requirement mean nursing homes have to send a copy of *all* transfer/discharge notices, including transfer or discharge initiated by a resident?

Per section 483.15(c)(3), prior to the transfer or discharge nursing homes must provide written notification to the resident and the resident's representative(s), and send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman ("Office"). Residents can only be discharged due to one of the reasons included in 483.15(c)(1)(i). The regulations do not address transfers or discharges initiated by a resident. However, in response to comments about this requirement, CMS states in the preamble that this requirement "will apply primarily to residents who are involuntarily discharged from the facility and does not include residents who request the transfer or who are transferred on an emergency basis to an acute care facility."

CMS is in the process of developing interpretative guidance for the revised regulations and until that guidance is provided it is our understanding that copies of all transfer or discharges notices are to be sent to a representative of the Office.

Do the new regulations require nursing homes to give residents written notice prior to room changes? If so, do nursing homes have to send a copy of those notices to a representative of the Ombudsman program?

Section 483.10(e)(6) states that **residents have the right to receive written notice, including the reason for the change, before the resident's room or roommate in the facility is changed.** In the definitions for the new regulations, "transfer and discharge" includes the movement of a resident outside the certified facility whether that bed is in the same physical plant or not; it does not refer to the movement of a resident to a bed within the same certified facility (483.5). By this definition, **a room change is not considered "transfer or discharge" as long as the resident is moving between rooms in the same certified facility.** Due to room changes not being classified as "transfers or discharges," the facility is not required to send a copy of the room change notification to a representative of the Ombudsman program.

Ombudsman Program Management Considerations

In response to this new requirement, State Ombudsman programs will need to consider several program management issues and advocacy strategies related to the receipt of transfer or discharge notices, such as:

How will the program receive these notices?

- *Will they be sent to the State Ombudsman or directly to local representatives (if applicable)?*
- *Sent via fax, email, regular mail? Will there be a separate email address for discharge notices?*
- *How will this process be shared with nursing homes and the state survey agency?*

What will the program do with these notices?

- *Who will review them and determine when action is needed?*
- *How will notices, and your program's response, be prioritized?*
- *How will the State Ombudsman determine when the program will be proactive and contact the resident to see if he/she wants assistance based on the notice received?*
- *What will the program do, if anything, if the notice is incomplete or incorrect?*

How will the program track these notices to determine trends and potential issues for systems advocacy (e.g., reasons for discharge, facilities in a specific region/city sending a large number of discharges, facilities in the same chain sending similar discharge notices, etc.)?

Nursing Home Regulations Referring to Transfer/Discharge Notices

Refer to the chart below for more information regarding transfer/discharge notifications. The chart includes the revised federal regulations and previous regulations regarding transfer/discharge notices and the implementation phase. For additional information regarding the revised Federal Nursing Home Regulations, visit the NORC [website](#).¹

NOTE: Revised rule language that is a version of the previous language is in *italics* (the only revision may be a change in a citation referenced in the provision) and language CMS identified as new is in **bold font**.

Revised Section	Revised Language	Implementation Phase	Previous Section	Previous Language
483.15(c)(3)	(3) Notice before transfer. Before a facility transfers or discharges a resident, the facility must—	1	483.12(a)(4)	(4)....
483.15(c)(3)(i)	<i>(i) Notify the resident and the resident's representative(s) of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand. The facility must send a copy</i>	1	483.12(a)(4)(i)	(i) Notify the resident and, if known, a family member or legal representative of the resident of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand.

¹ NORC Library. Federal Nursing Home Regulations. http://ltombudsman.org/library/fed_laws/federal-nursing-home-regulations

