

Federal Law & Policy Changes: Impact on LTC Residents

Presented to:

NoHLA, Mending Healthcare with Community

Sept. 25, 2026

Presented by:

Amy Freeman, Counsel to LTC Ombudsman Program



WA State Long-Term Care Ombudsman Program



Not neutral

Advocacy for LTC residents only

Not part of
government

Operated within private
nonprofit organization

Not
licensors or
regulators

Access to residents, facilities, and
records as authorized by OAA

Scope Today

- **LTC facilities**
 - Nursing homes
 - Assisted living
 - Adult family homes
 - Enhanced services facilities
- **LTC residents**
 - Adults
 - Consumers – services + housing
 - Different payment sources
 - All basic civil and legal rights
 - Additional “resident rights”

Topics Today

- Medicaid for noncitizens
- Medic**are** for noncitizens
- Medicaid work requirements
- Medicaid eligibility redeterminations
- Federal policy changes – integrated settings
- Discharge hearing rights – community-based residents



Medicaid for Non-Citizens – The Basics

- **Applies to:** All Medicaid eligibility groups (except emergency Medicaid)
- **Change:** Being “lawfully present” no longer enough. Must be: permanent resident (green card holder); Cuban/Haitian entrant, or COFA status
- **Result:** Loss of Medicaid for immigrants legally in U.S. on humanitarian basis (asylees, refugees, etc.)
- **Timing:** October 2026



Medicaid for Non-Citizens – LTC Residents

- **LTC Residents:** Loss of services and housing (est 1,000 w/ LTC or DD services)
- **State response:**
 - Limited Benefit Community Access Program & Termination Planning
 - Appropriations last session (slower roll out)
 - Federal announcement (Oct. 1 roll out for all)
 - Acuity-based prioritization. See – HCS Management Bulletin [H26-044](#)
 - Initially: maintain service for those in 24/7 settings
 - Eventually: solely by acuity
- **Concerns of State Ombuds include:** Insufficient funding, homelessness, communication to those impacted



Medicare for Non-Citizens

- **Applies:** Across Medicare
- **Change:** Being “lawfully present” no longer enough. Must be: permanent resident (green card holder); Cuban/Haitian entrant, or COFA status
- **Result:** No more Medicare for immigrants legally in U.S. on humanitarian basis (asylees, refugees, etc.)
- **Timing:**
 - New applicants: July 2025
 - Existing Medicare beneficiaries: January 2027



Medicaid Work Requirements – The Basics

- **Applies to:** Apple Health for Adults (ACA Medicaid Expansion)
- **Change:** Imposes “community engagement” requirements
- **Result:** Loss of Medicaid unless:
 - Satisfy work requirements
 - Qualify for federal exemption
 - Within state hardship exclusion
- **Timing:** January 2026



Medicaid Work Requirements – LTC Residents

- **LTC Residents – most not impacted**
 - Does not apply if: 65/older, Medicare, Medicaid due to disability, or not on Apple Health for Adults
 - But some LTC residents are on Apple Health for Adults
- **State Response – [HCA - Apple Health \(Medicaid\) Work Requirements](#)**
 - Medically frail exemption: nursing home services, MAC, MPC, CFC, PACE, PASSR, and others
 - Hardship exclusion (must be requested): all/part of month in nursing home, ICF/IID, etc.
- **Ombuds Concerns – Implementation**
 - Lower acuity residents in ALF, AFH, ESF
 - Exemption for substance use disorders, disabling mental disorders, etc.
 - “Significantly impairs” extra-statutory requirement. See *Mass [and WA] v. Oz*



Medical Eligibility Renewal – The Basics

- **Applies to:** Apple Health for Adults (ACA Medicaid Expansion)
- **Change:** Eligibility redetermination cycle now every 6 months
- **Result:** Shorter certification periods
- **Timing:** January 2026



Medicaid Eligibility Renewal – LTC Residents

- **LTC Residents – most not impacted**
 - Does not apply if: 65/older, Medicare, Medicaid due to disability, or not on Apple Health for Adults
 - But some LTC residents are on Apple Health for Adults
- **State Response:** [HCA - HR 1 Impacts to Apple Health Overview](#)
 - Focus on using existing data sources, limiting resident action unless needed
- **Ombuds Concerns:** administrative burden; possibility of erroneous terminations; communication



Federal Policy Changes - Most Integrated Setting

- **Existing Law**
 - Section 504 Rehab Act and Title II ADA – Most integrated setting.
 - *Olmstead v. L.C.* (1999) – Right to community-based care.
- **What's Changed – DOJ Policy**
 - Since 2011 – Olmstead Guidance memo, enforcing integration mandate
 - New in 2026 – Most integrated setting *not* required.
 - Will no longer follow 2011 guidance
 - But, not binding on courts; does not overturn Sec. 504, ADA, or *Olmstead*

Discharge Rights – The Basics



- Right to remain in place – all LTC residents
 - Limited allowable reasons for discharge
 - Must try to avoid using reasonable accommodations
 - Notice + sufficient preparation/orientation + safe/orderly discharge
- Right to administrative hearing – varies by setting
 - Nursing home residents – solid right
 - AFH, ALF, ESF – right is in flux

Discharge Rights – Community-Based Residents



- **Admin hearings to challenge discharge** – for AFH, ALF, ESF residents
- **Past 13+ years** – residents getting hearings
 - Initial hearing at Office of Administrative Hearings (OAH)
 - Final appeal to Health Care Authority Board of Appeals (HCA BOA)
- **New in 2026** – HCA says no hearing right exists
 - HCA rulemaking, [CR-101](#)
 - Rule not officially published or final
 - OAH and HCA BOA already denying hearings

Discharge Rights – Community-Based Residents

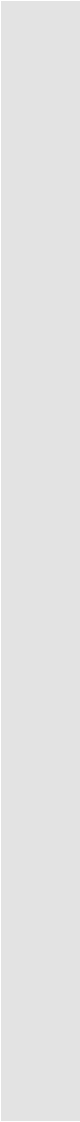


- **Eviction protections comparable to those of tenants** – Required by federal HCBS regs
- **DSHS** – Issued WACs to implement fed regs, eff. Jan. 2026
 - Includes right to counsel from state landlord-tenant act
- **Disability Rights Washington (DRW)** – Refer residents facing to discharge, transfer, or eviction to DRW [here](#).

Discharge Rights – Community-Based Residents



- **LTC Ombudsman Advocacy** – OAA requires Ombuds to monitor, evaluate, recommend changes to, and facilitate public comment
 - re government laws policies and actions that impact LTC residents
- **HCA's rulemaking** – abolishing hearing rights
 - Rulemaking comments and testimony
 - Petition to legislative JARRC committee
- **DSHS's rulemaking** – re comparable protections to tenants
 - *Hunter & Wilson v. DSHS* – asking for new rulemaking process to **fully** implement federal regs and inform facilities and residents of all requirements



Questions