

42 CFR 483.12

This section is current through the March 20, 2014 issue of the Federal Register

Code of Federal Regulations > TITLE 42-- PUBLIC HEALTH > CHAPTER IV-- CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES > SUBCHAPTER G-- STANDARDS AND CERTIFICATION > PART 483-- REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES > SUBPART B-- REQUIREMENTS FOR LONG TERM CARE FACILITIES

§ 483.12 Admission, transfer and discharge rights.

(a) Transfer and discharge --

- (1) Definition:** Transfer and discharge includes movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not. Transfer and discharge does not refer to movement of a resident to a bed within the same certified facility.
- (2) Transfer and discharge requirements.** The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless --
 - (i)** The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;
 - (ii)** The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;
 - (iii)** The safety of individuals in the facility is endangered;
 - (iv)** The health of individuals in the facility would otherwise be endangered;
 - (v)** The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. 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
 - (vi)** The facility ceases to operate.
- (3) Documentation.** When the facility transfers or discharges a resident under any of the circumstances specified in paragraphs (a)(2)(i) through (v) of this section, the resident's clinical record must be documented. The documentation must be made by --
 - (i)** The resident's physician when transfer or discharge is necessary under paragraph (a)(2)(i) or paragraph (a)(2)(ii) of this section; and
 - (ii)** A physician when transfer or discharge is necessary under paragraph (a)(2)(iv) of this section.
- (4) Notice before transfer.** Before a facility transfers or discharges a resident, the facility must --
 - (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.
 - (ii)** Record the reasons in the resident's clinical record; and
 - (iii)** Include in the notice the items described in paragraph (a)(6) of this section.
- (5) Timing of the notice.**

- (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.
- (ii)** Notice may be made as soon as practicable before transfer or discharge when --

 - (A)** the safety of individuals in the facility would be endangered under paragraph (a)(2)(iii) of this section;
 - (B)** The health of individuals in the facility would be endangered, under paragraph (a)(2)(iv) of this section;
 - (C)** The resident's health improves sufficiently to allow a more immediate transfer or discharge, under paragraph (a)(2)(ii) of this section;
 - (D)** An immediate transfer or discharge is required by the resident's urgent medical needs, under paragraph (a)(2)(i) of this section; or
 - (E)** A resident has not resided in the facility for 30 days.
- (6)** Contents of the notice. The written notice specified in paragraph (a)(4) of this section must include the following:

 - (i)** The reason for transfer or discharge;
 - (ii)** The effective date of transfer or discharge;
 - (iii)** The location to which the resident is transferred or discharged;
 - (iv)** A statement that the resident has the right to appeal the action to the State;
 - (v)** The name, address and telephone number of the State long term care ombudsman;
 - (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
 - (vii)** For nursing facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.
- (7)** Orientation for transfer or discharge. A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.
- (8)** Notice in advance of facility closure. In the case of facility closure, the individual who is the administrator of the facility must provide written notification prior to the impending closure to the State Survey Agency, the State LTC ombudsman, residents of the facility, and the legal representatives of the residents or other responsible parties, as well as the plan for the transfer and adequate relocation of the residents, as required at § 483.75(r).
- (9)** Room changes in a composite distinct part. Room changes in a facility that is a composite distinct part (as defined in § 483.5(c)) must be limited to moves within the particular building in which the resident resides, unless the resident voluntarily

agrees to move to another of the composite distinct part's locations.

