Swift Solutions: Navigating Emergency Discharges in Long-Term Care

MISSOURI ASSOCIATION OF
NURSING HOME ADMINISTRATORS
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Leadership Coaching
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Sinclair School of Nursing
University of Missouri

Definition

Discharge means releasing from a facility or ***refusing to readmit*** a resident from a community setting under circumstances where the resident or a legally authorized representative of the resident has not consented or agreed with the move or decision to refuse readmittance.

Situations Permitting Discharge

In general, facilities, including assisted living facilities, are required to allow residents to remain in the facility and cannot transfer or discharge residents without their consent, except in the following circumstances:

- Inability to Meet Needs: If the facility is unable to meet the resident's welfare and needs adequately.
- Improved Health: If the resident's health has improved to the extent that they no longer require the services provided by the facility.
- Unsafe Environment: If the clinical or behavioral status of the resident poses a danger to the safety of individuals in the facility, creating an unsafe environment.
- Endangerment of Health: If the health of individuals in the facility would be jeopardized by allowing the resident to remain.
- Non-Payment: If the resident has failed to pay for their stay at the facility, despite receiving reasonable and appropriate notice, or if payment has not been made under Medicare or Medicaid.
- Facility Closure: If the facility ceases operations altogether.

- 42 C.F.R. § 483.15(c)(1)(i)(A)-(F); § 19 C.S.R. 30-82.050(2)

Situations Permitting Discharge

(2) Policies relating to admission, transfer, and discharge of residents shall assure that:

(a) Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts;

(b) As changes occur in their physical or mental condition, necessitating service or care which cannot be adequately provided by the facility, residents are transferred promptly to hospitals, skilled nursing facilities, or other appropriate facilities; and

(c) ***Except in the case of an emergency***, the resident, his next of kin, attending physician, and the responsible agency, if any, are consulted at least thirty days in advance of the transfer or discharge of any resident, and casework services or other means are utilized to assure that adequate arrangements exist for meeting his needs through other resources;

RSMo. § 198.088.2

Prior to a transfer or discharge, a facility must provide notice to the resident and the resident's representative(s) of the transfer or discharge and the reasons for it in writing and in a language and manner that they understand.

The facility must also send a copy of the notice to the Ombudsman.

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The notice must include…

- The reason for transfer or discharge;
- The effective date of the proposed transfer or discharged;
- The location to which the facility proposes to transfer or discharge the resident;
- The resident's right to a hearing to contest the transfer or discharge within thirty days of receipt and the procedure to do so;
- That a request for a hearing should be sent to Department of Health and Senior Services Appeals Unit, P.O. Box 570, 912 Wildwood Drive 3rd floor, Jefferson City, Missouri 65102-0570, by fax to (573) 751-0247, or by email to DHSS.Appeals@health.mo.gov, and the phone number for the appeals unit is (573) 522-1699;
- That filing an appeal will allow the resident to remain in the facility until the hearing is held unless a hearing officer finds otherwise;
- The contact information for the Ombudsman; and
- For residents who are mentally ill or developmentally disabled, the contact information for the Missouri Protection and Advocacy Agency (925 S. Country Club Dr. #2, Jefferson City, MO 65109; (573) 893-3333)

See 42 C.F.R. § 483.15(c)(3); § 19 C.S.R. 30-82.050(4)

Generally, a facility must give at least 30 days' notice before a transfer or discharge.

- A facility, including assisted living facilities, ***may give less than 30 days' notice***, but must give notice as soon as practicable, when:
  - The ***safety*** of individuals in the facility is endangered;
  - The ***health*** of individuals in the facility is endangered;
  - The ***resident's health improves*** sufficiently to allow a more immediate transfer or discharge;
  - An immediate transfer or discharge is required by the ***resident's urgent medical needs***; or
  - A resident has not resident in the facility for 30 days

42 C.F.R. § 483.15(c)(4); § 19 C.S.R. 30-82.050(5)

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Documentation

Facilities must ensure documentation of transfer or discharge in the medical record before the process begins and share relevant information with the receiving provider.

