

**Your Guide to**  
**Resident Rights in**  
**Assisted Housing**  
**Programs**



The Maine Long-Term Care  
**OMBUDSMAN**  
Program

**1-800-499-0229**

# Welcome!

Dear Consumer,

Welcome to the Ombudsman Program! This GUIDE is written to help you understand your rights when living in a residential care facility or an assisted living program. Do not hesitate to contact us when you have a question or concern about your care.

We are here to help you if problems arise with the quality of your care. We will explain which long-term care options are available to you. We will explain your rights. We will help you with all your long-term care questions.

This guide is written for YOU. We are here to help. We are your advocates. Call our program for assistance. 1-800-499-0229.

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# Chapter 1:

## How can an Ombudsman help me?

### We help resolve your complaints

“Ombudsman” [pronounced Om-budz-man] is a Swedish word for a specially trained advocate. The Maine Long-Term Care Ombudsman Program has authority under state and federal law to investigate and resolve complaints made by or on behalf of long-term care consumers. Program staff and a corps of volunteers work throughout the State.

### We advocate for your rights

The Ombudsman staff and volunteers advocate for the rights of long-term care consumers, including:

- Residents in residential care facilities
- Residents in assisted living programs
- Residents in nursing facilities
- Consumers receiving care at home

### We can help you

We can help you in many ways. We can visit you to discuss your problems. We can help resolve your complaints. We can advocate for your rights. We can help you appeal decisions regarding your residential care and assisted living services. In addition to this Guide, we also publish a guide to your rights in a nursing home and a guide to the rights of home care consumers. To obtain copies of the nursing home or home care consumer rights guides, please call our office 1-800-499-0229.

### Anyone can call us for help and information

Anyone interested in improving the quality of care for consumers can ask for our assistance. You have the right to receive quality care. You have the right to voice complaints without fear of retaliation. Call us for help at our toll-free phone number: 1-800-499-0229. All communication is confidential. Services are provided free of charge.

# Chapter 2:

## Resident Rights

### Know your rights

All of us have the same rights no matter where we live. When you leave your home to live in an assisted housing facility you take your rights with you. This booklet will help you know your rights and how to use them while you are living in an assisted housing facility.

Living in a place such as an assisted housing facility means that there will be times when everyone must give and take. You never have to give up your rights. However, when you use one of your rights, it should be with consideration of other people's rights.

This booklet contains a general overview of residents' rights and is not a complete discussion of all the details. If you have questions about how any of these rights apply to you or a family member, you may ask facility staff, or you may call the Ombudsman Program at 1-800-499-0229.

### Information about your rights

You have the right to be told what rights you have in an assisted housing program. They must give you notification of your rights. They must make you aware of your rights.

### Reporting violations of your rights

If you think your rights have been violated, call us at 1-800-499-0229. You, your family, friends or anyone can call us about a violation of your rights. With your permission, or, in some cases, the permission of your legal representative, the Ombudsman Program can provide assistance. In addition, staff and care providers at assisted housing programs are required to report resident abuse or neglect to state agencies, which may investigate and try to help.

## **Rights of persons unable to understand their rights**

A resident may be unable to communicate, understand, and exercise his or her rights. The resident's legal representative (guardian, conservator, or power of attorney) can act on the resident's behalf with respect to the resident's rights.

## **Rights of persons with intellectual disabilities**

In addition to the legal rights of all residents in assisted housing, a resident with intellectual disabilities has all the additional rights listed under Maine's "Bill of Rights for Persons with Intellectual Disabilities or Autism."

### **Right to privacy and respect**

You have the right to privacy. You have the right to be treated with courtesy and consideration. You have the right to be treated with respect. You have the right to communicate privately with persons of your choice. This includes the right to have visits from people, the right to receive unopened personal mail, and your right to private telephone conversations. The assisted housing program must help you write and mail letters and make phone calls, if you need help.

### **Right to confidentiality**

The assisted housing program must keep information about you and about your health condition confidential. In most circumstances, they cannot release information about you to other people and places without your written consent. You also have the right to look at your records and get copies of them.

### **Right to a service plan**

You have the right to a written service plan (also called a "care plan") that will meet your needs. The assisted housing program must develop this with you and they must help implement your plan.

### **Meeting your individual needs**

Shortly after you move into an assisted housing program, the staff will meet with you to discuss what services you need to help you function the best you can. This is

sometimes called a functional assessment. The assessment will look at what help, if any, you need with activities of daily living, medication administration, housekeeping, shopping, transportation to appointments, and so forth. After this first assessment, you are usually re-assessed once a year, or any time there is a significant change in your condition.

