

Contract Termination Appeals

ASSISTED LIVING PROVIDERS

Assisted living residents have a right to challenge the termination or nonrenewal of their assisted living contract. These challenges are heard by an Administrative Law Judge at a hearing that usually will take place at the facility or wherever the resident is currently located.

How to Request an Appeal

A resident, or another individual acting on the resident's behalf, wishing to appeal a contract termination must submit an appeal request to the Health Regulation's Reconsideration Unit at the following:

Reconsideration Unit
Health Regulation Division
PO Box 64970
St. Paul, MN 55164-0970
Fax: 651-215-5963
Email: Health.HRD.Appeals@state.mn.us

What Should be Included in my Request?

The appeal request should include the identity and contact information of the resident, their representatives, and whomever submitted the request on behalf of the resident.

The appeal request must include the basis for appealing the contract termination. Permissible bases for appeal are the following:

- Factual dispute as to whether the facility has a permissible basis to terminate the contract.
- Termination would result in actual or potential great harm to the resident.
- Resident has cured or has demonstrated the ability to cure the reason for termination, or has identified a reasonable accommodation, modification, intervention, or alternative to termination.
- Facility has terminated the contract in violation of state or federal law.

It is helpful to MDH if the resident also attaches the notice of contract termination or nonrenewal they received from the facility.

When Does my Request Need to be Submitted?

The timeline for submitting an appeal request depends on the basis for contract termination. If the contract is being terminated due to nonpayment or violation of terms of the contract, a resident has 30 days from the date they received the termination notice to submit an appeal. If the contract is being terminated for any of the other reasons (listed below), a resident has 15 days to submit their appeal.

What are the Resident and Facility Obligations While the Appeal is Pending?

Once a resident has submitted an appeal request, the facility may not discharge the resident or terminate any housing or services.

However, if additional services are required to meet the resident's health or safety needs, the resident is responsible for contracting for these additional services.

What is MDH's Role in this Appeal?

MDH will coordinate the early stages of the appeal, coordinating a hearing time and place with the parties and submitting a docket request to the Office of Administrative Hearings (OAH). MDH may answer some basic questions about the process before submitting the file to the OAH. MDH will not participate in the hearing.

Once the hearing has concluded, the judge who presided over the hearing will submit a recommendation to MDH and the parties. The parties have a limited time to submit additional information to MDH. MDH will then review the file and make a final agency decision as to whether the discharge should be denied or granted.

Bases for Terminating a Contract

Facilities have a limited list of reasons they may terminate a contract. Acceptable bases for terminating a contract are the following:

- Nonpayment of rent or nonpayment for services
- Violation of terms of the contract
 - The facility must give the resident a reasonable amount of time to fix any contract violation, unless the violation threatens the health or safety of anyone in the facility or if the violation constitutes illegal conduct
- Conduct that substantially interferes with the rights, health, or safety of other residents
- Conduct that substantially and intentionally interferes with the safety or physical health of facility staff
- Commission of one of the following:
 - Unlawfully allowing controlled substances on the premises
 - Allowing prostitution or prostitution-related activity to occur on the premises
 - Allowing the unlawful use or possession of a firearm on the premises
 - Allowing stolen property to be stored in the premises
- Resident needs exceed scope of services provided at the facility
- Extraordinary circumstances cause the facility to be unable to provide resident with services necessary to meet their needs

Facility Obligations When Terminating an Assisted Living Contract

In addition to limiting the bases for facilities to terminate assisted living contracts, Chapter 144G also requires facilities to meet specific obligations when pursuing a contract termination. Facilities must meet the following requirements when seeking to terminate an assisted living contract:

