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Subject: HHS Office of Civil Rights Publishes Guidelines for Long Term Care Facilities

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NOTE: we forward this announcement from the HHS Office of Civil Rights to you as a courtesy. Please contact them directly with any questions. A link to the Office of Civil Rights' website is at the bottom of this message.

OCR Issues Guidance and Resources for Long Term Care Facilities

The U.S. Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) has issued [new guidance](#) to assist long term care facilities in complying with their civil rights responsibilities and obligations under regulations by the HHS Centers for Medicare and Medicaid Services that require facilities which are Medicare and/or Medicaid-certified to ensure their residents receive services in the most integrated setting appropriate to their needs.

A critical responsibility of long term care facilities is to make referrals to appropriate community assessment agencies. These referrals will help individuals successfully transition into the community.

Under Section 504 of the Rehabilitation Act (Section 504) and the Americans with Disabilities Act (ADA), long term care facilities that receive Federal financial assistance cannot discriminate against individuals based on disability. The [U.S. Supreme Court](#) further clarified in its *Olmstead v. L.C.* decision that discrimination includes unnecessary segregation of persons with disabilities and continued placement in an inpatient facility when the resident could live in a more integrated setting.

In order to assess placement needs among residents, CMS regulations mandate that long term care facilities routinely administer the [Minimum Data Set \(MDS\)](#), a standardized assessment tool for all residents in a Medicare and/or Medicaid-certified long term care facility. Through analysis of the MDS data and collecting information from a large sample of facilities, OCR has found many long term care facilities are misinterpreting the requirements of the MDS or inadequately administering the MDS. In particular, long term care facilities are not referring residents who are interested in living in the community to appropriate referral sources.

This new guidance provides a series of recommendations for steps that long term care facilities can take to ensure the MDS is properly used to facilitate compliance with Section 504 and to avoid discriminatory practices towards residents.

- Click here to read the guidance: www.hhs.gov/sites/default/files/mds-guidance-2016.pdf

To learn more about non-discrimination and health information privacy laws, your civil rights, and privacy rights in health care and human service settings, and to find information on filing a complaint, visit the HHS Office of Civil Rights at www.hhs.gov/ocr.

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