



## **Nursing Home Resident Rights: Grievances**

On September 28, 2016 the Centers for Medicare & Medicaid Services (CMS) revised the federal nursing home regulations for the first time in 25 years. Any nursing home that accepts Medicare and/or Medicaid funding is required to abide by the federal regulations (in addition to state law). While residents have always had the right to file grievances and voice concerns with the nursing home, not every nursing home properly upheld this right, or had a thorough and easy to understand grievance procedure. As a result, CMS included additional requirements that pertain to the resident's right to voice grievances at the nursing home.<sup>1</sup>

### **Overview of Requirements: Resident Right to Voice Grievances**

- Every nursing home resident has the right to voice grievances to the facility (or other agency or entity) without discrimination or reprisal and without fear of discrimination or reprisal.
  - The nursing home must create an environment whereby every resident feels safe to report a concern/file a grievance.
  - “Grievance” is meant to be broad and includes: concerns with respect to care and treatment (which has been provided or not provided), the behavior of staff and of other residents, and other concerns regarding their LTC facility stay.
- The facility must make prompt efforts to resolve grievances the resident may have and the resident has the right to receive the written result of the grievance.
  - While not every grievance will be resolved in favor (or to the satisfaction) of the resident, the resident has the right to know what was done and the facility must take the resident's concern seriously.
- The facility must make information on how to file a grievance or complaint available to the resident.

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<sup>1</sup> Legal requirements pertaining to visitation are found under federal regulation: 42 CFR 483.10(j) and can be accessed at [https://www.ecfr.gov/cgi-bin/text-idx?SID=74cb27365eb0b8ddd125fa0f632629af&node=se42.5.483\\_110&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=74cb27365eb0b8ddd125fa0f632629af&node=se42.5.483_110&rgn=div8)

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### **Nursing Home's Grievance Policy Requirements**

- The facility must establish a grievance policy to ensure the prompt resolution of all grievances.
- Upon request, the facility must give a copy of the grievance policy to the resident.
- Resident must be notified individually or through postings in prominent locations throughout the facility of the right to file grievances orally or in writing.
- The grievance policy must include in the notification to the resident:
  - Right of the resident to file grievances anonymously;
  - Contact information of grievance official;
  - Reasonable expected time frame for completing the review of the grievance;
  - Right of the resident to obtain a written decision regarding grievance; and
  - Contact information of independent entities with whom grievances may be filed (in addition to the facility).
    - I.e. Dept of Health, Long Term Care Ombudsman Program, Quality Improvement Organization.
- The result of all grievances must be kept for at least 3 years.

### **Every Nursing Home must have a Grievance Official**

The Grievance Official is the point person who is responsible for overseeing the grievance process, receiving and tracking grievances through to their conclusion; leading any necessary investigations by the facility; maintaining the confidentiality of all information associated with grievances, issuing written grievance decisions to the resident; and coordinating with state and federal agencies as necessary in light of specific allegations.

Every resident should know who the Grievance Official is and the facility should be forthcoming with his/her contact information!

### **Written Grievance Response Must Include**

- Date the grievance was received;
- Summary statement of the resident's grievance;
- Steps taken to investigate the grievance;
- Summary of the pertinent findings or conclusions regarding the resident's concern(s);
- Statement as to whether the grievance was confirmed or not confirmed;
- Any corrective action taken or to be taken by the facility as a result of the grievance; and
- Date the written decision was issued.

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