### **Right to reasonable accommodation**

If you have a mental or physical disability, you have the right to seek a reasonable accommodation or modification in the facility or program that will enable you to live there, as long as this does not impose an undue financial burden on the assisted housing program. A reasonable modification might be a change in the building itself. For example, the installation of special equipment or devices, a change in practices and procedures, or the addition of special services you need. The modification or accommodation may need to be done at your own expense. Discuss this with the assisted housing program staff.

### **Writing your care plan**

Based on the assessment, a written care plan will state what services you are to receive in the assisted housing program. The service plan should encourage you to be as independent as possible, and should accommodate your needs and preferences. On a regular basis, the staff will write progress notes indicating how well you are doing and will note any significant changes in your life that require a change in your service plan.

### **Right to choose your doctor and pharmacist**

For services and supplies not provided by the assisted housing program, you have the right to choose where to get those services and supplies. For example, you do not have to use the pharmacy preferred by the assisted housing program. You have the right to obtain medication from the pharmacy of your choice as long as the pharmacy complies with all regulations and assisted housing program policies. You do not have to use the provider preferred by the program. The assisted housing program can suggest providers, but must let you choose your own providers. There may be one doctor who attends many of the residents of the assisted housing program, but you don't have to see that doctor if you don't want to. You can choose your own doctor.

## **Medication administration**

You will be assessed regarding your ability to self-administer your medication. A decision will be made jointly among you (or your legal representative), your doctor, and assisted housing program staff, as to whether it is safe for you to administer your own medication. If you self-administer your own medication, then you will keep it in your room or apartment. For the safety of other residents, you may be required to keep it in a locked container. If you do not self-administer your medication, then the assisted housing program staff will help you take your medication. They will obtain your medication for you, keep it re-filled, store it in a place separate from the room or apartment in which you live, and then bring it to you, in the right dosage, when it is time for you to take it.

## **Right to manage your financial affairs**

You have the right to manage your funds and financial affairs. You can pay your own bills and manage your own money. The assisted housing program CANNOT insist on managing it for you. If you want the program to hold any of your money for you, then they must keep track of it and must keep it separate from the program's funds. They must not commingle your money with the program's funds.

## **Right to keep your personal possessions**

You have the right to keep and use your own personal clothing and possessions, as space permits, unless to do so would infringe on other consumers' rights or impair the assisted housing program's ability to serve people.

## **Right to participate in community activities**

You have the right to participate in the social, religious, political and community activities of your choice.

## **Right to be free from discrimination**

You have the right to be free of discrimination based on race, age, national origin, religion, disability, gender, or sexual orientation.

## **Right to have your injuries reported**

If a resident falls, is injured, has an accident, gets into a fight with another resident, or wanders away from the facility, then the facility must fill out an incident report within 72 hours and submit it to the State. The facility notifies your designated person.

## **Right to be free from abuse**

You have the right to be free from abuse, neglect, and exploitation. It is against the law for a caregiver to abuse, neglect or exploit a person in his or her care.

### **Report abuse**

Immediately report abuse, neglect, or exploitation by calling 1-800-624-8404. This is the 24-hour number for Adult Protective Services at Maine Department of Health and Human Services. Protect yourself from abuse by learning the signs of abuse.

### **Examples of abuse, neglect, and exploitation**

- Physical Abuse      Pushing, hitting, yelling, hair pulling
- Verbal Abuse        Name-calling, harassment
- Neglect              Failure to provide food and drink; Failure to provide personal care or medical attention
- Exploitation        Pressuring you to change a will or sign over control of your assets; Pressuring you to sell or give away your property, possessions or assets

## **Right to be free from restraints**

You have the right to be free from physical, chemical or psychological restraints or aversive conditioning, except under certain circumstances when certain procedures are followed.

### **Physical restraints**

Physical restraints cannot be used by assisted housing facilities. Physical restraints limit an individual's ability to move freely. Restraints include any device that restricts freedom of movement or normal access to one's body. Examples of physical restraints

include: belts or straps which tie you to a bed or a chair; chairs with tray tables or cushions which prevent rising.

Full length bedrails on both sides of the bed are considered restraints and cannot be used. Half length bedrails attached to the top half of the bed are allowed. One full length bed rail and one half length bedrail are allowed if the full length rail is on the side of the bed against the wall.

### **Chemical restraints**

Chemical restraints are drugs that are used for discipline or the convenience of the staff, and are not required to treat your medical symptoms. Chemical restraints are not allowed. Additionally, psychotropic medications ordered “as needed” by a licensed practitioner are only allowed under specific circumstances with detailed instructions on usage.