- (b) Notice of bed-hold policy and readmission --** (1) Notice before transfer. Before a nursing facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the nursing facility must provide written information to the resident and a family member or legal representative that specifies --
 - (i)** The duration of the bed-hold policy under the State plan, if any, during which the resident is permitted to return and resume residence in the nursing facility; and
 - (ii)** The nursing facility's policies regarding bed-hold periods, which must be consistent with paragraph (b)(3) of this section, permitting a resident to return.
 - (2) Bed-hold notice upon transfer.** At the time of transfer of a resident for hospitalization or therapeutic leave, a nursing facility must provide to the resident and a family member or legal representative written notice which specifies the duration of the bed-hold policy described in paragraph (b)(1) of this section.
 - (3) Permitting resident to return to facility.** A nursing facility must establish and follow a written policy under which a resident, whose hospitalization or therapeutic leave exceeds the bed-hold period under the State plan, is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident --
 - (i)** Requires the services provided by the facility; and
 - (ii)** Is eligible for Medicaid nursing facility services.
 - (4) Readmission to a composite distinct part.** When the nursing facility to which a resident is readmitted is a composite distinct part (as defined in § 483.5(c) of this subpart), the resident must be permitted to return to an available bed in the particular location of the composite distinct part in which he or she resided previously. If a bed is not available in that location at the time of readmission, the resident must be given the option to return to that location upon the first availability of a bed there.
- (c) Equal access to quality care.**
- (1)** A facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the State plan for all individuals regardless of source of payment;
 - (2)** The facility may charge any amount for services furnished to non-Medicaid residents consistent with the notice requirement in § 483.10(b)(5)(i) and (b)(6) describing the charges; and
 - (3)** The State is not required to offer additional services on behalf of a resident other than services provided in the State plan.
- (d) Admissions policy.**
- (1)** The facility must --
 - (i)** Not require residents or potential residents to waive their rights to Medicare or Medicaid; and
 - (ii)** Not require oral or written assurance that residents or potential residents are not

eligible for, or will not apply for, Medicare or Medicaid benefits.

- (2) The facility must not require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from the resident's income or resources.
- (3) In the case of a person eligible for Medicaid, a nursing facility must not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission or continued stay in the facility. However, --
- (i) A nursing facility may charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the State plan as included in the term "nursing facility services" so long as the facility gives proper notice of the availability and cost of these services to residents and does not condition the resident's admission or continued stay on the request for and receipt of such additional services; and
- (ii) A nursing facility may solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid eligible resident or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility for a Medicaid eligible resident.
- (4) States or political subdivisions may apply stricter admissions standards under State or local laws than are specified in this section, to prohibit discrimination against individuals entitled to Medicaid.

| |
|----------------------------|
| Statutory Authority |
|----------------------------|

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

Secs. 1102, 1128I and 1871 of the Social Security Act ([42 U.S.C. 1302](#), 1320a-7j, and 1395hh).

| |
|----------------|
| History |
|----------------|

[56 FR 48869, Sept. 26, 1991, as amended at 57 FR 43924, Sept. 23, 1992; [68 FR 46036, 46072](#), Aug. 4, 2003; [76 FR 9503, 9511](#), Feb. 18, 2011, as confirmed and amended at [78 FR 16795, 16805](#), Mar. 19, 2013]

Annotations

| |
|--------------|
| Notes |
|--------------|

[EFFECTIVE DATE NOTE:

[78 FR 16795, 16805](#), Mar. 19, 2013, revised paragraph (a)(8), effective Apr. 18, 2013.]

| |
|-------------------|
| Case Notes |
|-------------------|

LexisNexis® Notes

Case Notes Applicable to Entire Part

Administrative Law : Separation of Powers : Jurisdiction

Civil Procedure : Parties : Joinder : Necessary Parties

Civil Procedure : Pretrial Matters : Conferences : Case Management
 Healthcare Law : Business Administration & Organization : Licenses : General Overview
 Labor & Employment Law : Affirmative Action : Compliance
 Labor & Employment Law : Discrimination : Harassment : Sexual Harassment : Defenses & Exceptions
 : General Overview
 Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : General Overview
 Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : Care Facilities :
 Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : Care Facilities :
 Public Health & Welfare Law : Social Security : Medicaid : Providers : Payments & Reimbursements :
 General Overview
 Public Health & Welfare Law : Social Security : Medicaid : Providers : Payments & Reimbursements :

Case Notes Applicable to Entire Part

[Part Note](#)

Administrative Law : Separation of Powers : Jurisdiction

[Talbot v. Lucy Corr, 1996 U.S. Dist. LEXIS 8886](#) (ED Va Mar. 19, 1996).

