



Center for Clinical Standards and Quality

Ref: QSO-24-21-NH

DATE: September 26, 2024

TO: State Survey Agency Directors

FROM: Directors, Quality, Safety & Oversight Group (QSOG) and Survey & Operations Group (SOG)

SUBJECT: Compliance with Residents' Rights Requirement related to Nursing Home Residents' Right to Vote

Memorandum Summary

- *The Centers for Medicare & Medicaid Services (CMS) is affirming* the regulatory expectation that ensures nursing home residents have the unimpeded ability to exercise their right to vote as a citizen of the United States.
- Nursing homes must ensure residents are able to exercise their Constitutional right to vote without interference, coercion, discrimination, or reprisal from the facility.
- States, localities, and nursing home owners and administrators should collaborate to support a resident's right to vote.

Background

CMS is reinforcing the regulatory expectations that Medicare/Medicaid certified long-term care facilities (hereinafter, "nursing homes") affirm and support the right of residents to vote. Current regulations under Residents' Rights related to exercising the right as a citizen of the United States (U.S.) to vote, including the use of mail for mail-in or absentee ballots, include (**emphasis added**):

§483.10(b) Exercise of Rights: The resident has the right to exercise his or her rights as a resident of the facility and **as a citizen or resident of the United States**.

§483.10(b)(1) The facility must ensure that the resident **can exercise his or her rights without interference, coercion, discrimination, or reprisal from the facility**.

§483.10(b)(2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights and to **be supported by the facility in the exercise of his or her rights as required under this subpart**.

A resident's rights, including the right to vote, must not be impeded in any way by the nursing home and its facility staff.

Nursing homes should have a plan to ensure residents can exercise their right to vote, whether in-person, by mail, absentee ballot, or other authorized process. If a state has specific programs to enable nursing home residents to vote, the facility should coordinate and engage with those programs, as appropriate. This may include:

- Mobile Polling in residential facilities performed by a bipartisan team of workers; and/or
- Assistance in registering to vote, requesting an absentee ballot, or completing a ballot from an agent of the resident's choosing, including a family representative, LTC Ombudsmen or nursing home staff (or other personnel permitted to perform these functions, per state law).

Whether or not external assistance is available to come into the facility, nursing homes are required to support residents in the exercise of their right (§483.10(b)(2)) to vote, such as assisting with absentee or mail-in voting or transporting residents to polling locations or ballot drop-boxes in a safe manner.

For residents who are otherwise unable to cast their ballots in-person, nursing homes must ensure residents have the right to receive and send their ballots via the U.S. Postal Service, or other authorized mechanism allowed by the State or locality. CMS regulations specific to the use of mail, which also apply to voting, include (**emphasis added**):

§483.10(g)(7) **The facility must protect and facilitate that resident's right to communicate with individuals and entities within and external to the facility, including reasonable access to:** (i) A telephone, including TTY and TDD services; (ii) The internet, to the extent available to the facility; and (iii) **Stationery, postage, writing implements and the ability to send mail;**

§483.10(h)(2) The facility must respect the residents right to personal privacy, including the right to privacy in his or her oral (that is, spoken), written, and electronic communications, including **the right to send and promptly receive unopened mail and other letters, packages and other materials delivered to the facility for the resident**, including those delivered through a means other than a postal service; and

“Promptly” means delivery of mail or other materials to the resident within 24 hours of delivery by the postal service (including a post office box) and **delivery of outgoing mail to the postal service within 24 hours**, except when there is no regularly scheduled postal delivery and pick-up service.

Nursing home residents or their representatives who believe their rights under these regulations have been violated can file a complaint with their State Survey Agency here:

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Complaintcontacts.pdf>

Allegations of voter coercion or intimidation can also be referred to the Department of Justice for [filing voting complaints](#) with the Civil Rights Division by calling 800-253-3931, emailing voting.section@usdoj.gov or by [submitting an online form](#). Additional information on efforts by the Department of Justice to protect the right to vote can be found here: <https://www.justice.gov/opa/pr/justice-department-releases-information-efforts-protect-right-vote-prosecute-election-crimes> .

Additional information is available from the HHS Administration for Community Living related to voting rights and resources, as well as contact information for Long Term Care Ombudsmen, here: <https://acl.gov/news-and-events/announcements/voting-resources-older-americans-and-people-disabilities>.

Contact: Questions about this document should be addressed to DNH_TriageTeam@cms.hhs.gov.

Effective Date: Immediately. This policy should be communicated with all survey and certification staff, their managers and the State/Regional Office training coordinators immediately.

Karen L. Tritz
Director, Survey & Operations Group

/s/
David R. Wright
Director, Quality, Safety & Oversight Group

Resources to Improve Quality of Care:

Check out CMS's new [Quality in Focus](#) interactive video series. The series of 10–15 minute videos are tailored to specific provider types and intended to reduce the deficiencies most commonly cited during the CMS survey process, like infection control and accident prevention. Reducing these common deficiencies increases the quality of care for people with Medicare and Medicaid.

Learn to:

- *Understand surveyor evaluation criteria*
- *Recognize deficiencies*
- *Incorporate solutions into your facility's standards of care*

See the [Quality, Safety, & Education Portal Training Catalog](#), and select [Quality in Focus](#).

Get guidance memos issued by the Quality, Safety and Oversight Group by going to [CMS.gov page](#) and entering your email to sign up. Check the box next to “CCSQ Policy, Administrative, and Safety Special Alert Memorandums” to be notified when we release a memo.