

OFFICE OF LONG TERM CARE (OLTC)

Guidance in completing the DMS-762 Investigation Report

INFORMATION PROVIDED BY
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Facility Investigation Report for Resident Abuse, Neglect, Misappropriation of Property,
And Exploitation of Residents in Long-Term Care Facilities.

Section 1 - Reporting Information

Name of Facility: _____
Phone: () _____
Address: _____
City: _____
Facility Staff Member Completing DMS-762: _____ State: AR Zip Code: _____
Title: _____
Date Incident Reported to OLTC: _____ Time: _____ AM _____ PM
Date and Time of Incident (if known): _____ Time: _____ AM _____ PM
Date and Time of Discovery: _____ Time: _____ AM _____ PM
Type of Incident: Neglect: ☐ Abuse: Verbal ☐
Sexual ☐
Physical ☐
Emotional/Mental ☐ Misappropriation of Property: Drugs ☐
Personal Property ☐
Resident's Trust Fund ☐
Name of Involved Resident: _____ Room # _____
Social Security #: _____ DOB: _____
Height: _____ Weight: _____ lbs. Physician _____
Is Resident Still Living? ☐ Yes ☐ No If not, Date of Death _____
Ambulatory? ☐ Yes ☐ No Oriented ☐ Time ☐ Place ☐ Person ☐ Event
Physical Functional Level/Impairment _____
Mental Functional Level _____
Primary Diagnosis _____



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Overview

The DMS-762 is part of a promulgated state regulation that meets federal requirements under 42 C.F.R. §483.1(c)(1)(3) and (4) (Tag F-225). The facility must have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.

F-225 states that the results of the investigation must be reported to the administrator and other officials in accordance with state law and to the state survey and certification agency (the Office of Long Term Care) within five working days of the incident.

The guidance for filling out the DMS-762 is to assist long-term care facilities in compiling a substantial body of credible information to enable the Office of Long Term Care (OLTC) to determine if a preponderance of evidence exists, thereby validating allegations of resident maltreatment by a facility employee as defined in the Adult and Long-Term Care Facility Resident Maltreatments Reporting Acts. This guidance may also assist the facility in meeting the requirement of a “thorough investigation” under F-225.

The preponderance of the evidence standard
is met if the proposition
is more likely to be true than not true.
Effectively, the standard is satisfied
if there is a greater than 50 percent chance
that the proposition is true.

—Lord Denning,
in Miller v. Minister of Pensions

**ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF MEDICAL SERVICES
OFFICE OF LONG TERM CARE**

Facility Investigation Report for Resident Abuse, Neglect, Misappropriation of Property
& Exploitation of Residents in Long Term Care Facilities

Purpose/Process

This form is designed to standardize and facilitate the process for the reporting allegations of resident abuse, neglect, or misappropriation of property or exploitation of residents by individuals providing services to residents in Arkansas long term care facilities. This investigative format complies with the current regulations requiring an internal investigation of such incidents and submittal of the written findings to the Office of Long Term Care (OLTC) within five (5) working days.

The purpose of this process is for the facility to compile a substantial body of credible information to enable the Office of Long Term Care to determine if additional information is required by the facility, or if an allegation against an individual(s) can be validated based on the contents of the report.

Completion/Routing

This form, with the exception of hand written witness statements, MUST BE TYPED!

Complete **all** spaces! If the information cannot be obtained, please provide an explanation, such as “moved/address unknown”, “unlisted phone”, etc. Required information includes the actions taken to prevent continued abuse or neglect during the investigation.

If a requested attachment can not be provided please provide an explanation why it can not be furnished or when it will be forwarded to OLTC.

This form, and all witness and accused party statements, **must be originals**. Other material submitted as copies must be legible and of such quality to allow re-copying.

The facility’s investigation and this form must be completed and submitted to OLTC within five (5) working days from when the incident became known to the facility.

Upon completion, send the form by certified mail to:
Office of Long Term Care, P.O. Box 8059, Slot 404, Little Rock, AR 72203-8059.

