

# **My long-term care facility wants to evict me**

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Read this if you live in a Washington State nursing home, assisted living facility, or adult family home and you've been told to move out verbally or in writing. We use "long-term care facility" for all long-term care settings.

### **Can my long-term care facility evict me?**

It depends. They can only evict you for certain reasons and they must give you a legal notice. Your notice might say you're being "evicted," "discharged" or "transferred." Your facility also has other responsibilities before evicting you that we describe below.

In this fast facts, we say "evict" for any situation where you're being told to leave your long-term care facility for good.

Your facility can only evict you for certain reasons, including:

- They can no longer give you the kind of care you need.
- Your health improved and you no longer need their services.
- You've created a health or safety risk to yourself or other residents.
- You haven't paid for your stay.
- They're closing.

Your facility should back up their reasons for evicting you with proof. For example, if they say you haven't paid, they must show you an account statement or record of nonpayment. If they say your health has gotten worse, they must show you notes or assessments from your medical providers saying you need care that your facility cannot give you.

### **What must my long-term care facility do before they can evict me?**

They must do these things first:

- **(Reasonable accommodation:** They must try to avoid evicting you by trying to accommodate your needs so you can stay. This is called “reasonable accommodation.” (<https://app.leg.wa.gov/WAC/default.aspx?cite=388-97-0001&pdf=true>) They are only required to make **reasonable** steps to accommodate you. They should write down in your file the ways they tried to accommodate you.
- **Discharge planning:** They must make sure your departure from the facility is safe and orderly. This includes finding a place for you to go after they evict you, making sure there's room for you at the new place, and making sure the new place can provide the care you need. They should write down their discharge plan in your file.
- **Notice:** They must give you and your immediate family member or legal representative a written notice of eviction **30 days before** they intend to evict you, unless an emergency requires a shorter time. It must be in a language you and your representatives can understand.

### What should the eviction notice say?

The notice must say all of these:

1. **Why** they're evicting you. (It should be one or more of the reasons above.)
2. **When** they will evict you.
3. **Where** you'll go to live after they evict you, including contact info for the new location and a statement that the new place has agreed to accept you.
4. **How** you can appeal the eviction with the Office of Administrative Hearings (<https://oah.wa.gov/>).
5. **How** to contact the Washington State Long Term Care Ombuds (<https://www.waombudsman.org/file-a-complaint/>) for help.
6. **How** to contact the Home and Community Services (HCS) offices (<https://www.dshs.wa.gov/ALTSA/resources>) if you get Medicaid to help pay for your care.
7. **How** to contact Disability Rights Washington (<https://disabilityrightswa.org/>) if you have a diagnosis of mental illness or intellectual disability.

If the notice doesn't say all these things, it's not a proper eviction notice.

### I don't think my facility followed the rules. What should I do?

You should do 3 things:

1. Ask for a hearing to appeal your eviction with the Office of Administrative Hearings.
2. Find an **Advocate**: Contact the Long-Term Care Ombudsman Program (<https://www.waombudsman.org/file-a-complaint/>) online or by calling 1-800-562-6028. They advocate for the rights of people who live in long-term care facilities.
3. **File a Complaint**: Residential Care Services (RCS) (<https://www.dshs.wa.gov/altsa/residential-care-services/residential-care-services>) is responsible for enforcing resident rights in long-term care facilities. You can file a complaint with RCS online (<https://www.dshs.wa.gov/altsa/residential-care-services/residential-care-services-online-incident-reporting>).

### How do I appeal my eviction?

Your eviction notice should explain how to appeal by asking for a hearing. If it doesn't, you can contact the Office of Administrative Hearings (OAH) and tell them that you want to appeal an eviction from a long-term care facility:

- **In writing**: You can write the Office of Administrative Hearings, P.O. Box 42488, Olympia, WA 98504
- **Verbally**: You can call OAH at (360) 407-2700 or 1-800-583-8271
- **Online**: Ask for a hearing on the OAH website (<https://oah.wa.gov/case-preparation/hearing-requests>)

There's a deadline to appeal your eviction. If you want to stay in your facility until your appeal is over, you must appeal before the date your facility says in its notice that you must leave. Otherwise, you have **90 days** from the date you got the eviction notice to appeal.

If you appeal before the eviction date on your notice, you can stay until your appeal is over, unless staying will put your health or safety at risk or the health or safety of other residents at risk.

### What are some reasons I can use to appeal my eviction?

It will depend on why the long-term care facility says they must evict you. Here are some examples of reasons you might appeal:

- The eviction notice doesn't have all the required information listed in the "**What should the eviction notice say?**" section above.

- Your long-term care facility didn't follow all the required procedures.
- They say they can't meet your needs, but your conditions haven't changed since you moved in.
- They say they can't meet your needs, but they didn't try to reasonably accommodate or address your needs before giving you an eviction notice.
- The new location listed in your eviction notice:
  - wasn't notified of the plan to move you there; or
  - didn't agree you can move there; or
  - doesn't have room for you; or
  - can't give you the kind of care you need; or
  - can't give a higher level of care than your current facility.

### **Can I return to my long-term care facility during my appeal?**

Usually, but it can be hard. If you've left your facility or were removed from your facility you have the right to return, but it can be hard to get back in. Your facility might refuse to let you come back or they may have already filled your spot.

### **I didn't get written notice of the discharge. Do these rights still apply?**

Yes. Your facility can't discharge you until they follow the rules. Discharging you without written notice is against the rules.

### **What happens at an appeal hearing?**

It usually takes place over the phone. You can ask to have it in-person at your long-term care facility instead. An administrative law judge (ALJ) runs the hearing.

At the hearing, the ALJ will ask your long-term care facility to give their side of the story and let any witnesses talk. If they have witnesses, you can ask their witnesses questions. Then the ALJ will ask for your side of the story. You can testify, have witnesses testify on your behalf, and offer documents and other evidence to prove your case.

Read more about representing yourself at an administrative hearing.

### **What happens after the appeal hearing?**

The ALJ will usually not decide your case at the hearing. They will decide later and send a written Order to you, your family or representative, and the long-term care facility.

If you disagree with the ALJ's Order, you can appeal it. The Order will have instructions about how to do this.

**If you lose** your appeal: Your facility can go ahead with your eviction **30 days** after the entry of the final order.

**If you win:**

- If you're still living in your long-term care facility, you can stay.
- If you're not living there anymore, you have a right to return immediately or as soon as a bed in a semi-private room becomes available.

**What if my long-term care facility won't let me return following a hospitalization?**

They can only refuse to let you come back if they follow the rules stated above. You can appeal their decision by contacting the OAH.

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