



# Relocating Care Facilities

Complex factors to consider

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Relocation professionals are accustomed to dealing with unusual situations that are not traditionally covered by clear black and white rules. Many of these scenarios occur in the realm of residential relocations, and one of the most difficult situations is when the project requires relocating a nursing home, assisted living center or rehabilitation center. The potential displacees in these settings have specific needs that often go far beyond the average residential displacee's needs. So what is the best methodology for determining the eligibility of the occupants of such facilities for residential relocation benefits?

## Defining Residency

One of the first issues the relocation agent needs to tackle is whether the facility occupants are individually eligible for relocation benefits that extend beyond the movement of personal property. The primary eligibility issue often revolves around whether or not the facilities described above are the primary place of residence for their occupants. If the facility only provides temporary residence, the occupants may only be eligible for relocation of their personal property.

Although the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) does not specifically define the term "primary place of residence," some displacing agencies have adopted the definition that a potential displacee's primary residence is

the place of a person's fixed, permanent home and principal establishment. The Uniform Act's definition of dwelling is somewhat similar - meaning the "place of permanent or customary and usual residence of a person, according to local custom or law." ( See 49 CFR 24.2(a)(11)).

However, these definitions are usually discussed in terms of deciding what relocation benefits are due for owners of seasonal or vacation homes being acquired, or when a displacee wishes to make a motorhome or RV his replacement home. They are not usually discussed in terms of analyzing the relocation benefits for occupants of special needs facilities. And eligibility issues, of course, often turn on factual determinations.

## Factual Issues

Displacing agencies may take the view that some occupants of a special needs facility, such as certain types of convalescent homes, may only need professional care for a certain period of time after which the occupant may return to their prior private residence. Under this scenario, the occupants would not receive rental assistance benefits, or other replacement housing benefits but only personal property relocation.

Of course, there may be significant factual issues that may influence an agency's decision in the other direction. Although technically considered temporary residents, the condition



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of certain patients may make it clear that they will never leave the facility due to their age and/or poor health. The fact that these types of long-term patients receive their mail at the facility and have other characteristics of permanent residents favor them being offered replacement housing benefits.

Analyzing other types of rehabilitative in-patient facilities is more difficult. For example, participants in a long-term drug rehabilitation program may have to agree to be enrolled in the program full time without the possibility of leaving the facility in the near future. These conditions would require them to take on many characteristics of permanent residents. This is especially true for people who have court orders forcing them to adhere to a strict program. In this situation, it may be necessary to consult the court for assistance in making any determination with regard to a replacement facility.

### Practical Issues

Once factual issues are reviewed, practical issues must also be considered. If a facility operator chooses to relocate and re-establish, for example, they may allow the current residents to occupy the replacement site. If the resident chooses to follow the facility to the new site, a rental supplement may not be necessary if the rental fees at the new operation are lower or the same as at the previous location. If fees at the new site are higher, the issue of a rental supplement is of greater importance.

If the operator of the facility does not wish to continue in business, the occupants may need to find other facilities to reside in until they complete the programs they are involved in or until they have convalesced and recovered. However, elderly residents may have to occupy replacement facilities for the foreseeable future and, depending on their medical needs, may not have a lot of options for replacement sites. Other issues must also be examined.

Participants located at an in-patient drug or alcohol rehabilitation programs may have legal issues when relocating, depending on whether a court order placed them in the acquired facility. Further, some of these participants may be considered a danger to the public if not kept in the rehabilitation program. In some types of rehabilitative programs, a number of the participants may have been homeless. In addition, occupants of these facilities may have few monetary resources with which to relocate without the help of a rental supplement.

### Conclusion

There are many factors to review when determining the eligibility of occupants of care and rehabilitative facilities. The agency should take a holistic approach by considering an option that best conforms to the regulations and also serves to lessen the hardship to displacees who have a tough road ahead of them. ☈



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