Overview: *A patient could not pursue a claim under 42 U.S.C.S. § 1983 against a nursing home for alleged failure to comply with 42 U.S.C.S. 1395i(3)(c) because she first was required to exhaust the administrative remedies established by Virginia, pursuant to 42 C.F.R. § 488 et seq.*

- The Secretary of the Department of Health and Human Services has promulgated rules and regulations implementing the Nursing Home Reform Law. These regulations address, among other things: residents rights ([42 C.F.R § 483.10](#)); admission, transfer, and discharge rights ([42 C.F.R § 483.12](#)); resident behavior and facility practices ([42 C.F.R. § 483.13](#)); quality of life ([42 C.F.R. § 483.15](#)); and quality of care ([42 C.F.R. § 483.25](#)). To aid in implementing these requirements and procedures, the administrative scheme includes a state appeals process for transfers and discharges of patients. [42 C.F.R. § 431.205](#). The regulations provide that the state agency responsible for maintaining an appeals system must provide information regarding hearing procedures, notice to the beneficiary of the action that the skilled nursing facility intends to take, the reasons for the intended action, and the specific regulations that require that action. Moreover, a hearing is required for any resident who believes that a skilled nursing facility has transferred or discharged her in error. [42 C.F.R. § 431.220](#). *Go To Headnote*

Civil Procedure : Parties : Joinder : Necessary Parties

[Brown v. Giuliani, 2000 U.S. Dist. LEXIS 8889](#) (SD NY June 29, 2000).

Overview: *Claim seeking to compel defendant to hold hearings relating to emergency closing of nursing home not moot despite agreement to hold such hearings, as hearings had not yet occurred.*

- The New York State Department of Health is required by federal and state law to give notice and to conduct hearings for patients prior to their transfer from a nursing home facility. [42 U.S.C.S. §§ 1396r\(e\)\(3\), 1396r\(f\)\(3\)](#); [42 C.F.R. §§ 483.200, 483.12](#); N.Y. Comp.

Codes R. & Regs. tit. 10, § 415.3(h)(2)(i)(2000). *Go To Headnote*

Civil Procedure : Pretrial Matters : Conferences : Case Management

[Brown v. Giuliani, 2000 U.S. Dist. LEXIS 8889](#) (SD NY June 29, 2000).

Overview: *Claim seeking to compel defendant to hold hearings relating to emergency closing of nursing home not moot despite agreement to hold such hearings, as hearings had not yet occurred.*

- The New York State Department of Health is required by federal and state law to give notice and to conduct hearings for patients prior to their transfer from a nursing home facility. [42 U.S.C.S. §§ 1396r\(e\)\(3\), 1396r\(f\)\(3\)](#); [42 C.F.R. §§ 483.200, 483.12](#); N.Y. Comp. Codes R. & Regs. tit. 10, § 415.3(h)(2)(i)(2000). *Go To Headnote*

Healthcare Law : Business Administration & Organization : Licenses : General Overview

[Paschall v. D.C. Dep't of Health, 871 A.2d 463, 2005 D.C. App. LEXIS 151](#) (DC Apr. 7, 2005).

Overview: *Where an ALJ found that a nursing home's notice of discharge to a Medicaid resident was defective for violating federal and District of Columbia law, it erred by later ruling that he lacked authority to order resident's readmission as 42 C.F.R. pt. 483, subpt. E, incorporated by D.C. Mun. Regs. tit. 22, § 3200.1 (2004), gave ALJs such authority.*

- D.C. Mun. Regs. tit. 22, § 3200.1 (2004), adopted pursuant to the District of Columbia Mayor's authority under D.C. Code Ann. § 44-504(a), expressly incorporates the discharge provisions of 42 C.F.R. pt. 483, subpt. B (including [42 C.F.R. § 483.12 \(b\)](#)) into District of Columbia law, made enforceable by the discharge protections of the District of Columbia Nursing Home and Community Residence Facility Residents' Protection Act of 1985, D.C. Code Ann. § 44-1001.01 et seq. *Go To Headnote*

[Robbins v. State Dep't of Inspections & Appeals, 567 N.W.2d 653, 1997 Iowa Sup. LEXIS 210](#) (Iowa July 23, 1997).

