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Advocates File Suit, Asking Court to Order Washington State to Address Gaps in Rules that Affect the Rights of Long-Term Care Residents in Discharges and Evictions.

On January 6, 2026, advocates filed a petition for declaratory judgment in Thurston County Superior Court on behalf of vulnerable adults who face eviction from community-based long-term care homes: assisted living facilities, adult family homes, and enhanced care facilities.

Patricia Hunter, the Washington State Long-Term Care Ombuds, and Scott Wilson, a resident of an assisted living facility in Yakima, are co-petitioners in the lawsuit, which alleges that regulations recently issued by the Department of Social and Health Services (DSHS) fail to meet federal standards. DSHS licenses and regulates all long-term care facilities in the state. The Washington State Long-Term Care Ombuds advocates solely on behalf of long-term care residents to protect and assert their health, safety, welfare, and rights.

Hunter and Wilson have asked the court to order DSHS to rewrite the regulations. Although the petitioners passionately support one aspect of the new regulations—the right to free legal counsel for individuals on Medicaid who are facing discharge or eviction—they argue that the regulations otherwise fall far short of underlying federal requirements.

DSHS developed the new regulations in response to a 2024 directive from the federal Centers for Medicare & Medicaid Services that required the state to comply with federal rules for discharges and evictions from community-based long-term care settings. A hallmark of the federal rules is the requirement for community-based care settings to provide discharge and eviction protections comparable to those afforded to tenants under state, county, and city landlord-tenant laws. In their petition, Hunter and Wilson argue that DSHS failed to meet this

federal standard by selecting a single statewide right from among many, while completely excluding the local protections mandated by federal law.

If the petition is successful, the Thurston County Superior Court would direct DSHS to start the rulemaking process over again in order to comply with the federal standards for discharges and evictions.

Patricia Hunter, Washington State Long-Term Care Ombudsman, explained why this action is being taken:

“The new rules must ensure that long-term care residents receive not only legal counsel for discharges and evictions but also complete and clear information about their federal and state rights. Residents also need a meaningful process to actually exercise those rights when they are facing the loss of their homes. Today, the reality is that residents technically have these rights but the state is withholding critical information about the federal law, offering only a partial remedy to residents.

This is an opportunity for the State to do right by thousands of vulnerable adults who rely on our government to fully inform them about their rights within the long-term care system. I know that the state can do better to support older and disabled adults who are facing eviction and homelessness.”

Background

Approximately 87,000 Washingtonians live in long-term care facilities, with about 60,000 living in community-based settings like assisted living facilities and adult family homes. These settings provide Medicaid-funded long-term care in less institutional environments than nursing facilities.

The petition is seeking changes to regulations to address gaps in how the federal law is applied to discharges and transfers from community-based care settings. These settings must provide eviction and discharge protections that are comparable to what tenants receive under state and local landlord-tenant laws.

DSHS has authority to revise its rules at any time, including before the issuance of a court order. The new rules fall short of meeting the federal standards in several respects, including the following:

- The new rules fail to state the basic premise of the federal requirements—that residents must have eviction protections comparable to what tenants have under the state’s landlord-tenant act, RCW 59.18, as well as under county and city landlord-tenant laws.
- The new rules mention only the right to counsel—leaving out every other eviction protection in the state’s landlord-tenant act, such as the requirement for landlords to temporarily store an evicted tenant’s belongings, and excluding all local eviction protections under city and county laws.
- The new rules fail to inform residents and facilities that DSHS has chosen the superior court eviction process in the state’s unlawful detainer act, [RCW 59.12](#), as the process in which residents can assert their rights against transfer, discharge, and eviction from community-based long-term care settings. Only facilities can initiate this process, which means residents appear to have no way to proactively challenge transfers or discharges.
- The new rules fail to inform residents that facilities cannot force residents from their homes unless a sheriff executes a court order.

In addition, advocates say that DSHS missed a key opportunity when implementing the federal standards because the state’s new rules do not indicate that residents already have the right to appeal a transfer or discharge by asking for a hearing from the Office of Administrative Hearings (OAH). Under long-standing federal law, nursing home residents have a well-established right to ask for such hearings when facing transfer or discharge. More than a decade ago, OAH confirmed that state law extends the same appeal rights to residents in community-based long-term care programs.

The new DSHS rules, however, do not address this state-level right, which has been consistently upheld by the Board of Appeals of the Health Care Authority, the final authority on the matter. Advocates believe that this administrative process provides a fair and efficient alternative to costly eviction proceedings in court and is better suited for the vulnerable adults who live in long-term care facilities. They say the administrative process meets federal standards and should be clearly communicated in regulations.

Long-term care residents or their advocates who want more information about rights pertaining to transfers, discharges, and evictions can contact the Washington State Long-Term Care Ombudsman Program at <https://www.waombudsman.org/> or 1-800-562-6028 or by dialing 7.1.1. to use the Washington State Relay System.

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