What CMS's New Voting Guidance Means for Nursing Home Residents

The American Civil Liberties Union, The Arc of the United States, Center for Public Representation, American Association of People with Disabilities, and National Disability Rights Network created this resource to explain what CMS's revised voting guidance does and doesn't change for people living in nursing homes.

The bottom line: People with disabilities and other residents of nursing homes still have the right to vote and to get the help they need to participate in elections.

In July, the Centers for Medicare & Medicaid Services, or CMS, replaced earlier guidance about voting in long-term care facilities with a new Special Alert. CMS uses "long-term care facilities" in the alert's title, but the guidance specifically applies to Medicare- and Medicaid-certified nursing facilities and skilled nursing facilities, commonly called nursing homes. You may have seen questions about whether that shift changes residents' voting rights or facilities' responsibilities.

What changed in CMS's voting guidance for nursing homes?
The earlier CMS guidance gave nursing homes more specific direction about helping residents participate in elections. It said facilities should have a plan for voting and described support facilities could provide such as helping residents register, request or complete absentee ballots, sending and receiving voting materials by mail, and getting residents to polling places or ballot drop boxes.

The new Special Alert doesn't repeat many of those instructions. Instead, it places greater emphasis on preventing coercion, unauthorized voter registration, and ballots completed without a resident's permission. It also encourages nursing homes to coordinate with state election officials, including about using bipartisan election workers where state law allows.

As a result, nursing homes now have less specific federal direction about how to help residents participate in elections and may be confused about what they can and can't do to help residents vote.

What hasn't changed in CMS's voting guidance for nursing homes?
Residents' federal voting rights remain in place. The new guidance also doesn't change the regulations nursing homes must follow. CMS says directly that the alert creates no new regulatory requirements and reiterates that facilities must support residents in exercising their rights.

Federal protections remain in place:

- Living in a nursing home doesn't by itself take away someone's right to vote.
- Federal law requires people with disabilities to have a full and equal opportunity to vote, including through absentee voting.

- Nursing homes can't interfere with, coerce, discriminate against, or punish residents for exercising their right to vote. Federal regulations also require facilities to support residents in exercising those rights.
- Voters with disabilities who need help voting can receive assistance from a person they choose, with limited exceptions for an employer or union representative. That assistance can include requesting, completing, and returning a ballot.
- Voter coercion and intimidation remain illegal.

The new CMS guidance also says residents who need assistance should be able to choose who helps them and makes clear that facilities cannot register someone or complete a ballot on their behalf without their knowledge or authorization.

Why are disability and civil liberties organizations concerned about the new CMS voting guidance?

We're concerned because CMS removed detailed instructions that helped nursing homes understand how to support residents who want to vote. The new guidance gives facilities less specific information, which may create confusion about what support residents should receive even though their underlying rights and facilities' legal responsibilities haven't changed.

People who live in nursing homes should have the same meaningful opportunity as other voters to participate in elections. Decisions made at every level of government can directly affect their healthcare, disability services, housing, transportation, and ability to live in the community.

Facilities shouldn't interpret the new CMS guidance as permission to step back from supporting residents who want to vote. Their legal responsibilities remain in place.

What can nursing home residents do if they have trouble voting?

If you experience a voting barrier or have questions about your rights, you can:

- Call or text the nonpartisan Election Protection hotline at **866-OUR-VOTE**
- Contact your state's **Protection and Advocacy agency**
- If you believe a nursing home has violated CMS resident-rights requirements, you can also contact your **State Survey Agency**. CMS specifically identifies that complaint process in the new alert.

Additional voting resources

- American Bar Association, Assisting Cognitively Impaired Individuals with Voting
- American Civil Liberties Union, Know Your Rights: Voting Rights
- The Consumer Voice, Voting Rights for Residents of Long Term Care Facilities resource page and Supporting Residents of Long-Term Care in Exercising Their Right to Vote webinar
- National Disability Rights Network, Voting Rights of Institutionalized People with Disabilities

- REV UP Voting Campaign
- The Arc of the United States, Voting Resources Hub
- U.S. Department of Justice's Civil Rights Division, The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities

About this resource

This information was developed jointly by nonpartisan civil liberties and disability rights organizations working to protect voting access for people with disabilities and people living in nursing homes.