

Nursing Home Eviction Questions and Answers

It is a common business practice for nursing homes in California to pressure residents to prematurely leave the facility, even if they still need care. A facility may misrepresent the facts or withhold helpful information in order to convince the resident that there is no other option than to leave. Residents have the right to receive the care they need, but will need to learn and exercise their rights to avoid a loss of necessary services. This factsheet will go over common myths that nursing homes will use to force residents out of facilities and what to do if it happens to you.

“Your Medicare is Running Out. You Have to Leave”

One of the most common– and illegal – types of nursing home evictions is forcing residents to leave when their Medicare coverage ends. Medicare pays nursing homes a generous rate compared to other payment sources, which is why nursing homes use this business practice to attract short term patients who are covered by Medicare for the first 100 days and then throw them out once their coverage ends.

Residents do NOT have to leave the facility when their Medicare coverage ends.¹ Residents on Medicare have the right to challenge coverage determinations about their skilled nursing facility stay and to remain in the facility after their coverage ends if they still need skilled nursing home care. The facility must provide the resident with a “Notice of Medicare Non-Coverage” which includes the effective date on which coverage will end and the information to appeal the decision. This notice is **NOT** the same as a discharge notice, so you can stay in the facility if you plan to appeal. The facility must follow proper discharge procedures to legally discharge a resident. If the resident loses the appeal for extended Medicare coverage they will need to secure an alternative form of payment such as private pay, Medi-Cal or long term care Insurance. For more information on these procedures, see our factsheet “[Transfer and Discharge Rights](#).”

“We Only Have Short Term Beds Available”

Nursing homes will often claim that they only have “short term” beds available and cannot accommodate someone who needs long term care. There is no legal certification for a “short term” or “rehab only” skilled nursing facility. If a facility is licensed as a skilled nursing facility or nursing home in California, a facility must provide long term care.²

“We Don’t Have Medi-Cal Beds”

Another common excuse nursing homes will use is that they do not have Medi-Cal beds available. In very few cases, this might be true if the nursing home is not Medi-Cal certified. To verify if a nursing home is certified by Medi-Cal, search the facility name on the California Department of Public Health’s [Cal Health Find Database](#). If the facility accepts Medi-Cal, every bed in the facility is

¹ W&I Code §14124.7(a), 42 CFR §483.15(c)(1)(i), 42 USC §1396r(c)(2)(A)

² H&S Code 1250(c)(1), H&S Code 1250(k)

available for Medi-Cal residents.³

Residents who are not on Medi-Cal have the right to transition to Medi-Cal if they meet the eligibility requirements. When a resident submits a Medi-Cal application, the facility is prohibited from transferring or discharging the resident while the application is pending.⁴ After the application is approved, the resident is only required to pay charges allowed by Medi-Cal, known as a “share of cost,” in order to stay in the facility.⁵ Nursing homes must also help the resident calculate their estimated share of cost.⁶

For more information on Medi-Cal eligibility, see our factsheet “[Overview of Medi-Cal Eligibility](#).”

Lessons Learned

If a nursing home uses any of the tactics above to pressure you or your family out of the facility, just remember to say NO and don’t go. Let the facility know that you know your rights and that no discharge can be performed without following all of the notice and other legal requirements.

It is also important to report any illegal discharge or discharge attempts to the Department of Public Health. You can do so on [Cal Health Find Database](#) or with your local DPH District Office. Click here for [a list of District Offices](#).

If you or your loved one is facing an eviction, get the facts and exercise your rights. If you need support to advocate for your rights involve your local Ombudsmen, Department of Public Health or CANHR.

³ W&I Code §14124.10

⁴ W&I Code §14124.7, 42 CFR §483.15(c)(1)(i)(E)

⁵ 42 CFR §483.10(f)(11), H&S Code §1599.69

⁶ W&I Code 14110.8(e)