

Residents of a long-term care facility/community

Residents have the right to notice prior to a discharge or transfer.

All residents have the right to receive 30 days advance written notice of intent to discharge or transfer them (unless it is an emergency discharge as outlined in federal discharge regulations).

Included with the written advance notice must be information advising the resident of his right to appeal the intended discharge and a copy of the hearing request form.

Transfer and discharge provisions significantly restrict a facility's ability to transfer or discharge a resident once that resident has been admitted to the facility. The facility may not transfer or discharge the resident unless:

—the transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility.

—the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility.

—the safety of individuals in the facility is endangered.

—the health of individuals in the facility would otherwise be endangered.

—the resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility.

The Senior Snippet

Written by Erin LeBlanc

—the facility ceases to operate.

To demonstrate that any of the events specified have occurred, the law requires documentation in the resident's clinical record. To demonstrate the first two situations, the resident's physician must provide the documentation. In the fourth situation, the documentation must be provided by any physician.

Moreover, before the transfer or discharge occurs, the law requires that the facility notify the resident and, if known, the family member, surrogate or representative of the transfer and the reasons for the transfer, and record the reasons in the clinical record.

The facility's notice must include an explanation of the right to appeal the transfer to the state as well as the name, address and phone number of the long-term care ombudsman (Erin LeBlanc is the long term care ombudsman for Logan, Phillips and Sedgwick counties).

In the case of a developmentally disabled individual, the notice must include the name, address and phone number of the agency responsible for advocating for the developmentally disabled, and in the case of a mentally ill individual, the name, address and phone number of the agency responsible for advocating for mentally ill individuals.

Erin LeBlanc, long-term care ombudsman for Phillips, Logan and Sedgwick counties,
970-854-2949 or 970-630-7714.

The Senior Snippet

Written by Erin LeBlanc

Holyoke Enterprise June 5, 2012