

Issue Brief: Nursing Home Closures

Executive Summary

Facilities are required to provide written notification of an impending closure to the State Survey Agency, the State LTC Ombudsmen, residents of the facility, and their resident representatives at least 60 days prior to the date of the closure, or when the Secretary deems appropriate. The notice must include: (1) information on the facility's closure plan for the transfer and adequate relocation of residents, (2) assurances residents will be transferred to the most appropriate setting, (3) appeal rights information, and (4) contact information of the State Long-Term Care Ombudsman Program. The closing facility is responsible for documenting and communicating a variety of information to the receiving facility, including contact information for resident representatives, comprehensive care plan goals, and any other information to ensure a safe and orderly discharge. The closing facility is not allowed to admit any new residents during the closure. The closing facility must provide a transfer orientation for residents. If the Secretary deems appropriate, the closing facility may continue to receive payments for long-term care residents for the duration of the closure.

Notice Requirements

Federal regulations require the administrator of a nursing facility provide written notification of an impending closure to the State Survey Agency, the State LTC Ombudsman, residents of the facility, and their resident representatives or other responsible parties.¹ The written notification must be given at least 60 days prior to the date of the closure, or, in the case of a facility being terminated from participation in Medicare and/or Medicaid, not later than the date the Secretary (of Health & Human Services) determines to be appropriate².

The notice must also include the facility's State-approved closure plan for the transfer and adequate relocation of the residents; as well as assurances that the residents will be transferred to the most appropriate facility or setting, in terms of quality, services, and location, and considering the needs, choice, and best interests of each resident.³

The facility must have policies and procedures in place ensuring that the administrator's duties and responsibilities involve providing appropriate notices in the event of facility closure.⁴

¹ 42 C.F.R. 483.70(l)(1)

² 483.70(l)(1)(i) – 483.70(l)(1)(ii)

³ 483.70(l)(3)

⁴ 483.70(m)

The notice is required to have the following information:⁵

- The reason for transfer or discharge (i.e. closure)⁶
- The effective date of transfer or discharge⁷
- The location to which the resident will be transferred⁸
- Information on the resident's appeal rights, including the name, address (mailing and email), and telephone number of the entity which receives appeal requests; and information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request⁹
- Name, address (mailing and email), and telephone number of the Office of the State Long-Term Care Ombudsman¹⁰
- For nursing 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 disabilities¹¹
- For nursing residents with a mental disorder or related disabilities, the mailing and email address and telephone number of the agency responsible for the protection and advocacy of individuals with a mental disorder¹²

If the information in the notice is changed before the effective date of the transfer, then the facility must update the recipients of the notice as soon as practicable.¹³

May Not Admit New Residents

Once the notice of closure is submitted to the State Survey Agency and other listed entities and individuals, the administrator must ensure that the facility does not admit any new residents¹⁴.

Required Documentation/Communication

The facility is required to ensure that for each resident being transferred or discharged, the basis for the transfer is documented by in his/her medical record:¹⁵

⁵ 483.15(c)(5)

⁶ 483.15(c)(5)(i)

⁷ 483.15(c)(5)(ii)

⁸ 483.15(c)(5)(iii)

⁹ 483.15(c)(5)(iv)

¹⁰ 483.15(c)(5)(v)

¹¹ 483.15(c)(5)(vi)

¹² 483.15(c)(5)(vii)

¹³ 483.15(c)(6)

¹⁴ 483.70(l)(2)

¹⁵ 483.15(c)(2) & 483.15(c)(2)(i)(A)

The closing facility must provide, at minimum, the following information to the receiving facility:¹⁶

- Contact information of the practitioner responsible for the care of the resident¹⁷
- Resident representative information including contact information¹⁸
- Advance Directive information if the resident has one¹⁹
- All special instructions or precautions for ongoing care²⁰
- Comprehensive care plan goals²¹
- All other necessary information, including a copy of the resident's discharge summary and any other documentation necessary to ensure a safe and effective transition of care²²

Orientation for Transfer or Discharge

A closing facility must provide an orientation to residents to ensure a safe and orderly transfer from the facility. This orientation must be provided in a form and manner that the resident can understand. The closing facility must document this orientation.²³

Continuation of Payments from CMS

As the Secretary deems appropriate, CMS may continue payments with respect to residents of a long-term care facility that is closing and has submitted a notification of closure. CMS may continue payments during the period beginning on the date of closure notification and ending on the date which the residents are successfully relocated.²⁴

¹⁶ 483.15(c)(2)(iii)

¹⁷ 483.15(c)(2)(iii)(A)

¹⁸ 483.15(c)(2)(iii)(B)

¹⁹ 483.15(c)(2)(iii)(C)

²⁰ 483.15(c)(2)(iii)(D)

²¹ 483.15(c)(2)(iii)(E)

²² 483.15(c)(2)(iii)(F)

²³ 483.15(c)(7)

²⁴ 42 C.F.R. 488.450(c)(2)