



MICHIGAN LONG TERM CARE
OMBUDSMAN PROGRAM

Fact Sheet: Leaving a Nursing Home During the Day or Overnight

Can a nursing home resident leave the nursing home during the day?

Yes. Nursing home residents generally have the right to leave the nursing home during the day to participate in community activities, go to a sporting event, go shopping, participate in religious services, visit with family, eat lunch or dinner at a restaurant, or go to a medical appointment. Residents also have the right to go outside for any number of reasons. Residents may leave the nursing home by themselves, with other residents, or with family or friends.

Can the resident's right to leave be restricted?

Yes. Restrictions may be imposed by the resident's doctor, guardian, or the nursing home staff. It is important to remember that any restriction imposed on a resident's right to leave should always be closely related to real safety concerns. A resident can ask for more information from the person making the restriction to understand the decision or contact the ombudsman program for help.

- **Doctor** - A resident's doctor may decide that the resident's medical condition would make it unsafe for the resident to leave. The doctor must document the reasons for restricting the right to leave in the resident's medical record. The resident may ask for a second medical opinion if the resident is not satisfied with the doctor's explanation.

- **Guardian** - If a resident has a court-appointed legal guardian, the guardian may have the authority to decide that it is unsafe for the resident to leave the nursing home (refer to the Letters of Guardianship). If the resident disagrees with the guardian's decision, the resident can ask the guardian for a further explanation and even challenge a guardian's decision in court.
- **Nursing Home** - Nursing home staff may decide that there are certain situations in which it would be unsafe for any resident to leave, such as during a blizzard or natural disaster. If the resident believes that he or she is being unfairly stopped from leaving the nursing home, the resident can file a complaint with the nursing home or call the ombudsman for help.

Can the resident leave the nursing home overnight?

Yes. Federal regulations give the resident the right to be away from the nursing home overnight. There are two kinds of overnight leave; **therapeutic leave** and **hospital leave**.

What is a therapeutic leave?

A therapeutic leave is when the resident is out of the nursing home overnight (not in the building at midnight) for any reason other than hospitalization. Residents may use therapeutic leave days for personal reasons, such as vacations, family outings, or special events. Residents generally need doctor-approval before taking therapeutic leave. Getting doctor approval takes time and residents should try to plan in advance.

What is a hospital leave?

A hospital leave is when the resident is out of the nursing home overnight (not in the building at midnight) for a required hospitalization or emergency treatment at a hospital.

What happens to the resident's bed when on leave?

Medicare and most private insurance plans do not pay to hold a nursing home bed when the resident goes to the hospital or uses therapeutic leave. Residents paying privately should check the admission contract for the nursing home's bed hold policy and ask about paying to hold the bed during a leave.

If Medicaid is paying for the resident's nursing home care, the nursing home may be able to bill Medicaid to hold the resident's bed during a leave.

Are there limits to Medicaid therapeutic leave days?

Yes. Medicaid will pay the facility to hold the resident's bed when Medicaid is paying for the nursing home care. Residents can take a maximum of 18 days of therapeutic leave every 365 days. When the first therapeutic leave day is used, the resident has 364 days to use the other 17 therapeutic leave days. Medicaid does not pay for therapeutic leave for residents who have Medicaid if another payment source (like Medicare or private insurance) is paying for the nursing home care.

Are there limits to Medicaid hospital leave days?

There are no limits on the number of Medicaid hospital leave days for **emergency care** per year. There are conditions for Medicaid to pay for hospital leave days:

- The resident must return to the nursing home in 10 or fewer days in order for the nursing home to bill Medicaid for hospital leave days.
- Medicaid will pay to hold a resident's bed only when the nursing home's total available bed occupancy is at 98 percent or more on the day the resident goes to the emergency room.
- Medicaid does not pay for hospital leave for non-emergency medical care in the hospital.
- Medicaid does not pay for hospital leave for residents who have Medicaid if another payment source (Medicare or private insurance) is paying for the nursing home care.

Does the nursing home have to inform the resident about bed hold?

Federal regulations and Medicaid policy require nursing homes to give written notice of the nursing home's bed hold and readmission policy to the resident and a family member or legal representative prior to a therapeutic leave or transfer to the hospital. This must include information about Medicaid coverage for therapeutic and hospital leave. In an emergency, notice must be given to the resident and family or legal representative within 24 hours.

What right does a resident have to return to the nursing home?

If payment is made to hold the resident's bed during a hospital or therapeutic leave, the resident has the right to return to that same bed. If there was no payment to hold the bed during the leave, federal regulations allow the resident the right to return to the next available semi-private room.

What if the resident is not allowed to return to the nursing home?

If the resident is not be allowed to return to the nursing home and still needs nursing home care, the resident, family or hospital staff can:

- File a complaint with the State of Michigan by calling [1-800-882-6006](tel:1-800-882-6006)
- Ask for free and confidential help by calling the Michigan Long Term Care Ombudsman program at [1-866-485-9393](tel:1-866-485-9393)

Michigan Long Term Care Ombudsman Program

Free and Confidential Help

[1-866-485-9393](tel:1-866-485-9393)

Email: MLTCOP@meji.org

Website: MLTCOP.org