

Check off for Discharge actions

The notice meets all the standards required by regulation

- Needs cannot be met in the facility
(If a facility identifies a need, they must staff to meet that need. Good place to find this information is the MDS and Care Plan)
- The resident's health has improved and no longer needs the care & services of the nursing home
- The safety of others is immediately endangered, again check for staff interventions in the MDS & Care Plans
- The health of others is immediately endangered
- The resident (responsible party) has fail to pay for the care (failed to apply for Medicaid)
- The facility ceases to operate

Documentation

- A resident's physician has documented when/why the discharge is necessary
- Documentation of orientation for the discharge

Timing

- Notice may be as soon as practicable before the discharge if the discharge is for immediate threat or danger or if the resident has lived there for less than 30 days
- Otherwise the timing must be made with a 30 day notice
- The notice informs the resident/responsible party they have 15 days to appeal the discharge action

Contents of the notice must contain the following.....

- Statement that the resident has the right to appeal
- The approximate name of the cabinet & correct address of the cabinet to which the appeal is sent
- The name, address & phone number of the STATE Long Term Care Ombudsman, not the District Ombudsman
- For residents which MR/DD or MI the mailing address & telephone number of Protection & Advocacy
- The reason of the discharge
- The effective date of the discharge
- The location of where the resident will be discharged to (Home is not an approximate location if the resident meets level of care for SNF, NF, NH or PC

Contact with the resident

- Do they (responsible party) want to appeal?
- Do they want the Ombudsman/Legal Aid attorney to help with this matter, (if yes then get written permission to proceed and open a case with Intake and in Ombudsmanager, get a yellow retained signed as well
- Have they received **written notice** of the discharge

If these conditions have not been met then ask for the discharge to be denied based on a Faulty notice

Appeal the notice by fax to the Cabinet Secretary, fax number is 502-564-8975, follow up with a phone call 502-564-6621 have the Cabinet to cc everything to the Ombudsman, LAS attorney and the resident/ responsible party.

Always ask for the hearing to take place at the facility, the resident has a right to be seen and heard. (unless you think this would not favorable to the client).

In cases where the facility states needs cannot be met look for the following....

- Notes from the doctor that the needs cannot be met
- Review the facility brochures and marketing material to see what services they offer, if they offer the same services as the facility they want to move the resident to, use this against the facility, Check with OIG and Medicaid to see what the beds are certified for.
- Interview staff to see if other residents share the same needs and if they agree they do think needs can be met
- Review the MDS, Care Plan notes and Social Services notes

In cases where the facility states immediate threat or danger or that the resident is a danger to others

- Ask for incidents reports, they do not have to give you these, but it is worth a try
- Look for the care plan, see what interventions have been suggested and used.
- Look for notes from the doctor
- Look to see if there is a pattern, are the incidents all on the same staff (the third shift when staffing is not as great as the first shift), does it occur with bathing, eating, bedtime?

In cases where there is a failure to pay....

- Is the resident the one responsible for writing the check or making application (if the resident needs to make the application for Medicaid, the Medicaid worker can come to them)
- If the bill paying falls to someone else, has the facility explained to them the process of applying for Medicaid
- If it is a private paying resident, does a referral need to be made to APS and law enforcement for exploitation?
- If it is for a Medicaid denial, then there will be quarterly reviews done by a peer review group contracted by Ky Medicaid to assess the resident's needs

Have the resident/responsible party to sign a release to get copies of the medical chart, MDS, Care Plan and financial file if appropriate. The first copy is free.