

Richard A. Courtney, CELA
Certified Elder Law Attorney
4400 Old Canton Road, Suite 220
Jackson, Mississippi 39211
601-987-3000 or 1-866-ELDERLAW
For more Articles, go to: www.elderlawms.com

Nursing Homes Evict Residents to Make Room for More Profitable Ones, Report Finds

The Wall Street Journal on August 7 examined how U.S. nursing homes are "forcing out frail and ill residents" in an effort to "replac[e] them with shorter-term residents likely to bring more revenue." Federal law allows nursing homes to evict residents for six reasons (see below). However, some state officials and patient advocates say that nursing homes "often go too far, seeking to evict those who are merely inconvenient or too costly," such as residents with dementia or demanding families. Medicaid beneficiaries are at greater risk of eviction because Medicaid reimbursement rates are as little as half of what nursing homes make from residents who pay their bills out-of-pocket, with private coverage or through Medicare, according to the Journal. The Journal reports that Medicaid reimbursement payments to nursing homes in 2007 were \$4.4 billion less than the cost of treating beneficiaries. According to Michael Wiederhorn, a health care analyst for Oppenheimer, approximately two-thirds of nursing home residents who stay in facilities more than 90 days depend on Medicaid to pay their bills.

Homes Not Following Rules

Nursing homes are required to give residents 30 days' notice of eviction, explain their appeal rights and organize a plan to ensure that the move does not harm residents. However, nursing homes "don't always follow the rules," according to the Journal. While the homes "rarely roll evicted residents out to the curb," they often "transfer [residents] to another nursing home or send them to a hospital or psychiatric facility for treatment and observation and then refuse to take them back," a process which social workers sometimes refer to as "nursing-home dumps." Although nursing homes frequently list one of the six permitted reasons for eviction, "advocates for the elderly say it can be a stretch."

There are no data on U.S. nursing home evictions but formal complaints of eviction practices have doubled over 10 years to 8,500 in 2006. However, because not all residents who are evicted file formal complaints, the practice may be more prevalent, according to the Journal. Robyn Grant, long-term care policy director with United Senior Action of Indiana, said, "It's really hard to know how many folks were simply told, 'We think you need to find another place for your mother.'"

Industry Reaction

The nursing home industry says that evictions are not common practice and when they do occur, they happen under legitimate circumstances, according to the Journal. Mark Reagan, a California attorney for nursing homes and a state trade association, said most evictions involve residents who are dangerous, difficult to care for, or simply "just don't pay." The American Health Care Association said it is unaware of widespread problems with evictions, especially ones focusing on Medicaid residents (Francis [1], Wall Street Journal, 8/7).

Reasons for Eviction from a Nursing Home

The federal Nursing Home Reform Act of 1987 allows nursing homes to evict residents for only six reasons:

- they are healthy enough to return home;
- they require care not offered at the nursing home;
- they endanger the health of other residents or staff;
- they endanger the safety of other residents or staff;
- they do not pay their bills; or
- the nursing home closes.

The Journal also examined how although federal and state laws give nursing home residents strong protections against eviction, these protections do not apply to residents in assisted-living facilities."

Source: Kaiser Daily Report (7 August 2008)

Full story: http://kaisernetwork.org/daily_reports/rep_index.cfm?DR_ID=53810