Any other routing or disclosure of the contents of this report, except as provided for in LTC 306.3 and 306.4, may violate state and federal law.

COMPLETION/ROUTING:

Facilities must follow these instructions to comply with the regulation.

ITEM 1	SECTION I – REPORTING INFORMATION This must be filled out completely.
ITEM (A)	The name of the facility must be the current name that appears on the facility license.
ITEM (B)	Please make sure you have the correct area code with the phone number.
ITEM (C)	The physical address of the facility.
ITEM (D)	City, state and zip code.
ITEM 2	The facility staff member completing the report is not the witness ; it is the name of the staff member doing the investigation, regardless of whether that is the administrator, director of nursing, social worker or other staff member.
ITEM 3	The title of the person in item 2.
ITEM 4	This should match the reporting date on the DMS-7734.
ITEM 5	This should match the date and time of incident on the DMS-7734.
ITEM 6	This should match the date and time of discovery on the DMS-7734.
ITEM 7	The facility must know the definitions of maltreatment in the Long Term Care (LTC) Maltreatment Act to check the type of incident accurately. <i>These boxes may be checked differently from the DMS-7734 because the investigation may turn up different facts from the original allegation.</i>
ITEM (A)	Neglect is checked if the incident conforms to the definitions of neglect in the LTC Maltreatment Act, e.g., a failure to supervise, failure to report a change in health care condition of a resident or a failure to follow the resident's care plan.
ITEM (B)	<ul style="list-style-type: none"> ■ Abuse boxes for Verbal and Emotional/Mental are checked if the incident conforms to the definitions of abuse in the LTC Maltreatment Act, e.g., an act by an individual that subjects residents to ridicule or psychological injury likely to provoke fear or alarm in residents. This can also be a violation of the resident's care plan, if the care plan defines how to deal with the resident's behaviors. ■ Sexual Abuse is checked if your investigation finds that there are violations as defined in the LTC Maltreatment Act or in the resident's care plan, e.g., was the sexual abuse with another person who is not the actor's spouse and the resident is incapable of consent. ■ Physical Abuse is checked if there was any intentional and unnecessary physical act that inflicted pain on or caused injury to a resident.

ITEM (C)	<ul style="list-style-type: none"> ■ Misappropriation of Property deals with drugs, personal property and trust fund accounts owned by residents. • All medications are the property of the resident until they are properly and legally destroyed. This includes discontinued medications. The theft of a resident's medications is also neglect and may come under the definitions of abuse. • Personal property is anything belonging to a resident, including medications, cigarettes, Cokes, and even whiskey or wine when there is a physician's order for it. • Misuse of a resident's trust fund must always be reported and investigated. There must be a DMS-762 for each resident involved.
ITEM 8	Name of the involved resident means the resident's full name including any nickname the resident goes by. Note that there is a line to also enter the resident's room number.
ITEM 9	Resident's Social Security number and date of birth. The date of birth is very important when we are dealing with the possible frailty of the resident.
ITEM 10	Height and weight are very important, especially weight, when the state Office of Long Term Care (OLTC) is weighing evidence on lifting injuries.
ITEM 11	Physician is the resident's attending physician, who may or may not be the medical director.
ITEM 12	Mark yes if the resident is still living. If the resident is deceased, mark "no" and enter the date of the resident's death.
ITEM 13	Check yes if the resident is ambulatory or no if not. Regarding oriented to time, place, person or event, check the ones that apply. These are very important regarding resident allegations of abuse or neglect.
ITEM 14	The Physical Functional Level/Impairment is a brief summary of the resident's mobility status and how much help they need with their ADLs. The facility may want to summarize Section G (Functional Status) from the MDS 3.0.
ITEM 15	The Mental Functional Level – being descriptive here is helpful when dealing with a resident's allegation of maltreatment. The BIMS score is helpful to have as well as letting OLTC know about hallucinations, paranoia, poor historian, tends to make up stories, etc. Section C (Cognitive Patterns) in the MDS 3.0 may be helpful in filling this out.
ITEM 16	Along with Primary Diagnosis , OLTC needs to know the active diagnoses affecting this resident. This can be obtained from Section I (Active Diagnoses) in the MDS 3.0. DO NOT USE MEDICAL CODES.

