



DISCHARGE NOTIFICATION FACILITY GUIDANCE STATE OF UTAH LONG-TERM CARE OMBUDSMAN PROGRAM

Federal regulations now require facilities to send a copy of the transfer or discharge notice, provided to the resident and the resident's representative, to a representative of the Office of the State Long-Term Care Ombudsman. This correspondence provides guidance when notice to the Office of the State of Utah Long-Term Care Ombudsman is required.

What type of facilities have to follow this CMS rule?

- In accordance with Title 42 of the Code of Federal Regulations (CFR) 483, this rule applies to Skilled Nursing Facilities (SNF), Nursing Facilities (NF), and dually participating Skilled Nursing Facilities/Nursing Facilities (SNF/NF). This rule does not include Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) or Assisted Living Facilities.

§483.5 Definitions.

(a) Facility defined. For purposes of this subpart, facility means a skilled nursing facility (SNF) that meets the requirements of sections 1819(a), (b), (c), and (d) of the Act, or a nursing facility (NF) that meets the requirements of sections 1919(a), (b), (c), and (d) of the Act. "Facility" may include a distinct part of an institution (as defined in paragraph (b) of this section and specified in § 440.40 and § 440.155 of this chapter), but does not include an institution for the mentally retarded or persons with related conditions described in § 440.150 of this chapter.

Can a resident be discharged while an appeal is pending?

- The facility may not transfer or discharge the resident while the appeal is pending, pursuant to § 431.230 , when a resident exercises his or her right to appeal a transfer or discharge notice from the facility pursuant to § 431.220(a)(3) , unless the failure to discharge or transfer would endanger the health or safety of the resident or other individuals in the facility. The facility must document the danger that failure to transfer or discharge would pose.

What types of discharges and transfers should I notify the Ombudsman about?

- Facilities **must notify** the Office of the State of Utah Long-Term Care Ombudsman, any time a **facility initiates** a transfer or discharge of a resident for any of the following reasons:
 - a) The resident's welfare and the resident's needs cannot be met in the facility;
 - b) The resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;
 - c) The safety of individuals in the facility endangered due to the clinical or behavioral status of the resident;
 - d) The health of individuals in the facility would otherwise be endangered;
 - e) The resident has failed, after reasonable and appropriate notice, to pay for (or have paid under Medicare or Medicaid) a stay at the facility. Nonpayment applies if the resident does not submit the necessary paperwork for third party payment or after the third party, including Medicare or Medicaid, denies the claim and the resident refuses to pay for his or her stay. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid; or
 - f) The facility ceases to operate.
- Facilities **are required** to send notices for emergency transfers.
- **A facility initiated transfer or discharge is a transfer or discharge which the resident objects to, did not originate through a resident's verbal or written request, and/or is not in alignment with the resident's stated goals for care and preferences.**

What types of transfers and discharges don't have to be reported to the Ombudsman Program?

- Facilities are **not required** to send copies of notices for resident self-initiated transfers or discharges.

What is considered a self-initiated discharge?

- A resident is determined to have **initiated** the discharge when 1) it is consistent with previously-identified goals of care and preferences as outlined in the care plan, or 2) the resident, representative or family has provided written notice to the facility that they intend to leave the facility.

When should I notify the Ombudsman?

- Facilities must give the resident and their representative a notice of discharge or transfer at least **30 days** in advance unless one of the exceptions outlined in 42 CFR 483.15(c)(4)(ii) applies. The facility **must send copies** of these notices to the Office of the State of Utah Long-Term Care Ombudsman at the **same time**.
- When a resident is **temporarily transferred** on an emergency basis to an acute care facility, notice of transfer may be provided to the resident and resident representative as soon as practicable (42 CFR 483.15 (c)(4)(ii)(D)). Copies of these notices can also be sent to the ombudsman when practicable, such as in a **monthly list**.
- If the facility decides to **discharge** a resident for one of the allowed reasons while the resident is still hospitalized, the facility must send a 30-day notice of discharge to the resident and resident representative. In this case, the facility must also send a copy of the notice to the ombudsman at the **same time** it provides notice to the resident or the resident’s representative.

What should be included on each notice?

- The notice should include the resident’s name and the facility’s name, address, and the contact information, as well as all information required under 42 CFR 483.15(c)(5).

Which Ombudsman should I notify?

- New regulations refer to the “Representative of the Office of the State Long-Term Care Ombudsman.” For purposes of this notice, please send all discharge notices to the State of Utah Long-Term Care Ombudsman.

How should I notify the Ombudsman?

- Send a copy of the same notice you provided the resident and resident representative. Send by email (scanned copy of discharge/transfer notice), or fax.

Email: sltcop@utah.gov
Fax: (801) 532-2217

It is also suggested that you consult your legal counsel or industry trade association for additional guidance regarding discharge and transfer notices.

For questions about this communication, you may contact me at;

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