

# LONG TERM CARE COMMUNITY COALITION

*Advancing Quality, Dignity & Justice*

## TRANSFER & DISCHARGE RIGHTS II

### RIGHT TO RETURN; NOTICE REQUIREMENTS FOR BED-HOLD, TRANSFER & DISCHARGE

#### FACT SHEET

The threat of transfer or discharge from a nursing home can be stressful and frightening to a resident and their family. Our fact sheet *Transfer & Discharge Rights I* discusses fundamental resident protections, the right to appeal, and documentation requirements. This fact sheet presents additional useful information on resident rights. For the complete federal guidance on transfer and discharge rights, visit [nursinghome411.org/discharge](https://nursinghome411.org/discharge).

**Notes:** The brackets below provide, for reference, the citation to the federal requirement (42 CFR 483.xx) and the F-tag number used when a facility is cited for failing to meet the requirement.

#### **I. Permitting Residents to Return to Facility [42 CFR 483.15(e)(1); F-627]**

*A facility must establish and follow a written policy on permitting residents to return to the facility after they are hospitalized or placed on therapeutic leave. The policy must provide for the following.*

*(i) A resident, whose hospitalization or therapeutic leave exceeds the bed-hold period under the State plan, returns to the facility to their previous room if available or immediately upon the first availability of a bed in a semi-private room if the resident—*

*(A) Requires the services provided by the facility; and*

*(B) Is eligible for Medicare skilled nursing facility services or Medicaid nursing facility services.*

#### **II. Orientation for Transfer or Discharge [42 CFR 483.15(c); F-627]**

*A facility must provide and document sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility. This orientation must be provided in a form and manner that the resident can understand.*

#### **III. Notice of Bed-Hold Policy [42 CFR 483.15(d); F-628]**

*Before a nursing facility transfers a resident to a hospital or the resident goes on therapeutic leave, the nursing facility must provide written information to the resident or resident representative that specifies—*

- a. The duration of the state bed-hold policy, if any, during which the resident is permitted to return and resume residence in the nursing facility;*
- b. The reserve bed payment policy in the state plan..., if any;*
- c. The nursing facility's policies regarding bed-hold periods, which must be consistent with paragraph (e)(1) of this section, permitting a resident to return; and*
- d. The information specified in paragraph (e)(1) of this section.*

**Note:** Paragraph (e)(1) require facilities to permit residents to return to the facility immediately to the first available bed in a semi-private room.

#### IV. Notice Before Transfer or Discharge [42 CFR 483.15(c)(2); F-628]

Before a facility transfers/discharges a resident, it must provide:

- a. Written notice to the resident and his/her representative in language and manner that they can understand;
- b. Record the reasons for the transfer or discharge in the resident's medical record
- c. Notice must be given at least 30 days in advance. (With very limited exceptions, such as when a resident cannot be cared for safely or is a danger to others, in which case "notice shall be given as soon as practicable before transfer or discharge" and the facility must document the danger that failure to transfer/discharge would impose.)
- d. The facility must send a copy of the notice to... the State Long-Term Care Ombudsman.

#### V. Contents of the Notice [42 CFR 483.15(c)(5); F-628]

The transfer/discharge notice must include all of the following at the time notice is provided:

- a. The specific reason for the transfer or discharge, including the basis under §§483.15(c)(1)(i)(A)-(F);
- b. The effective date of the transfer or discharge;
- c. The specific location (such as the name of the new provider or description and/or address if the location is a residence) to which the resident is to be transferred or discharged;
- d. A statement of the resident's appeal rights, including the name, address (mailing and email), and telephone number of the entity which receives such requests; and information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request;
- e. The name, address (mailing and email) and telephone number of the Office of the State Long-Term Care Ombudsman.

Note: Residents with intellectual and developmental disabilities and those with a mental disorder (or related disabilities) must also receive the mailing and email address and telephone number of the agency responsible for the protection and advocacy of individuals with those conditions.

#### VI. Timing of Notice [42 CFR 483.15(c)(4); F-628]

A notice of transfer or discharge must be made by the facility at least 30 days before the resident is transferred or discharged, except under the following circumstances: (1) The safety or health of individuals in the facility would be endangered, (2) The resident's health improves sufficiently to allow a more immediate transfer or discharge; (3) Immediate transfer or discharge is required by the resident's urgent medical needs; or (4) The resident has not resided in the facility for 30 days.

#### VII. Changes to Notice [42 CFR 483.15(c)(6); F-628]

If information in the notice changes, the facility must update the recipients of the notice as soon as practicable with the new information to ensure that residents and their representatives are aware of and can respond appropriately. **For significant changes**, such as a change in the transfer or discharge destination, **a new notice must be given that clearly describes the change(s) and resets the transfer or discharge date in order to provide 30 day advance notification** and permit adequate time for discharge planning. [Emphasis added.]