- Documentation in the Medical Record includes:
  - Explanation of the basis for the transfer or discharge.
  - Specific resident needs that cannot be met, efforts made by the facility to address these needs, and services available at the receiving facility to meet them.
  - If discharge is due to unmet needs or resident improvement, the resident's physician must provide documentation.
  - In cases of discharge due to an unsafe environment, physician documentation is necessary.
- Refer to 42 C.F.R. § 483.15(c)(2); § 19 C.S.R. 30-82.050(3)-(4).
- ***Note:*** Assisted living facilities may not require physician documentation for cases where the safety of other residents is at risk, but it is mandated if the health of other residents is endangered.
- In all instances, documentation by the Facility Administrator or the Facility Director of Nursing is essential.

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Documentation

- Information from ***skilled nursing facilities*** provided to receiving provider must include at least:
  - Contact information of the practitioner responsible for the care of the resident;
  - Resident representative information, including contact information;
  - Advance Directive information;
  - All special instructions or precautions for ongoing care, as appropriate;
  - Comprehensive care plan goals;
  - All other necessary information, including a copy of the resident's discharge summary, and other documentation to ensure a safe and effective transition of care.

See 42 C.F.R. § 483.15(c)(2)

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Notes from Regulatory Guidance-SNF

Facilities are required to determine their capacity and capability to care for the residents they admit. Therefore, facilities should not admit residents whose needs they cannot meet based on the facility assessment.

- Resident transfers to an acute care setting are considered facility-initiated transfers, NOT discharges, because the resident's return is generally expected.
  - ➢ In a situation where the facility initiates discharge while the resident is in the hospital following emergency transfer, the facility must have evidence that the resident's status at the time the resident seeks to return to the facility (not at the time the resident was transferred for acute care) meets one of the allowed criteria.
- It is the responsibility of the facility to notify the resident of changes in payment status, and the facility should ensure the resident has the necessary assistance to submit any third-party paperwork (if paperwork has been submitted and a decision is pending, that is not considered nonpayment status).
- CMS, SOM, Appendix PP (F622); available at: https://www.cms.gov/files/document/appendix-ppguidance-surveyor-long-term-care-facilities.pdf

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F-Tags and A-Tags

- F622 - Transfers & discharges
- F623 - Notice before transfer or discharge
- A8015 - Notice before transfer or discharge
- F624 - Orientation for transfer or discharge
- F625 - Bed-holds
- F626 - Permitting residents to return
- A8017 - Discharge appeal rights

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Appeal Rights

- The facility must assist the resident in completing any appeal forms and submitting the appeal hearing request.
- Facility may not transfer or discharge the resident while the appeal is pending, unless the failure to do so would endanger the health or safety of the resident of other individuals in the facility. The facility must document the danger that failure to transfer, or discharge, would pose.
  - Note: State regulation requires the facility to file a 'Motion to Set Aside the Stay' to show good cause for discharging a resident prior to a hearing decision. Filing this may result in an earlier, separate, hearing.
- Note: the contact information for the Appeals Unit has changed!
  - The new contact information is: Department of Health and Senior Services Appeals Unit, P.O. Box 570, 912 Wildwood Drive 3rd floor, Jefferson City, Missouri 65102-0570, fax: (573) 751-0247, email: DHSS.Appeals@health.mo.gov, phone: (573) 522-1699
  - The appeal form can be obtained online here: https://health.mo.gov/seniors/ombudsman/pdf/580- 2639.pdf

- See 42 C.F.R. § 483.15(c)(1), (5); § 19 C.S.R. 30-82.050(4), (8)

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The Admission Decision – it is assumed by regulators that facilities can care for residents that they choose to admit.

Document, Document, Document prior to the discharge!

- Care Plan (should be revised to reflect resident changes and interventions)
- Progress Notes (should detail resident behaviors and attempts to address them, should include basis for transfer/discharge by Administrator)
- Physician Documentation (should be detailed and supportive of the discharge)
- Physician Order (should be obtained prior to the discharge)

Communications with Resident and Family

Alternate Placement Efforts

Consider the best interests of the Resident

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Scenario

- A resident in a skilled nursing facility (SNF) has exhibited increasingly aggressive and violent behavior, posing a significant risk to the safety of other residents and staff. Despite attempts to manage the behavior through interventions and therapies, the resident's condition has not improved, and the facility determines that they can no longer safely provide the necessary care and support. What should the SNF do?

Thank you!!

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