- **Pre-termination Notice Meeting:** Prior to issuing a notice of contract termination, the facility must schedule and participate in a meeting with the resident and their representative(s) to explain why the contract will be terminated and to identify any alternatives that might avoid the necessity of terminating the contract. The facility must make reasonable efforts to ensure the resident and their representatives are able to attend the meeting. The facility must also inform the resident that they may invite others, such as a long-term care ombudsman, family members, and health professionals, to the meeting. The facility must provide a written summary of the outcomes of this meeting within 24 hours of the meeting’s conclusion.
- **Notice of Termination:** The facility must issue a termination notice that contains the following:
 - Effective date of termination
 - Detailed explanation of the basis for the termination, including clinical or other supporting rationale
 - Detailed explanation of the conditions that might allow for a new or amended contract
 - Statement that the resident has the right to appeal the termination by requesting a hearing, the timeframe for requesting a hearing, and contact information for MDH to request the hearing
 - Statement that the facility must comply with section 144G.55 to effectuate a coordinated move with another provider or caregiver
 - The name and contact information for a person at the facility with whom the resident may discuss the notice
 - Information on how to contact and request an advocate from the Office of Ombudsman for Long-Term Care
 - Information on how to contact Senior LinkAge and explanation that Senior LinkAge may provide information about other available housing or service options
 - If the facility is only terminating services, and not housing, a statement that the resident may remain in the facility and secure necessary services from another provider of the resident’s choosing.
- **Resident-relocation Evaluation:** The facility must prepare a written resident-relocation evaluation that includes the following:
 - Resident’s current service plan
 - List of safe and appropriate housing and service providers within reasonably close geographic proximity to the facility and able to accept a new resident
 - Resident’s needs and choices
 - Right of the resident to tour the safe location and service provider prior to relocation
- **Resident-relocation Plan:** The facility must hold a planning conference and develop a written relocation plan with the resident, the resident’s representative(s), and any other individuals invited to the conference by the resident. The plan must incorporate the resident-relocation evaluation and include the following:
 - Date and time resident will move
 - Contact information of receiving facility
 - Transportation plan for resident’s property
 - How the facility will care for and store resident’s belongings
 - Recommendations to assist the resident in adjusting to the new living environment
 - If applicable, recommendations for addressing stress the resident with dementia may experience when moving to a new living environment
 - Recommendations for ensuring safe and proper transfer of medications and medical equipment
 - Arrangements that have been made for resident’s follow-up care and meals
 - Plan for transferring and reconnecting phone, internet service, and electronic monitoring equipment

- Identification of who is responsible for paying moving expenses and how those expenses will be paid

Relevant Statutes and Rules

[Minn. Stat. § 144G.52 \(www.revisor.mn.gov/statutes/cite/144G.52\)](http://www.revisor.mn.gov/statutes/cite/144G.52)

[Minn. Stat. § 144G.53 \(www.revisor.mn.gov/statutes/cite/144G.53\)](http://www.revisor.mn.gov/statutes/cite/144G.53)

[Minn. Stat. § 144G.54 \(www.revisor.mn.gov/statutes/cite/144G.54\)](http://www.revisor.mn.gov/statutes/cite/144G.54)

[Minn. Stat. § 144G.55 \(www.revisor.mn.gov/statutes/cite/144G.55\)](http://www.revisor.mn.gov/statutes/cite/144G.55)

[Minn. Rules Part 4659.0120 \(www.revisor.mn.gov/rules/4659.0120/\)](http://www.revisor.mn.gov/rules/4659.0120/)

[Minn. Rules Part 4659.0200 \(www.revisor.mn.gov/rules/4659.0200/\)](http://www.revisor.mn.gov/rules/4659.0200/)

[Minn. Rules Part 4659.0210 \(www.revisor.mn.gov/rules/4659.0210/\)](http://www.revisor.mn.gov/rules/4659.0210/)

Assisted Living Licensure
Health Regulation Division
P.O. Box 3879
St. Paul, MN 55101-3879
651-539-3049 or 844-926-1061
www.health.state.mn.us/facilities/regulation/assistedliving/

10/29/2021

To obtain this information in a different format, call: 651-201-4101