

Involuntary Transfers & Discharges

Threat of involuntary transfer or discharge (T/D) is stressful, frightening --- Know your rights!

Only 6 Justifications for Involuntary Transfer or Discharge

1. Facility cannot meet resident’s needs necessary for resident’s welfare.*
2. Resident no longer needs nursing facility services.
3. Resident’s clinical or behavioral status endangers safety of others in facility.*
4. Resident’s presence endangers health of others in facility.*
5. Resident has failed to pay and has not submitted necessary paperwork for third party payment.
6. Facility is closing.

*See Advocacy Tips – Physician Documentation.

Notice Must Be Given to Resident

Facility must provide written notice of proposed T/D in language resident understands to resident & resident’s representative, with copy to Long-Term Care Ombudsman program.

Notice must include:	Timing of notice:
<ol style="list-style-type: none"> 1 Reason for T/D. 2 Proposed effective date. 3 Transfer or discharge location. 4 Appeal rights & LTC Ombudsman contact info. If applicable: Agencies responsible for advocacy on behalf of persons with intellectual & developmental disabilities, or persons with mental disorders. 	<ol style="list-style-type: none"> 1 At least 30 days before proposed T/D. 2 As soon as practicable before T/D, if: <ol style="list-style-type: none"> a Resident resided in facility for less than 30 days; b Improved condition allows “more immediate T/D”; c If prompt T/D is needed to protect safety or health of others at facility. d To respond to resident’s “urgent medical needs.”

Advocacy Tips

- **Physician documentation must verify that clinical outcomes support facility claims regarding:**
 - **Basis for endangering others** due to alleged clinical/behavioral status.
 - **Basis for transferring residents perceived as being “difficult” or “heavy care”** to determine if care needs fall within services required by Federal law. **Physician must document:** Specific needs facility cannot meet, attempts by facility to meet need(s), & services at new facility that will meet need(s).
 - ✓ **Don’t accept dementia as justification for T/D!** Nursing home may claim it can’t meet resident’s needs when facility considers resident to be “difficult” due to dementia symptoms/other reasons.
- **Immediately file appeal with MassHealth (Medicaid) Board of Hearings [Form HR-1 (Rev. 04-19)] --- any resident can use MassHealth appeal hearings! Resident cannot be T/D during Fair Hearing Appeal process, unless delay endangers health/safety of resident/others in facility.**
- **Lack of safe & appropriate new location will delay T/D.** Resident would remain in nursing home until safe & appropriate new location is approved by Hearing officer. Source: MA General law Ch. 111 Section 70E
- **Resident cannot be T/D during payment application processing:** 1) for nonpayment, if resident submitted necessary paperwork to MassHealth/other provider 2) while provider is considering resident’s application.
- **Nursing home must provide sufficient preparation & orientation** to residents to ensure safe & orderly T/D.
- **Contact your Long-Term Care Ombudsman** for help with appeal & other T/D issues.

Source: 483.15(c) of Title 42 of the Code of Federal Regulations.