Overview: *A nursing home resident was properly discharged from a nursing home where his aggressive behavior infringed upon the rights and well-being of other residents in the home, and he was given proper notification of his involuntary dismissal.*

- Iowa Code § 135C.14(8)(b) states that the department shall adopt rules relating to the involuntary discharge or transfer of residents from a facility including provisions for notice and agency hearings and for the development of a patient discharge or transfer plan and for providing counseling services to a patient being discharged or transferred. Iowa Code § 135C.14(8) directs that the rules shall encompass the resident's rights provisions contained in [42 C.F.R. § 483.12 \(1989\)](#), which prohibits discharge unless the following standards are met: the safety or health of individuals in the facility is endangered; a thirty-day notice has been delivered to the resident prior to discharge and to a family member or legal representative, if known; the notice contains the reason for discharge, right of appeal information, date and location of the discharge, and contact information for the care ombudsperson and responsible agency; and the facility prepares and orients the resident to be discharged to ensure safe and orderly transition. [42 C.F.R. § 483.12\(a\)](#). The federal framework for an involuntary discharge or transfer requires a five-part showing: cause, notice, agency hearing, plan development, and counseling. *Go To Headnote*

Labor & Employment Law : Affirmative Action : Compliance

[Ligenza v. Genesis Health Ventures, 995 F. Supp. 226, 1998 U.S. Dist. LEXIS 2074](#) (D Mass Feb. 20, 1998).

Overview: *Employee failed to produce any material evidence with respect to essential elements of sexual harassment claim and only reasonable inference from evidence was that employee was not discharged in retaliation for harassment claim.*

- State and federal laws cannot be administered in a discriminatory fashion. Although patients have rights, employees of long term care facilities also have the right to a workplace free from sexual harassment. Thus, a long term care facility may not disclaim all responsibility toward its employees in the name of patient care, and regulations do not appear to foreclose a long term care facility from seeking to remove a patient from its facility. If anything, the regulations provide that if the safety of individuals in the nursing facility is endangered or the health of the individuals in the nursing facility would be otherwise endangered, Mass. Regs. Code tit. 130, § 610.220(A); [42 C.F.R. § 483.12](#), some affirmative action, including removal, may be permissible. [Go To Headnote](#)

Labor & Employment Law : Discrimination : Harassment : Sexual Harassment : Defenses & Exceptions : General Overview

[Ligenza v. Genesis Health Ventures, 995 F. Supp. 226, 1998 U.S. Dist. LEXIS 2074](#) (D Mass Feb. 20, 1998).

Overview: *Employee failed to produce any material evidence with respect to essential elements of sexual harassment claim and only reasonable inference from evidence was that employee was not discharged in retaliation for harassment claim.*

- State and federal laws cannot be administered in a discriminatory fashion. Although patients have rights, employees of long term care facilities also have the right to a workplace free from sexual harassment. Thus, a long term care facility may not disclaim all responsibility toward its employees in the name of patient care, and regulations do not appear to foreclose a long term care facility from seeking to remove a patient from its facility. If anything, the regulations provide that if the safety of individuals in the nursing facility is endangered or the health of the individuals in the nursing facility would be otherwise endangered, Mass. Regs. Code tit. 130, § 610.220(A); [42 C.F.R. § 483.12](#), some affirmative action, including removal, may be permissible. [Go To Headnote](#)

Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : General Overview

[Roberson v. Wood, 500 F. Supp. 854, 1980 U.S. Dist. LEXIS 14832](#) (SD Ill Nov. 12, 1980).

Overview: *A declaratory action regarding the nursing home residents' rights after the nursing home decided to terminate the skilled nursing facility there did not survive the death of the residents affected by the nursing home's decision.*

- Illinois Department of Public Aid Rule 4.1405 provides: Provider Voluntary Withdrawal Emergency Beneficiaries for whom the Illinois Department of Public Aid (Department) makes payment under the Medicaid program to group care facilities are protected by the "Patients' Bill of Rights" described in 42 C.F.R. §§ 405.1121(k) and 442.311(c). No such beneficiary may be required by the facility under such regulation to leave the facility

for reasons other than those enumerated in that regulation. If such a group care facility informs the Department in writing that it intends to stop participating in the Department Medicaid program, the Department shall not authorize additional beneficiaries to be placed in the facility. The Department shall continue to pay for the care of beneficiaries who continue to reside in such a facility or provided that payment is not terminated by operation of Rules 4.1401, 4.1402, or 4.1403. Go To Headnote

- The Nursing Home Patients' Bill of Rights, 42 C.F.R. § 405.1121(k)(4), provides that a patient admitted to a Medicaid skilled nursing facility can be transferred or discharged only for medical reasons, or for his welfare, or that of other patients, or for non-payment of his stay, and that a patient must be given reasonable notice to insure orderly transfer or discharge. Go To Headnote

Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : Care Facilities :

Schoolcraft Mem. Hosp. v. Mich. Dep't of Cmty. Health, 570 F. Supp. 2d 949, 2008 U.S. Dist. LEXIS 61316 (WD Mich Aug. 12, 2008).