Facility Investigation Report for Resident Abuse, Neglect, Misappropriation of Property,
And Exploitation of Residents in Long-Term Care Facilities.

1 Section 1 - Reporting Information

A Name of Facility: _____

B Phone: () _____

C Address: _____

D City: _____ State: AR Zip Code: _____

Facility Staff Member Completing DMS-762: **2** _____

Title: **3** _____

Date Incident Reported to OLTC: **4** _____ Time: _____ AM _____ PM

Date and Time of Incident (if known): **5** _____ Time: _____ AM _____ PM

Date and Time of Discovery: **6** _____ Time _____ AM _____ PM

Type of Incident: **7** **Neglect:** ☐ **A** **Misappropriation of Property:** Drugs ☐

Abuse: Verbal ☐ **C** Personal Property ☐
B Sexual ☐ Resident's Trust Fund ☐
Physical ☐
Emotional/Mental ☐

Name of Involved Resident: **8** _____ Room # _____

Social Security #: **9** _____ DOB: _____

Height: **10** _____ Weight: _____ lbs. Physician **11** _____

12 Is Resident Still Living? ☐ Yes ☐ No If not, Date of Death _____

Ambulatory? **13** ☐ Yes ☐ No Oriented ☐ Time ☐ Place ☐ Person ☐ Event

Physical Functional Level/Impairment **14** _____

Mental Functional Level **15** _____

Primary Diagnosis **16** _____

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Section II - Complete Description of Incident

“See Attached” Is Not Acceptable!

ITEM 17

SECTION II – COMPLETE DESCRIPTION OF INCIDENT

■ **If a resident is missing from the facility, OLTC needs to know at least the following:** What shift, time and date was the discovery of the resident missing? What time was the resident found? Where was the resident found and how far away from the facility was the resident found? What was the condition of the resident when the resident was found? What were the weather conditions when the resident was found, e.g., outside temperature (98 degrees, 30 degrees), was it raining, was there snow on the ground, was it windy with a wind chill? How did the resident get out of the facility, e.g., through a window, walk out with a visitor, faulty alarm, was the resident wearing an alarm device?

■ **If this is a lifting injury, OLTC needs to know at least the following:** Was the resident care planned for a one-person lift with a gait belt, a two-person lift, or a two-person lift with a mechanical lift? Was the staff trained on using the mechanical lift? Was the resident injured? Did both the care plan and closet care plan (if used) match and were they up to date? Was the mechanical lift (if used) taken out of service until it could be checked for defects? Were there defects in the lift?

■ **If this is a van incident, OLTC needs to know at least the following:** Was this the regular van driver or a substitute? Was the driver trained? Was the wheelchair clipped properly to the floor? Was the resident wearing a seatbelt in the wheelchair? What caused the incident? Did the resident flip over? Was the resident injured? Was this an injury with the van lift and was the lift working properly? How many people were assisting with the lift? Was the van taken out of service until the lift or wheelchair locks were checked?

■ **If the incident is verbal abuse, OLTC needs to know at least the following:** What was said and was it said directly to the resident? Was it about the resident? Was it within the resident’s hearing distance? Describe the manner, tone, body language and any gestures used towards the resident. Was what was said likely to provoke fear or alarm in the resident, whether the resident understood or not? OLTC has to know exactly the words used. Generic terms like “vulgar” or “inappropriate” are not usable as evidence. Do not start with the first letter of an offensive word and use dashes in place of spelling it out. The exact word has to be used, no matter how offensive it is.

These four types of maltreatment are only examples of what OLTC is looking for when describing what type of maltreatment incident happened to a resident. There are many different types of maltreatment incidents that require reporting and investigation besides the ones listed as examples.

