

CHAPTER 1200: Facility Closures and Bankruptcies

1201: Ombudsman Program Role in Facility Closures

1202: Ombudsman Program Role in Facility Bankruptcies

1201: Ombudsman Role in Facility Closures

The two types of facility closures are voluntary and involuntary. A voluntary closure is initiated by the owners of the facility. An involuntary closure is initiated by either HFS or IDPH. Regardless of the reason for closure, the Ombudsman has an important role in advocating on behalf of residents and in educating all parties about resident rights during a closure.

- A. Once the Office has received notice from the facility or a state agency involved with the closure of the facility, the Office shall:
 - 1. inform the Regional Program of the confirmed notice of pending closure and the time-frame in which the facility has to provide notice to residents;
 - 2. notify the Director, executive staff and appropriate program managers within the Department;
 - 3. contact the Illinois Department of Public Health to begin collaborative efforts during the closure process;
 - 4. monitor the Regional Program's efforts during the closure.

- B. If the facility, or another entity notifies the Regional Program of a closure, the Regional Ombudsman shall immediately notify the Office.

- C. Once the Regional Ombudsman has discussed the notice of a facility closure with the Office, the Regional Ombudsman shall personally or through a designated Ombudsman, assure the following actions are taken:
 - 1. Contact the facility administrator, or other person in charge of the closure as soon as possible but no later than 24 hours after notice is received and gather the following information:
 - a) when and how the residents, representatives, family members and staff were notified;
 - b) the projected date of closure;
 - c) the reason for closure;
 - d) the closure plan;
 - e) names and locations of residents who have already been discharged; and

- f) date and location of a “town hall” meeting, if applicable.
 2. Request the facility send the Regional Program an updated census listing on a daily basis (or another agreed upon time-frame that does not extend beyond 5 business days) that includes the names of current residents as well as the names and locations of residents who have been discharged.
 3. Consult with the Office to develop a plan of action.
 4. Open a systemic case and document all actions taken in the case.
 5. Notify the Area Agency on Aging and the Care Coordination Unit within the Region.
- D. Visit the facility not more than 48 hours after notification of closure, unless notification occurs on a Friday, then the following Monday is sufficient only if residents are not in immediate danger of being moved against their will.
- E. During the initial facility visit after closure notification, the Ombudsman shall:
1. Attempt to see every resident or as many residents as possible to discuss their rights during a closure (e.g., right to choose a new facility and to visit that facility before making a decision) and give them the LTCOP contact information;
 2. Ask residents if they have someone helping them with the move or with making decisions;
 3. Ask residents if they have noticed a difference with care, staffing, food, or supplies;
 4. Inquire with the facility about staffing (e.g., are staff leaving before the closure, are they using temporary staff);
 5. Inquire with the facility about food, personal needs, and medical supplies;
 6. Request the facility to provide the Program with the names of the representatives of residents who cannot communicate informed consent and for residents the Program has been unable to contact after two (2) attempts.

7. Inform visitors (e.g., family members and representatives) about resident rights and the Ombudsman Program and give the LTCOP contact information;

8. Observe all areas of the facility and note the following:
 - a) call light response;
 - b) quality of food at meal time;
 - c) resident participation in activities;
 - d) resident participation in therapy;
 - e.) staffing levels;
 - f) laundry and housekeeping; and
 - g.) atmosphere over-all (e.g., business as usual, more chaotic etc.)

- F. Visit the following day to visit any resident who did not receive a face-to-face visit with an Ombudsman during the initial visit and proceed with Chapter 1201 (D) (1-3).

- G. Contact representatives of all residents with whom the Program could not visit to inform them of resident rights during a closure and of the LTCOP.

- H. Follow the policies and procedures of this Manual should any concern brought to the attention of the Program.

- I. After the initial facility visit the Ombudsman shall attempt to attend the next resident council meeting and any meetings the facility has scheduled that are open to residents and families with regard to the closure.

- J. The Regional Program shall update the Office about the status of the closure per agreed upon frequency.

- K. The Regional Ombudsman shall ensure frequent visits are made to the facility as deemed necessary by the Office.

- L. The Regional Ombudsman shall immediately contact the Office if/when :

1. there are serious concerns about the health, safety and welfare of any resident;
 2. the facility is running out of food or supplies;
 3. the facility is low on staffing;
 4. an Ombudsman is contacted by the media for an interview;
 5. when all residents have vacated the facility; and
 6. any other concern should develop.
- M. Once the Regional Program begins to receive the updated resident census listings, the Regional Ombudsman shall ensure that an Ombudsman visits all residents in their new facilities. If residents have moved out of the Regional Program's area, the Regional Program shall notify the applicable Regional Program or State Office of the resident's name and new facility.
- N. When residents move to a different region, it is the responsibility of the Regional Program covering that area to assure residents are visited, unless an Office-approved and mutually agreed upon plan has otherwise been developed.

1202: Ombudsman Program Role in Facility Bankruptcies

Title 11 U.S. Code § 333. *Appointment of patient care ombudsman* allows for “the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.”

When a facility files for bankruptcy, it does not mean an automatic closure. The State Ombudsman receives an official notice of bankruptcy from the United States trustee and may receive an appointment as a “Patient Care Ombudsman”. The State Ombudsman may appoint another Ombudsman as the designee to act in his/her stead.

- A. Once notice of bankruptcy is received by the Office, the Office shall:
 - 1. inform the Regional Program of the notice of bankruptcy and inquire if any concerns have been noted by the Ombudsman assigned to the facility;
 - 2. discuss a plan of action that is in compliance with the court’s request;
 - 3. notify the Director and executive staff within the Department;
 - 4. determine who will be the Patient Care Ombudsman if requested by the court; and
 - 5. ensure a systemic case is opened.

- B. The Patient Care Ombudsman shall comply with the plan of action as determined by the court’s request and the Office. The plan may include:
 - 1. increased visits;
 - 2. additional documentation requirements;
 - 3. increased communication with the Office;
 - 4. on-going reports submitted to the court; and
 - 5. any other requests made by the court or the Office.

- C. If an Ombudsman in the Regional Program is designated as the Patient Care Ombudsman, the Regional Ombudsman shall inform the Provider Agency of the designation and the additional responsibilities.