In the case of a consumer with mental retardation or mental illness, the assisted housing program must also comply with the rules specific to those consumers set by the Department of Health and Human Services.

### **Right to refuse treatment**

You have the right to refuse medication, treatment and services. The assisted housing program cannot make you accept services. However, if they are concerned about your refusal of treatment, they may contact your physician, caseworker or other health care provider, in order to encourage you to accept treatment.

### **Right to read state inspection reports**

You have the right to look at information from state inspections of the assisted housing program, including any deficiencies found in these inspections. The assisted housing program must make this information available for you to look at in common areas of the facility. If the facility is subject to sanctions by the Department of Health and Human Services, then the facility must notify all residents within 15 days of being sanctioned.

## **Right to join or form a Resident Council**

You and other residents have the right to join together to form a Resident Council. A Resident Council may accomplish the following:

- Inform other residents of their rights and about programs and activities in the facility;
- Find ways to involve residents and families in life at the facility;
- Help identify residents' problems and ways to solve them;
- Share the residents' opinions and concerns with the assisted housing program, and recommend changes in the facility.

## **Right to voice a grievance**

### **Talk to the staff**

If you have problems with an assisted housing program, you should speak directly to the staff about your problem. You have the right to voice complaints about the assisted housing program and to recommend changes. They must consider any grievances you make, document them in writing, and respond to you in writing, telling you what, if anything, they intend to do about your grievance. They cannot interfere with your right to voice a complaint. They cannot retaliate or discriminate against you for making a complaint. They must keep all complaints on file and make them available for review upon request.

### **Contact a consumer advocate**

You may contact a consumer advocate to help you. The Long-Term Care Ombudsman Program and the Disability Rights Maine help long-term care consumers. You have a right to voice your concerns.

### **Contact a State agency**

You can contact the Division of Licensing & Regulatory Services or Adult Protective Services of the Department of Health and Human Services to voice a grievance.

## **Right to appeal a discharge or transfer**

### **Right to a hearing**

You have the right to appeal the assisted housing program's effort to discharge or transfer you against your will. An impartial hearing officer will listen to both sides of the story and decide whether it is lawful to discharge or transfer you.

### **Resolve problem instead of discharging you**

Even if there is a good reason for the assisted housing program to discharge or transfer you, they must try to resolve the problem first, before discharging or transferring you.

### **Must have good reason to discharge you**

You cannot be forced to leave the assisted housing program without a good reason (such as failure to pay your bill, threatening other people, causing property damage, or requiring care the facility cannot provide).

### **Right to 15 days notice before discharge**

Unless there is an emergency, the assisted housing program must give you 15 days notice before discharging you. In addition, the assisted housing program must help you find another safe place to live.

### **Right to file a lawsuit**

You have the right to sue the assisted housing program in court to compel the program to honor your rights.

# Chapter 3: Information About Assisted Housing

## What is assisted housing?

Assisted housing is housing that includes services to help you with daily activities that will help you remain as independent as possible. Assisted housing includes

- programs that provide services to consumers living in independent housing,
- programs that provide services to consumers living in private apartments in a building that includes a common dining area, and
- services provided by a residential care facility.

## What does assisted housing cost?

The cost of room, board and care in an assisted housing setting varies. For certain low-income people and certain veterans, your out-of-pocket cost may be most of your monthly retirement income (including social security, pensions, etc.). For others, the cost can be several thousand dollars a month or more.

## Who pays for assisted housing?

Paying for your care in an assisted housing setting can be expensive. The cost of care may be paid by one or more of the following: from your own funds, your health insurance policies, including long-term care insurance policies, MaineCare (Medicaid), Veterans Administration programs. In addition, Medicare may pay for certain, limited services (such as certain therapies or nursing services), but not for room and board.

### **You pay**

People who can afford to pay for their own room, board and care in an assisted housing setting do so. If you have income and/or assets then you usually pay for your care. Sometimes your relatives may choose to help you pay for assisted housing. However, no other person is obligated

to pay for a resident's care. The program cannot make a family member, friend, or any other person promise to pay the program for your care. If another person wants to promise payment, then s/he will have to sign a separate contract and can choose to cancel that contract within 48 hours of signing it.

Some assisted housing settings do not accept MaineCare payment and will accept only residents who have enough money to privately pay. These assisted housing settings may ask you for extensive financial information in order to ensure that you have enough funds to pay for your care. Other assisted housing settings will accept MaineCare payment.