	<i>of the notice to a representative of the Office of the State Long-Term Care Ombudsman.</i>			
483.15(c)(3)(ii)	<i>(ii) Record the reasons for the transfer or discharge in the resident's medical record in accordance with paragraph (c)(2) of this section; and</i>	1	483.12(a)(4)(ii)	(ii) Record the reasons in the resident's clinical record; and
483.15(c)(3)(iii)	<i>(iii) Include in the notice the items described in paragraph (b)(5) of this section.</i>	1	483.12(a)(4)(iii)	(iii) Include in the notice the items described in paragraph (a)(6) of this section.
483.15(c)(4)	(4) Timing of the notice.	1	483.12(a)(5)	(5)....
483.15(c)(4)(i)	<i>(i) Except as specified in paragraphs (b)(4)(ii) and (b)(8) of this section, the notice of transfer or discharge required under this section must be made by the facility at least 30 days before the resident is transferred or discharged</i>	1	483.12(a)(5)(i)	(i) Except as specified in paragraphs (a)(5)(ii) and (a)(8) of this section, the notice of transfer or discharge required under paragraph (a)(4) of this section must be made by the facility at least 30 days before the resident is transferred or discharged.
483.15(c)(4)(ii)	(ii) Notice must be made as soon as practicable before transfer or discharge when—	1	483.12(a)(5)(ii)	(ii)....
483.15(c)(4)(ii)(A)	<i>(A) The safety of individuals in the facility would be endangered under paragraph (b)(1)(ii)(C) of this section;</i>	1	483.12(a)(5)(ii)(A)	(A) the safety of individuals in the facility would be endangered under paragraph (a)(2)(iii) of this section;
483.15(c)(4)(ii)(B)	<i>(B) The health of individuals in the facility would be endangered, under paragraph (b)(1)(ii)(D) of this section;</i>	1	483.12(a)(5)(ii)(B)	(B) The health of individuals in the facility would be endangered, under paragraph (a)(2)(iv) of this section;
483.15(c)(4)(ii)(C)	<i>(C) The resident's health improves sufficiently to allow a more immediate transfer or discharge, under paragraph (b)(1)(ii)(B) of this section;</i>	1	483.12(a)(5)(ii)(C)	(C) The resident's health improves sufficiently to allow a more immediate transfer or discharge, under paragraph (a)(2)(ii) of this section;
483.15(c)(4)(ii)(D)	<i>(D) An immediate transfer or discharge is required by the resident's urgent medical needs, under paragraph (b)(1)(ii)(A) of this section; or</i>	1	483.12(a)(5)(ii)(D)	(D) An immediate transfer or discharge is required by the resident's urgent medical needs, under paragraph (a)(2)(i) of this section; or
483.15(c)(4)(ii)(E)	(E) A resident has not resided in the facility for 30 days.	1	483.12(a)(5)(ii)(E)	(E)....

483.15(c)(5)	(5) Contents of the notice. The written notice specified in paragraph (b)(3) of this section must include the following:	1	483.12(a)(6)	(6) Contents of the notice. The written notice specified in paragraph (a)(4) of this section must include the following:
483.15(c)(5)(i)	(i) The reason for transfer or discharge;	1	483.12(a)(6)(i)	(i)....
483.15(c)(5)(ii)	(ii) The effective date of transfer or discharge;	1	483.12(a)(6)(ii)	(ii)....
483.15(c)(5)(iii)	(iii) The location to which the resident is transferred or discharged;	1	483.12(a)(6)(iii)	(iii)....
483.15(c)(5)(iv) *CMS considers this final language to be new. However, at least some of the language is similar to or based on language in the previous rule.*	(iv) A statement of the resident's appeal rights, including the name, address (mailing and email), and telephone number of the entity which receives such requests; and information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request;	1		
483.15(c)(5)(v)	<i>(v) The name, address (mailing and email) and telephone number of the Office of the State Long-Term Care Ombudsman;</i>	1	483.12(a)(6)(v)	(v) The name, address and telephone number of the State long term care ombudsman;
483.15(c)(5)(vi)	<i>(vi) For nursing facility residents with intellectual and developmental disabilities or related disabilities, the mailing and email address and telephone number of the agency responsible for the protection and advocacy of individuals with developmental disabilities established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Pub. L. 106-402, codified at 42 U.S.C. 15001 et seq.); and</i>	1	483.12(a)(6)(vi)	(vi) For nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act; and
483.15(c)(5)(vii)	<i>(vii) For nursing facility residents with a mental disorder or related disabilities, the mailing</i>	1	483.12(a)(6)(vii)	(vii) For nursing facility residents who are mentally ill, the mailing address and telephone number of the

	<i>and email address and telephone number of the agency responsible for the protection and advocacy of individuals with a mental disorder established under the Protection and Advocacy for Mentally Ill Individuals Act</i>			agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.
483.15(c)(6)	(6) Changes to the notice. If the information in the notice changes prior to effecting the transfer or discharge, the facility must update the recipients of the notice as soon as practicable once the updated information becomes available.	1		