

REPORT TO THE LEGISLATURE

TO: Joint Standing Committee on Health and Human Services
FROM: Division of Licensing and Certification, Maine DHHS
DATE: September 15, 2025
RE: Environmental temperature complaint data pursuant to request related to LD 99

Introduction:

On February 14, 2023, the Health and Human Services Committee voted LD 99, *An Act to Clarify the Allowable Temperature Range in Certain Long-term Care Facilities* out of the work session as Ought Not to Pass. The Committee requested that the Division of Licensing and Certification report back with 6 months of data that included the following:

1. The de-identified source of the complaint (Facility reported, family, Ombudsman, etc.)
2. The response to the complaint
3. The outcome of the complaint.

Nursing Facility findings for the period January 1, 2023 through December 31, 2023:

Regulatory Standards for reference:

§483.10(e)(3) The right to reside and receive services in the facility with reasonable accommodation of resident needs and preferences except when to do so would endanger the health or safety of the resident or other residents.

INTENT §483.10(e)(3) The accommodation of resident needs and preferences is essential to creating an individualized, home-like environment.

DEFINITIONS §483.10(e)(3) “Reasonable accommodation of resident needs and preferences” means the facility’s efforts to individualize the resident’s physical environment.

GUIDANCE §483.10(e)(3) Reasonable accommodation(s) of resident needs and preferences includes, but is not limited to, individualizing the physical environment of the resident’s bedroom and bathroom, as well as individualizing common living areas as much as feasible. These reasonable accommodations may be directed toward assisting the resident in maintaining and/or achieving independent functioning, dignity, and well-being to the extent possible in accordance with the resident’s own needs and preferences.

§483.10(i) Safe Environment. The resident has a right to a safe, clean, comfortable and homelike environment, including but not limited to receiving treatment and supports for daily living safely.

The facility must provide—

§483.10(i)(6) Comfortable and safe temperature levels. Facilities initially certified after October 1, 1990 must maintain a temperature range of 71 to 81°F;

“Comfortable and safe temperature levels” means that the ambient temperature should be in a relatively narrow range that minimizes residents’ susceptibility to loss of body heat and risk of hypothermia, or hyperthermia, or and is comfortable for the residents.

The Division received a total of 4 intakes regarding nursing home environmental temperatures. None of the investigations resulted in regulatory non-compliance related to the temperature. The information requested by the Health and Human Services Committee included the following:

April:

- Anonymous complaint alleging excessively hot in facility. An onsite investigation determined the weather on the day of the complaint was 48 degrees Fahrenheit in the morning and then 80 degrees Fahrenheit in the afternoon. The facility heat was set at 75 degrees and turned off as day progressed. In interviews with residents it was determined that the staff had taken steps to address and keep residents comfortable.
- Family complaint of new admission into very hot room. An onsite investigation determined the weather on the day of the complaint was 60 degrees Fahrenheit and that facility had provided fans and taken steps to address the room temperature for the specific residents’ comfort.

November:

- A resident complaint of facility having generally hot air temperature. An onsite investigation determined that facility staff had taken reasonable steps to address the residents’ concern and maintain a facility ambient temperature consistent with CMS regulatory intent.

December:

- Anonymous complaint alleging no heat or hot water in facility. An off-site review and calls were made as this was during a substantial 3-day power outage from large storm. It was determined the facility had electrical damage to its heating system and implemented its emergency plan to keep residents warm while repairs were completed. The facility obtained an alternate heating source, and repairs were completed within 24 hours.

Assisted Housing findings for the period January 1, 2023 through December 31, 2023:

Regulatory Standards for reference:

- 16.3 Heating systems.** There shall be a central heating plant connected to each room or area used by residents or staff by means of a radiator, convector or register. The heating system must be capable of maintaining a temperature of seventy-five degrees (75°) Fahrenheit throughout resident areas of the facility. Alternate types of heating systems may be approved by the Department, if a uniform temperature of seventy-five degrees (75°) Fahrenheit can be maintained. Systems other than electric heating shall have an annual inspection and the heating source shall be tagged as being inspected.
- 16.4 Temperature.** Resident areas of the facility shall be maintained at a temperature of seventy degrees (70°), or higher as necessary to ensure the comfort of the residents. Thermometers shall be placed in all resident areas. This does not apply to bedrooms where residents control the temperature.

The Division received a total of 6 intakes regarding Assisted Housing facilities and environmental temperatures. None of the investigations resulted in regulatory non-compliance related to the temperature. The information requested by the Health and Human Services Committee included the following:

February:

- Anonymous complaint alleging the facility was too cold. Not investigated as the location was not licensed; complainant advised.

April:

- Anonymous complaint alleging the facility was too cold. Not investigated as the location was not licensed; complainant advised.

August:

- Anonymous complaint alleging the facility was too hot. An onsite investigation was conducted and determined facility took reasonable steps to address.

September:

- Anonymous complaint alleging the facility was too hot. An onsite investigation was conducted including resident interviews and determined the facility took reasonable steps to address.

November:

- Facility reported intake and family complaint regarding facility too cold. An onsite investigation conducted and determined there was an issue with heating system which facility had addressed by the time of the investigation.

December:

- Family complaint alleging the facility was too cold. An onsite investigation observed facility temperatures at 73-74 degrees Fahrenheit. Facility had obtained a back up generator for use in the event of power outage.

Summary:

A total of 10 intakes alleging concerns with facility environmental temperatures were received and reviewed/investigated with no regulatory violations.