18

Section III - Findings and Actions Taken

Please include Resident's current medical condition

Facility Administrator's or Designee's Signature_____
Date**ITEM 18** **SECTION III – FINDINGS AND ACTIONS TAKEN**
(Include resident's current medical condition)

The facility findings are a summary after the investigation's conclusion that pulls all of the investigation facts together so that the facility can take the appropriate actions to keep the incident from happening again.

- **It is critical that you tell OLTC what actions you are taking to protect the residents from this type of event happening again.** Was this a failure to follow the resident's care plan? Are you doing in-services on the type of failure that caused this maltreatment? Are you taking equipment out of service until it can be inspected? If this was a neglect issue, is the resident's care plan being updated if needed? Is this an event that may have been beyond the control of the staff involved? If so, please be very descriptive in telling OLTC why.
- **If your Findings and Actions Taken are developed from hall cameras, describe what you see when reviewing the video.** Identify personnel in the video so that OLTC can affix the names to the individuals in the video. Send OLTC a copy of the video on a CD or DVD.
- **Tell OLTC what the resident's condition is at the time of this report.** If the resident is still in the hospital, expired or went home, OLTC needs to know. If the facility does not have all of the information by the end of the fifth working day, then let OLTC know the information is pending and the facility will send it later.

COMPLETION/ROUTING:

Facilities must follow these instructions to comply with the regulation.

ITEM 19	SECTION IV – NOTIFICATION/STATUS This must be filled out completely.
ITEM 19 (1)	Administrator/Written Designee Must Be Notified.
ITEM (A)	This is the name of the administrator or the administrator's written designee, per facility policy, who was immediately notified. If the accused party is the administrator then follow corporate policy on who to report to in place of the administrator.
ITEM (B)	This is the date and time that the administrator or the administrator's designee was immediately notified.
ITEM (C)	If you check yes on family notification, put down the date and time they were notified. If the answer is no because you tried and couldn't get in touch with the family, put down the date and time you tried. Fill in the rest with the name of the family member, relationship to the resident and the phone number.
ITEM (D)	If doctor notified is yes, put down the date and time and fill in the rest of the blanks. If the answer is no but you tried, put down the date and time that you tried and who you attempted to notify.
ITEM (E)	If the resident is sent to the hospital, fill out all of the requested information regarding the hospital. OLTC may want information from the hospital at a later date.
ITEM 19 (2)	Law Enforcement Must Be Notified for Abuse and Neglect. To clarify this further, law enforcement must be notified <i>immediately</i> of any allegation, reason to suspect or witnessed event of maltreatment as maltreatment is defined in the Adult Maltreatment Law.
ITEM (A)	This is the date and time the police/sheriff was notified immediately after the incident occurred. If the facility found out about the incident days or weeks later, law enforcement still has to be notified.
ITEM (B)	OLTC needs the name and address information of the law enforcement agency.
ITEM (C)	If an investigation was made by the law enforcement agency, mark yes and the date and time they came to your facility. Put in the name of the officer who did the investigation. When law enforcement is notified of maltreatment in a LTC facility, it is up to the law enforcement agency whether they are going to do an investigation. The facility does need to document the time, date and the name of the person they talked to when the facility notified the law enforcement agency.

19 Section IV - Notification/Status

19 (1) Administrator/Written Designee Must Be Notified!

A Name of Administrator _____

B Date _____ Time _____ AM _____ PM

C Family Notified ☐ Yes ☐ No ☐ None Date _____ Time _____ AM _____ PM

Name of Family Member _____

Relationship _____ Phone # () _____

D Doctor Notified ☐ Yes ☐ No Date _____ Time _____ AM _____ PM

Doctor's Name _____ Phone # () _____

E Resident Sent To Hospital ☐ Yes ☐ No Date _____ Time _____ AM _____ PM

Name/Address/Phone of Hospital _____

_____ Phone () _____

19 (2) Law Enforcement Must Be Notified For Abuse And Neglect

A Date _____ Time _____ AM _____ PM

B Name of Law Enforcement Agency _____

Phone # () _____

Address _____

City/Zip _____

C Was an Investigation Made by the Law Enforcement Agency? ☐ Yes ☐ No

Date of Investigation _____ Time _____ AM _____ PM

Name of Officer _____

COMPLETION/ROUTING:

Facilities must follow these instructions to comply with the regulation.

