

## 483.10 - Resident Rights

**F-tags: 550 through 586**

**Most of these changes with the exception of 483.10(g)(4)(iii) which addresses contact agencies and required postings went into effect in Phase I.**

**Intent: Broaden resident rights and assure that the facility is supporting and facilitating these rights.**

### **KEY PROVISIONS**

- All existing resident rights were retained. Language has been updated including the elimination of terms such as “interested family member” and “legal representative”. These have been replaced with “resident representative” which is defined in 483.5. Much of the “new language” is similar to language in the previous rule. Most changes went into effect November 2016 with the exception of 483.10.
- 483.10 (b) (2) Indicates that the resident has the right to be free of interference, coercion, and discrimination, and to be supported by the facility in the exercise of his or her rights. This is different from previous language which does not mandate support by the facility.
- 483.10 (b)(3) Addresses the resident’s right to have a same-sex spouse and to be afforded treatment equal to that afforded to an opposite-sex spouse if the marriage was valid in the jurisdiction in which it was celebrated.
- 483.10 (c) Addresses the resident’s right to participate in the development, implementation of person-centered care planning. This section provides a more detailed expectation of the facility’s role in providing the resident information regarding their ongoing plan of care, including effectiveness of care, changes in plan of care, right to view the care plan including the right to sign after significant changes. The facility will need to inform the resident of the plan and the risks/benefits of proposed care and treatment alternatives. In developing the plan of care, a resident’s personal and cultural preferences must be taken into account along with his or her strengths and needs. Informed consent is broadened. Residents have the right to be informed in advance of risks and benefits of proposed care and to choose alternative treatments.
- 483.10 (c) (d) Addresses the resident’s right to choose the physician of choice. While much of the language is not new, it does specify the facility’s need to support and ensure the resident’s right and the resident’s ability to be able to contact their physician.
- 483.10 (e) Addresses the resident’s right to have a roommate of choice when practicable and when both residents consent to the arrangement. In addition this section addresses the resident’s right to refuse transfer of rooms when the transfer is

done “solely for the convenience” of the facility. The facility has the obligation to notify the resident in writing of a room or roommate change.

- 483.10 (f) Addresses visitation. Residents may receive visitors at the “time of their choosing” so long as it does not impose on the rights of other residents. In addition this section addresses the facility’s responsibility to allow immediate access to residents for any representatives from the State, Secretary, the resident representative and their individual physician. These are added to previously allowable organizations that have immediate access including ombudsman, and other representatives of agencies which protect the resident’s welfare.
- 483.10 (f) (4) mandates that the facility must have written policies and procedures which address visitation and the rights of residents relative to visitation. Policies and procedures must address any clinically necessary or reasonable restrictions. The facility must inform the resident and/or resident representative of the visitation rights and facility policies and procedures, including the resident’s right to withdraw consent to visit any time.
- 483.10 (f) addresses the facility’s responsibility not to restrict, limit or deny visitation privileges regardless of race, color, religion, sex, gender identity, sexual orientation or disability. The facility must ensure that all visitors enjoy full and equal visitation privileges consistent with resident preferences.
- 483.10 (f) addresses the facility’s responsibility to demonstrate responses to grievances that have been filed, including the requirement that the facility must demonstrate its response and rationale regarding grievance resolution.
- 483.10 (f) changes the amount of allowable funds to be kept in the resident’s personal account from \$50 to \$100 for those residents whose care is funded by Medicare (\$50 for Medicaid-funded residents). Any amount over \$100 must be in an interest bearing account. In addition the money must now be conveyed to the resident within 30 days of discharge or eviction. Previously the standard only addressed conveyance up on death.
- 483.10 (f) (11) addresses the facility’s responsibility to take into consideration the resident’s cultural and religious preferences when preparing foods. In addition, the facility may not charge for any foods or meals, including medically prescribed dietary supplements ordered by the physician. Hospice services can no longer be charged to the resident. The facility may not charge for any foods ordered by the resident’s medical practitioner.
- 483.10(g) addresses the facility’s responsibility to facilitate access to records in the form and format requested by the individual in a format or language that the resident can understand.
- 483.10 (g) (4) (ii) through (v) address the required postings and notices including contact information for state and local advocacy organizations, including but not limited to, the state survey agency, ombudsman, etc. Included in this section are requirements regarding posting for Medicare and Medicaid, unchanged from the previous regulation.

Added to this section is the requirement for the Aging and Disability Resource Center as established by the Older Americans Act. For a full list of required postings please review, 483.10 (g) (5)(i).

- 483.10 (g) also addresses the resident's right and the facility's requirement to provide reasonable access to the use of a telephone. New to this regulation is the inclusion of TTY and TDD services and the resident's right to retain and use a cellular phone at the resident's expense. The regulation also addresses the facility's responsibility to protect and facilitate the resident's right to communicate within and outside of the facility including use of the internet to the extent available to the facility. This includes the resident's right to have reasonable access to and privacy in their use of electronic communications such as email and video communications for internet research.
- 483.10 (g) requires that a facility notify residents in writing at least 60 days prior to implementation of any change in charges.
- 483.10 (i) provides that the facility shall exercise reasonable care for the protection of the resident's property from loss or theft.
- 483.10 (j) also addresses grievances, including the facility's obligation to inform residents how to file grievances, have a grievance policy and provide this policy to residents upon request. The facility must individually notify a resident of, or post a notice of, the resident's right to file grievances including contact information, timeframe for completing the grievance and the right of the resident to receive a written decision regarding the grievance. The facility must identify a grievance official who is responsible for overseeing the grievance process. The facility must take appropriate corrective action in accordance with state law and must maintain evidence demonstrating the results for a period of three (3) years.

**Special Note: The Guidance incorporates throughout the provisions how facilities are to treat "justice involved residents," defined as residents under the care of law enforcement, residents under community supervision and inmates of a public institution. Such residents are to be afforded the same rights and all other residents in the facility. The facility shall not establish policies or impose conditions on these residents that result in restrictions which violate resident rights. The Guidance specifically states that if the facility accepts responsibility for enforcing restrictive law enforcement terms applied to such residents that are contrary to the Requirements of Participation for LTC facilities, the facility will not be in compliance with those Requirements. A deficiency will be cited if a facility acts on behalf of the pertinent law enforcement or criminal justice supervisory authority by enforcing supervisory conditions or reporting violations of those conditions with respect to justice involved residents.**

**Sections with special provisions for such residents include F561, 483.10(f)(1)-(3), (8) (self-determination), F564, 483.10(f)(4)(vi) (visitation), and F583, 483.10(h) (privacy and confidentiality).**

**Action Items for facilities to address include:**

- Acknowledge resident right to appoint resident representative through inclusion of the term resident representative in literature, particularly contractual and resident notifications and signature lines as appropriate.
- Provide education to staff regarding the inclusion of a resident's right to have a same-sex spouse afforded equal treatment and assure policies are reflective of such.
- Review of the care plan process to assure that residents are being fully included in care plan development and implementation. Review forms used and consider use of signature lines to document resident inclusion in decisions and notifications of changes.
- Notify residents of room and roommate changes in writing. Review policy regarding room changes to assure that written notification is included. Policy should also address, and practice should reflect, that residents have the right to refuse moves based solely on the convenience of the facility.