Discharges

Regular and Emergency

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Difference Between Transfer and Discharge…

- The million dollar question -

What is the difference between a transfer and a discharge?

STATE REGULATION

19 CSR 30-82.050 (1): For the purposes of this rule, the following terms shall be defined as follows:

- **(A)** Transfer means moving a resident from one institutional setting to another institutional setting for care and under circumstances where the releasing facility has decided that it will not readmit the resident or a legally authorized representative of the resident has not consented or agreed with the transfer. Unless indicated otherwise from the context of this rule, **a transfer shall be deemed the same as a discharge;**
- **(B)** 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. Refusal to readmit a former resident shall not constitute a discharge if the former resident has been absent from the facility for more than ninety (90) days;

§483.12 Admission, Transfer and Discharge Rights

Guidelines §483.12:

- This requirement applies to transfers or discharges that are initiated by the facility, not by the resident. Whether or not a resident agrees to the facility's decision, these requirements apply whenever a facility initiates the transfer or discharge. "Transfer" is moving the resident from the facility to another legally responsible institutional setting, while "discharge" is moving the resident to a non-institutional setting when the releasing facility ceases to be responsible for the resident's care.

Legal Reasons for Discharge

Reasons for discharge according to the state/federal regulations:

- **19 CSR 30-82.050 (2):** states that the facility shall permit each resident to remain in the facility unless;
  - (A) The transfer or discharge is appropriate because the resident's welfare and the resident's needs cannot be met by the facility.

(what has changed since admission that you cannot meet the needs of the resident anymore?)

  - (B)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.

(Again what has changed since admission?)

Legal Reasons for Discharge *(continued)…*

- **(C)** The safety of individuals in the facility is endangered.

(explain how the individuals are endangered)

- **(D)** The health of individuals in the facility would otherwise be endangered.

(explain how they would be endangered)

- **(E)** The resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility.
- **(F)** The facility ceases to operate.

DOCUMENTATION FOR DISCHARGE

- Prior to discharging a resident, a long-term care facility must document the reason for discharge in the resident's record.
- A physician must also document the reason if the discharge stems from reasons cited in subsections 19 CSR 30-82.050 (2)(A); (B); or (D)

Emergency Discharge

- Emergency discharge is the only time a resident does not have to receive a 30-day written notice before being discharged.
- However, written notice of discharge must still be given to the resident - **AS SOON AS PRACTICABLE** before the discharge.

Reasons for Emergency Discharge

- The safety of individuals in the facility is endangered. The discharge notice must contain the specific facts as to how a facility made that determination.
- The health of individuals in the facility is endangered. The discharge notice must contain the specific facts as to how a facility made that determination.

Reasons for Emergency Discharge
(continued)…

- The resident's health has improved.
- The resident has urgent medical needs that require immediate discharge; or
- The resident has not resided in the facility for 30 days.

Notice of Discharge…

Regardless of the type of discharge a facility is required to:

- Send a written notice to the resident in a language and manner understood by the resident;
- Send written notice to any legally authorized representative of the resident and to at least one family member;
- If no known family member, the notice shall be sent to the regional Ombudsman's office.

Written Notice Must Include:

- The reason for the discharge;
- The effective date of the discharge;
- The resident's right to appeal the discharge notice to a Department of Health and Senior Services' hearing officer within 30 days of receipt of the notice; and
- The address to which the request for a hearing.

Written Notice Must Include: *(continued)…*

- That filing an appeal will allow a resident to remain in the facility until the hearing is held unless a hearing official finds otherwise;
- The location to which the resident is being discharged;
- The name, address and telephone number of the designated regional long-term care ombudsman office;
- For Medicare and Medicaid certified facility residents with developmental disabilities or mental illness, the mailing address and telephone number of the Missouri Protection and Advocacy Agency.

APPEALS

- A resident, or anyone acting on behalf of the resident, has 30 days from the date of the discharge notice to file a written appeal. Often the regional ombudsman's office assists residents and families with the appeal.
- After the department receives an appeal, a hearing officer will notify the resident, ombudsman's office and the facility, in writing, that a hearing has been scheduled.

APPEALS *(continued)…*

- The resident will be allowed to remain in the facility until the hearing is held
- If the facility can show good cause why the resident should not remain in the facility until the hearing is held, the facility must file a written Motion to Set Aside the Stay with the department's hearing officer.
- The facility must provide a copy of the motion to the resident or the resident's legal guardian and at least one family member. (Ombudsman)

APPEALS *(continued)…*

- If the hearing officer agrees with the Motion to Set Aside the Stay, the hearing process will be expedited.
- Hearing can be by phone or in person.
- Facility bears the burden of showing that it has complied with all appropriate discharge requirements.

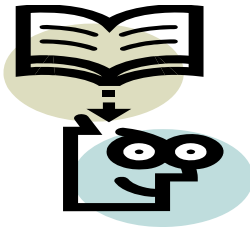
Decision in favor of resident

- The resident shall be permitted to remain in the facility.
- If resident has already left the facility, the facility must notify the resident that he/she may return.
- The resident shall be admitted to the first available bed without regard to any waiting list.

Decision in favor of facility

- The resident shall be granted an additional 10 days after the decision is received for purpose of relocation.
- The facility shall assist the resident in making suitable arrangements for relocation.

19 CSR 30-82.050

- For the entire regulatory section
- For all addresses for discharge and appeals.

QUESTIONS?