



COMMISSIONER
Jon Weizenbaum

October 29, 2013

To: Nursing Facilities (NFs)

Subject: **Provider Letter 13-38** – Prohibition of Handcuffs and Leg Shackles for Residents Admitted Directly from Jails and Correctional Facilities

This letter provides direction for NFs that:

- have admitted a resident directly from a jail or correctional facility or are considering admitting a person who is presently in jail or in a correctional facility; and
- are considering restraining the resident or person (or any resident) with handcuffs or leg shackles, or both.

Recently, it has come to the attention of the Department of Aging and Disability Services that some NFs admitting residents directly from a jail or a correctional facility have continued to have such residents handcuffed or in leg shackles or in both. Such devices are restraints and NFs cannot use them. Despite having been an inmate, a resident that a NF admits from a jail or correctional facility is now a NF resident. The same restraint rules apply to this resident and to all other NF residents.

Code of Federal Regulations (CFR) Title 42, §483.13(a) (F222) and Texas Administrative Code, Title 40, Part 1, Chapter 19, §[19.601](#)(a) state that a resident has the right to be free from physical or chemical restraints that are employed for purposes of discipline or convenience, and that are not required to treat the resident's medical symptoms.

The interpretive guidelines for 42 CFR §483.13(a) (F222) define physical restraints as "any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body." Physical restraints include leg and arm restraints that the resident cannot remove easily. Facility practices might also meet the definition of a restraint, such as practices that use physical restraints in conjunction with a chair or bed to limit a resident's freedom of movement.

Surveyors will examine the restraint practices in a NF to determine if the NF has violated regulations and rules pertaining to resident rights. The use of handcuffs and leg shackles could also result in the determination of immediate jeopardy.

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If you have questions about the content of this letter, please contact a NF policy specialist in the Policy, Rules and Curriculum Development unit at (512) 438-3161.

Sincerely,

[signature on file]

Mary T. Henderson
Assistant Commissioner
Regulatory Services

MTH:cg