### **Your Insurance helps you pay**

If you have private insurance, including long-term care insurance, ask your insurance agent if the policy pays for assisted housing services. People who purchased long-term care insurance before they actually need assisted housing care may have part or all of the cost of their care covered under the policy, for a period of years or on an ongoing basis. Many policies pay part of the daily cost for a limited time period (such as three years). This requires the consumer to draw from his or her own funds to pay for the part of the cost which the insurance company does not cover.

### **The MaineCare Program**

MaineCare (Medicaid) helps people whose income and assets are so low that, without help, assisted housing would be unavailable. Even if you have savings and other assets, help from MaineCare may be available if you have a spouse who will remain at home.

People who have less than \$10,000 in assets (does not include the value of your home, car and certain other assets) may be eligible for coverage under MaineCare.

Because MaineCare covers only part of the cost of assisted housing, people on MaineCare will pay most of their income to assisted housing to cover their share of the cost of care. In addition to paying the cost of assisted housing, MaineCare also may pay for some of your health care and medication costs.

### **Veterans Administration Programs**

In addition, there are programs administered by the Veterans Administration that may cover a portion of the cost of your assisted housing expense. They can be reached at 1-877-421-8263. <http://www1.va.gov/directory/guide/facility.asp?ID=136&dnum=ALL&map=1>

### **Medicare**

Medicare pays very little, if any, of the costs of assisted housing. Medicare may pay for certain very specific types of services, such as certain therapies, nursing services, and

equipment. Medicare will not pay for your housing costs in assisted housing. When applying for assisted housing, ask if Medicare will pay some expenses.

## What services will I receive?

It is important to know exactly what services are offered at a specific location before moving in. Assisted housing is for those who need help with daily activities. Because not all programs offer the same services, you must decide what kind of help you need with daily activities. For example, some assisted housing settings do not assist residents with medication, and many do not offer nursing services. You have the right to know which services and items you are supposed to receive at the assisted housing program because they are included in the monthly cost. You should have no additional 'out-of-pocket' expense for these covered services and items. You will not be charged for the repair and replacement of items damaged by normal wear and tear. Additional services and items may be available for you to purchase. The following list includes some of the services that may be offered by assisted housing programs.

- getting in and out of bed
- getting around the house
- dressing
- eating
- toileting, bathing
- personal hygiene
- help preparing or receiving meals
- help using the phone
- handling finances, banking
- shopping

## Assisted living or residential care. What is right for me?

Assisted housing programs may differ from each other in important ways. They are offered in a variety of settings, including private apartments, residential care facilities, and in specialized settings designed for residents with Alzheimer's disease or other forms of dementia. Some offer all the services a person could possibly need, while others may offer only some services.

Before you sign a contract, it is important to know whether the place you choose actually offers the type of services you need. Under State rules, each program must have a written admission policy, which describes who may be admitted and gives a list of services offered. State rules allow residents to make choices about their lives and their care. You have a right to privacy and to remain as independent as possible. Assisted housing settings may help residents "age in place." That means they may help you to continue living in assisted housing for as long as they can meet your needs. Here are brief descriptions of apartment living, residential care, and special care units.

### **Private apartments/Assisted Living**

Assisted housing services may be provided in a building consisting of separate apartments. In these “Assisted Living Programs” individual consumers or couples live in private apartments with private bathrooms and full or limited kitchen facilities. The building also has a common dining area in which residents may take some or all of their meals. Consumers receive services in their own apartments and are also offered group activities.

### **Residential care facilities**

In a residential care facility, consumers live in private or semi-private rooms. Bathrooms may be private or shared with others. The rooms typically do not have kitchen facilities. There are common housing areas as well as a common dining area where most meals are served. These facilities offer staff assistance 24 hours a day. Consumers receive room, board and services in this setting. Residential care facilities may be small, with as few as only one or two residents, or they may be large, housing a hundred residents or more. Smaller facilities are frequently owned and operated by families. Larger facilities are usually owned and operated by agencies, including some corporations, which own multiple facilities in Maine, and in other states.

### **Alzheimer’s/dementia care units**

Assisted housing facilities, or special sections of assisted housing facilities, may be designed to meet the special needs of residents with Alzheimer’s disease and other dementias. The facility must restrict admission to people with a current diagnosis of Alzheimer’s or dementia. These special care units must meet specific state standards, including:

- Secured outdoor space that allows residents to walk while preventing them from wandering.
- Specialized training for staff who provide care for residents with Alzheimer’s and other dementias.
- High visual contrast between floors, walls, and ceilings.
- Lighting which minimizes glare and shadow.
- Clear labeling of residents’ belongings.
- Special therapeutic activities.
- Special policies and procedures to protect consumers who wander.





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