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GAVIN NEWSOM
Governor

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TO: Skilled Nursing Facilities

SUBJECT: Skilled Nursing Facility Admission, Transfer and Discharge Requirements

AUTHORITY: Title 42 Code of Federal Regulations (CFR) sections 483.10(a)(2), 483.15(a)(2)(ii), and 483.15(c)(1)(i)
Title 22 California Code of Regulations (CCR) sections 72527(a)(6) and 72101

All Facilities Letter (AFL) Summary

This AFL reminds skilled nursing facilities (SNFs) that they provide continuous skilled nursing care and supportive care to patients whose primary need is for skilled nursing care on an extended basis. SNFs must provide residents with equal access to quality care regardless of diagnosis, severity of condition, or payment source. SNF discharges of residents admitted for short-term rehabilitation who communicate they are not ready to leave the facility may be investigated for discrimination.

Background

A SNF is required to provide continuous skilled nursing care and supportive care to residents whose primary need is for availability of skilled nursing care on an extended basis. SNFs may not seek to transfer or discharge residents solely due to a change in their source of payment, e.g., Medicare to Medi-Cal, or to open a bed for residents with insurance coverage that provides a higher rate of reimbursement. Under California licensing laws, SNFs are long term health care facilities for patients requiring skilled nursing care on a continuous and extended basis.

Residents Rights

Pursuant to Title 42 CFR section 483.10(a)(2), SNFs must provide residents with equal access to quality care regardless of diagnosis, severity of condition, or payment source. Skilled nursing care beds are designated for residents requiring skilled nursing care on a continuous and extended basis, which is specified in Title 22 CCR section 72101.

Admission Requirement

As stated in Title 42 CFR section 483.15(a)(2)(ii), SNFs shall not request assurances that residents or potential residents are not eligible for or will not apply for Medicare or Medicaid benefits. The State Operations Manual (SOM) Appendix PP (p.176) guidance states that facilities must not seek or receive any kind of assurances that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits. The SOM prohibits both direct and indirect requests that residents waive their rights to Medicare or Medicaid.

Transfer and Discharge Requirement

Both federal and state regulations limit the circumstances under which a SNF can initiate a transfer or discharge, thus protecting SNF residents from facility-initiated transfers and discharges that would violate those regulations. Pursuant to Title 22 CCR section 72527(a)(6), residents have the right to be transferred or discharged only for medical reasons, the resident's welfare, the welfare of other residents, or for nonpayment for their stay. Such actions shall be documented in the resident's health record.

The State Operations Manual (SOM) Appendix PP (p.185) states that SNF discharges of residents admitted for short-term rehabilitation who communicate they are not ready to leave the facility may be investigated for discrimination. Additionally, Title 42 CFR section 483.15(c)(1)(i) requires SNFs to permit each resident to remain in the facility, and prohibits the transfer or discharge the resident from the facility unless:

- The transfer or discharge is necessary for the resident's welfare and the resident's needs 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 due to the clinical or behavioral status of the resident;
- The health of individuals in the facility would otherwise be endangered;
- The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. Non-payment applies if the resident does not submit the necessary paperwork for third-party payment or after the third party, including Medicare or Medicaid, denies the claim and the resident refuses to pay for their stay. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid; or
- The facility ceases to operate.

The information in this AFL is a brief summary of the laws and regulations governing the rights, admission, transfer, and discharge of residents in SNFs. SNFs are responsible for following all applicable laws. For more information regarding rights, admission, and transfer and discharge requirements, refer to the California Standard Admission Agreement and the applicable state and federal requirements referenced above.

If you have any questions, please contact your respective district office.

Sincerely,

Original signed by Cassie Dunham

Cassie Dunham

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