



Nursing Home Resident Access to Records

Federal and New York State law provides nursing home residents have the right:

- To access his/her own records;
- To receive copies of those records; and,
- In certain situations enable the resident's representative to have access to those records.

Right to access own records¹

- The resident has the right to request access (inspect) personal and medical records upon oral or written request in the form and format requested by the individual.
- The nursing home is required to provide the resident with access if the records are readily producible. This includes in electronic form.
- If the records are not readily producible, a readable form must be produced by the facility, within 24 hours, excluding weekends and holidays.
- **“Records” includes:**
 - All records, in addition to clinical records, pertaining to the resident.²
 - This includes **the resident's care plan**. As explained in CMS' manual to state survey agencies (Department of Health for New York State), “if facility staff do not provide access to the care plan within 24 hours (excluding weekends and holidays) or provide, if requested, a copy of the care plan in

¹ 42 CFR 483.10(g)(2)(i); 10 NYCRR 415.3(d)(1)(iv)

²See 10 NYCRR 415.3(d)(1)(iv); and CMS Manual System Pub. 100-07 State Operations Manual, Appendix PP pg 44 of 702, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/Downloads/Appendix-PP-State-Operations-Manual.pdf>

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written or electronic form within two working days of the request” see F-Tag “F573, Right to Access/Purchase Copies of Records” for additional consideration (for whether there is a regulatory violation).³

- If the nursing home does not provide access (or a copy if requested) of the care plan to the resident, the nursing home may be found in violation of the regulation.

Right to receive copies of personal records

- The nursing home must allow the resident to obtain a copy of the records, or any portions thereof, upon request and 2 working days advance notice to the nursing home.
- The nursing home may only charge the resident the cost incurred by the facility to produce the photocopies or up to 75 cents per page, whichever is lower.⁴
- A resident shall not be denied access to the clinical record solely because of inability to pay.⁵

Resident representative access to resident records

- The designated representative who has authority to make health care decisions for the resident shall likewise have access to the resident’s records.
 - A competent resident has the right to deny such access.
 - The designated representative shall not be denied access to the clinical record solely because of inability to pay.⁶
- “Resident representative” includes an individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications.⁷

³ CMS Manual Appendix PP pg 16 of 702

⁴ 42 CFR 483.10(g)(2)(ii); 10 NYCRR 415.3(d)(1)(iv); 45 CFR 164.524(c)(4)(i)

⁵ 10 NYCRR 415.3(d)(1)(iv)

⁶ 10 NYCRR 415.3(d)(1)(iv)

⁷ 42 CFR 483.5