Overview: Michigan's Department of Community Health was entitled to summary judgment because [42 C.F.R. § 483.12\(a\)\(2\)](#), as applied to swing-bed hospitals through [42 C.F.R. § 482.66\(b\)\(2\)](#), did not preempt the five-day rule of Michigan's short-term-nursing-care program, Mich. Comp. Laws Ann. § 333.22210(3)(f). There was no direct conflict between the laws.

- A short-term-nursing-care program is neither a skilled nursing facility (SNF) nor a nursing facility (NF). SNFs and NFs are, essentially, nursing homes, and the [42 C.F.R. § 483.12\(a\)\(2\) \(2007\)](#), the transfer-restriction regulation (TRR), applies only to them. The TRR does not, by its express terms, apply to swing-bed programs. The only way the TRR is applicable to swing-bed programs is through a different provision of federal law that requires hospitals with swing beds to be substantially in compliance with, " among other things, the TRR. [42 C.F.R. § 482.66\(b\)\(2\)](#). Specifically, a swing-bed hospital must be substantially in compliance with the skilled nursing facility requirements for admission, transfer, and discharge rights ([42 C.F.R. § 483.12\(a\)\(1\)](#), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7)). [42 C.F.R. § 482.66\(b\)\(2\)](#). Go To Headnote
- [42 C.F.R. § 483.12\(a\)\(2\) \(2007\)](#) applies to facilities. [42 C.F.R. § 483.12](#). A facility is a skilled nursing facility or a nursing facility. [42 C.F.R. § 483.5](#). Go To Headnote
- [42 C.F.R. § 483.12\(a\)\(2\)](#), as applied to swing-bed hospitals through [42 C.F.R. § 482.66\(b\)\(2\)](#), does not preempt the five-day rule, Mich. Comp. Laws Ann. § 333.22210(3)(f). There is no direct conflict between the laws. Go To Headnote

Ligenza v. Genesis Health Ventures, 995 F. Supp. 226, 1998 U.S. Dist. LEXIS 2074 (D Mass Feb. 20, 1998).

Overview: Employee failed to produce any material evidence with respect to essential elements of sexual harassment claim and only reasonable inference from evidence was that employee was not discharged in retaliation for harassment claim.

- State and federal laws cannot be administered in a discriminatory fashion. Although patients have rights, employees of long term care facilities also have the right to a workplace free from sexual harassment. Thus, a long term care facility may not disclaim all responsibility toward its employees in the name of patient care, and regulations do not

appear to foreclose a long term care facility from seeking to remove a patient from its facility. If anything, the regulations provide that if the safety of individuals in the nursing facility is endangered or the health of the individuals in the nursing facility would be otherwise endangered, Mass. Regs. Code tit. 130, § 610.220(A); [42 C.F.R. § 483.12](#), some affirmative action, including removal, may be permissible. [Go To Headnote](#)

[Talbot v. Lucy Corr, 1996 U.S. Dist. LEXIS 8886](#) (ED Va Mar. 19, 1996).

Overview: *A patient could not pursue a claim under 42 U.S.C.S. § 1983 against a nursing home for alleged failure to comply with 42 U.S.C.S. 1395i(3)(c) because she first was required to exhaust the administrative remedies established by Virginia, pursuant to 42 C.F.R. § 488 et seq.*

- The Secretary of the Department of Health and Human Services has promulgated rules and regulations implementing the Nursing Home Reform Law. These regulations address, among other things: residents rights ([42 C.F.R § 483.10](#)); admission, transfer, and discharge rights ([42 C.F.R § 483.12](#)); resident behavior and facility practices ([42 C.F.R. § 483.13](#)); quality of life ([42 C.F.R. § 483.15](#)); and quality of care ([42 C.F.R. § 483.25](#)). To aid in implementing these requirements and procedures, the administrative scheme includes a state appeals process for transfers and discharges of patients. [42 C.F.R. § 431.205](#). The regulations provide that the state agency responsible for maintaining an appeals system must provide information regarding hearing procedures, notice to the beneficiary of the action that the skilled nursing facility intends to take, the reasons for the intended action, and the specific regulations that require that action. Moreover, a hearing is required for any resident who believes that a skilled nursing facility has transferred or discharged her in error. [42 C.F.R. § 431.220](#). [Go To Headnote](#)

Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : Care Facilities :

[Brown v. Giuliani, 2000 U.S. Dist. LEXIS 8889](#) (SD NY June 29, 2000).

Overview: *Claim seeking to compel defendant to hold hearings relating to emergency closing of nursing home not moot despite agreement to hold such hearings, as hearings had not yet occurred.*

- The New York State Department of Health is required by federal and state law to give notice and to conduct hearings for patients prior to their transfer from a nursing home facility. [42 U.S.C.S. §§ 1396r\(e\)\(3\), 1396r\(f\)\(3\)](#); [42 C.F.R. §§ 483.200, 483.12](#); N.Y. Comp. Codes R. & Regs. tit. 10, § 415.3(h)(2)(i)(2000). [Go To Headnote](#)

Public Health & Welfare Law : Social Security : Medicaid : Providers : Payments & Reimbursements : General Overview

[Roberson v. Wood, 500 F. Supp. 854, 1980 U.S. Dist. LEXIS 14832](#) (SD Ill Nov. 12, 1980).

Overview: *A declaratory action regarding the nursing home residents' rights after the nursing home decided to terminate the skilled nursing facility there did not survive the death of the residents affected by the nursing home's decision.*

- Illinois Department of Public Aid Rule 4.1405 provides: Provider Voluntary Withdrawal Emergency Beneficiaries for whom the Illinois Department of Public Aid (Department) makes payment under the Medicaid program to group care facilities are protected by the "Patients' Bill of Rights" described in 42 C.F.R. §§ 405.1121(k) and 442.311(c). No such beneficiary may be required by the facility under such regulation to leave the facility

for reasons other than those enumerated in that regulation. If such a group care facility informs the Department in writing that it intends to stop participating in the Department Medicaid program, the Department shall not authorize additional beneficiaries to be placed in the facility. The Department shall continue to pay for the care of beneficiaries who continue to reside in such a facility or provided that payment is not terminated by operation of Rules 4.1401, 4.1402, or 4.1403. *Go To Headnote*

Public Health & Welfare Law : Social Security : Medicaid : Providers : Payments & Reimbursements :

[Roberson v. Wood, 500 F. Supp. 854, 1980 U.S. Dist. LEXIS 14832](#) (SD Ill Nov. 12, 1980).

Overview: A declaratory action regarding the nursing home residents' rights after the nursing home decided to terminate the skilled nursing facility there did not survive the death of the residents affected by the nursing home's decision.

- The Nursing Home Patients' Bill of Rights, 42 C.F.R. § 405.1121(k)(4), provides that a patient admitted to a Medicaid skilled nursing facility can be transferred or discharged only for medical reasons, or for his welfare, or that of other patients, or for non-payment of his stay, and that a patient must be given reasonable notice to insure orderly transfer or discharge. *Go To Headnote*

| |
|--|
| Research References & Practice Aids |
|--|

NOTES APPLICABLE TO ENTIRE CHAPTER:

[PUBLISHER'S NOTE: Nomenclature changes affecting Chapter IV appear at [45 FR 53806](#), Aug. 13, 1980; [50 FR 12741](#), Mar. 29, 1985; [50 FR 33034](#), Aug. 16, 1985; [51 FR 41338](#), Nov. 14, 1986; [53 FR 6634](#), Mar. 2, 1988; [53 FR 47201](#), Nov. 22, 1988; [56 FR 8852](#), Mar. 1, 1991; [66 FR 39450, 39452](#), July 31, 2001; [67 FR 36539, 36540](#), May 24, 2002; [77 FR 29002, 29028](#), May 16, 2012.]

LEXISNEXIS' CODE OF FEDERAL REGULATIONS

Copyright © 2014, by Matthew Bender & Company, a member of the LexisNexis Group. All rights reserved.