

**481—69.24 (231C) Involuntary transfer from the program.**

**69.24(1) *Program initiation of transfer.*** If a program initiates the involuntary transfer of a tenant and the action is not the result of a monitoring, including a complaint investigation or program-reported incident investigation, by the department and if the tenant or tenant's legal representative contests the transfer, the following procedures shall apply:

*a.* The program shall notify the tenant or tenant's legal representative, in accordance with the occupancy agreement, of the need to transfer the tenant and of the reason for the transfer and shall include the contact information for the office of long-term care ombudsman.

*b.* The program shall immediately provide to the office of long-term care ombudsman, by certified mail, a copy of the notification and notify the tenant's treating physician, if any.

*c.* Pursuant to statute, the office of long-term care ombudsman shall offer the notified tenant or tenant's legal representative assistance with the program's internal appeal process. The tenant or tenant's legal representative is not required to accept the assistance of the office of long-term care ombudsman.

*d.* If, following the internal appeal process, the program upholds the transfer decision, the tenant or tenant's legal representative may utilize other remedies authorized by law to contest the transfer.

**69.24(2) *Transfer pursuant to results of monitoring or complaint or program-reported incident investigation by the department.*** If one or more tenants are identified as exceeding the admission and retention criteria for tenants and need to be transferred as a result of a monitoring or a complaint or program-reported incident investigation conducted by the department, the following procedures shall apply:

*a. Program agreement with the department's finding.* If the program agrees with the department's finding and the program begins involuntary transfer proceedings, the program's internal appeal process in subrule 69.24(1) shall be utilized for appeals.

*b. Program disagreement with the department's finding.* If the program does not agree with the department's finding that the tenant exceeds admission and retention criteria, the program may appeal the department's final report as provided in rule 481—67.14(17A,231B,231C,231D,85GA,HF2365). If an appeal is filed, the tenant who exceeds admission and retention criteria shall be allowed to continue living at the program until all administrative appeals have been exhausted. Appeals filed that relate to the tenant's exceeding admission and retention criteria shall be heard within 30 days of receipt, and appropriate services to meet the tenant's needs shall be provided during that period of time.

*c. Request for waiver of criteria for retention of a tenant in a program.* To allow a tenant to remain in the program, the program may request a waiver of criteria for retention of a tenant pursuant to rule 481—67.7(231B,231C,231D) from the department within 10 working days of the receipt of the report.