ITEM 20	SECTION VI – ACCUSED PARTY INFORMATION This must be filled out completely.
ITEM (A)	<p>Name of Accused Party is the name of the individual who is to have been involved in a maltreatment event by allegation, a reason to suspect, a witnessed event, a rumor, hall camera, or accident, etc. This is the name of the accused party. It doesn't mean they are guilty of anything.</p> <p>Accidents: There are times that a facility employee may call an event an accident when it is actually neglect by definition in the Long Term Care Facility Maltreatment Act. The person doing the investigation must know the definitions of maltreatment in the law to make a proper determination.</p> <p>Be careful using the term unknown for the accused party until you have finished the investigation. The facility investigation may turn up a name if the investigation is thorough. Remember, a thorough investigation is required in F-225.</p> <p>OLTC does receive unknowns where there is a name associated with the event that should have been put in the accused party section.</p> <p>The remaining Accused Party Information is self-explanatory and is just filling in the blanks. All blanks have to be filled in.</p>

COMPLETION/ROUTING:

Facilities must follow these instructions to comply with the regulation.

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Section VI - Accused Party Information

A

Name of Accused Party _____

Job Title (if any) _____ Phone # () _____

Home Address _____

City/State/Zip _____

Social Security # _____ DOB _____

Dates of Current Employment From _____ To _____

Certified Nursing Assistant ☐ Yes ☐ No

Registration # _____ Date Issued _____

Date Criminal Background Check Completed _____

Licensed by State Board of Nursing ☐ Yes ☐ No

Type of License RN # _____ LPN # _____

Date Issued _____

COMPLETION/ROUTING:

Facilities must follow these instructions to comply with the regulation.

ITEM 21	SECTION VII – ATTACHMENTS
ITEM (A)	The statement from the accused party is very important. Statements must be on the DMS-762 witness form or attached to the witness form. If OLTC does not receive a statement from the accused, a letter will be sent to the accused offering them an opportunity to make a statement.
ITEM (B)	Using the DMS-762 OLTC Witness Statement Form is a federal and state requirement and a corporate form cannot be substituted for this witness form. It cannot be altered. It must be filled out completely.
ITEMS (C AND D)	<p>These are the type of documents you may or may not be able to get by the end of the fifth working day, or at all. Mail your investigation paperwork and note that you will send these when they are available.</p> <p>Evidentiary attachments needed with the DMS-762: These are the types of attachments needed with various types of maltreatment incidents.</p> <ul style="list-style-type: none"> ■ Resident Lifting Incidents: Copy of the resident's care plan, closet care plan (if utilized), the accused's documented training on care plans and this particular resident's care plan. OLTC needs documentation where the accused signed off on care plan training. OLTC also needs training documents on the use of gait belts and facility policy. ■ Resident Lifting Incidents Using Mechanical Lift: OLTC needs the same information as above with lifting incidents, but a copy of the manufacturer's recommendations on the proper utilization of the lift and copies of documents showing that the accused has been trained on the manufacturer's recommendations for using the lift are needed. Training signature sheets with dates are needed. ■ Van Incidents Involving Residents: OLTC will need a lot of information regarding van incidents; e.g., was the van driver trained on the manufacturer's recommendation regarding the van lift, loading the resident in the van properly, securing the wheelchair to the floor properly, and unloading the resident properly with the van lift? Was the resident secured in the wheelchair with a seatbelt? OLTC needs a copy of the above training records and a copy of the manufacturer's recommendations on the utilization of all van equipment. OLTC will also need a copy of the resident's care plan. If the accused (van driver) is a substitute, then OLTC needs the same information above on the substitute van driver showing they were trained. If the resident is injured in the van en route, give OLTC a timeline of events and how they were handled, e.g., how the resident was injured, type of injury, when or whether the facility was called, whether the resident was taken to the hospital, whether and when the resident was taken back to the facility and then to hospital, etc. The events and the times must be documented. OLTC must know if the resident has life-threatening injuries or has died from the accident. ■ Misuse of Residents' Medications: The misuse of residents' medications may come under the definitions of abuse, neglect or misappropriation of property. Usually it is all three categories. If the accused is suspected of taking drugs from more than one resident, OLTC must have a separate DMS-762 report on each resident. The report must be specific to that particular resident, including that resident's medications and any ill effects that resident may have suffered from not getting their medication. OLTC will need a copy of the MARS for each resident. ■ Reason to Suspect Misappropriation of Resident Trust Funds: When there is reason to suspect the misappropriation of resident trust funds and more than one resident is involved, OLTC will need a separate DMS-762 on each resident. The information must be that particular resident's information on his/her trust fund without comment about any of the other residents. OLTC needs to know how much is suspected or proven to be missing. If there are any suspicious canceled facility trust fund checks with multiple signatures, OLTC will need a witness statement from each person that signed the suspicious check and copies of the suspicious checks. If the facility is doing a formal audit, OLTC will need a copy of the audit report when it is finished. ■ Resident Leaves Facility Unsupervised (Elopement): OLTC will need a copy of the care plan. If there was a failure to supervise on the part of a facility employee, OLTC will need any related training information on that employee.

COMPLETION/ROUTING:

Facilities must follow these instructions to comply with the regulation.

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Section VII- Attachments

Attach the following information to the back of this form. If you do not have one of the specified attachments, please provide an explanation why it cannot be obtained or if it will be forwarded in the future.

- A** 1. Statement from the accused party.
- B** 2. All witness statements. Use the attached OLTC Witness Statement Form for all witness statements submitted. If the statement is a typed copy of a handwritten statement, the handwritten statement must accompany the typed statement.
- C** 3. Law enforcement incident report. This can be mailed at a later date if necessary.
- D** 4. Other pertinent reports/information, such as Ombudsmen, autopsy, reports, etc. These can be mailed at a later date if necessary.

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COMPLETION/ROUTING:

Facilities must follow these instructions to comply with the regulation.

ITEM 22

OLTC WITNESS STATEMENT FORM

This witness form is regulation and it must be filled out completely. There cannot be any substitutions for this form. If the DMS-762 is copied to your computer, it must be an exact copy. It cannot be altered.

ALL blanks asking for witness information must be completed by the witness.

If an OLTC surveyor tells the administrator of an allegation during a survey, the surveyor must fill this form out. Make sure you give the surveyor a copy.

ITEM 23

State in your own words what you witnessed and sign below:

The witness needs a quiet place and plenty of time to fill out this section. Additional pages can be added as needed or the witness can write on the back of the form.

Canned statements that ask a resident or an employee yes or no questions are not evidence and do not constitute a thorough investigation. OLTC wants witness statements from individuals who know of the incident and can describe in their own words what they know. If the facility wants to use canned statements for their own purposes, that is fine. They are not useful to OLTC as they are not evidence.

Sometimes the only witness statement a facility may have is just on a plain piece of paper. Simply attach that to the DMS-762 witness statement form, and fill in the witness personal information from facility records.

Facility Investigation Report for Resident Abuse, Neglect, Misappropriation of Property,
And Exploitation of Residents in Long-Term Care Facilities

22

OLTC Witness Statement Form

Date _____ Time _____ AM _____ PM _____

Witness Full Name _____

Job Title _____ Shift _____

Home Address _____ City/Zip _____

Home Phone # () _____ Work Phone # () _____

Relation to Resident (If Any) _____

State in your own words what you witnessed (be very descriptive) and sign below.

23

The information provided above is true to the best of my knowledge.

Signature of Witness _____ Date _____

NOTE:

Pages 8 and 9 of
DMS-762 are copies
of this form to be used
for additional
witnesses.

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