

## **310\_675-1-5 Relocation of a resident by the Department in emergency**

### **(a)**

The Department may relocate a resident in an emergency when: (1) The Department determines that the resident is in immediate jeopardy which cannot be rectified without relocation; or (2) The facility has substantial quality of care non-compliance with the rules and/or certification standards and when actual harm has occurred in the facility; or (3) The facility is unable to meet the needs of the resident.

#### **(1)**

The Department determines that the resident is in immediate jeopardy which cannot be rectified without relocation; or

#### **(2)**

The facility has substantial quality of care non-compliance with the rules and/or certification standards and when actual harm has occurred in the facility; or

#### **(3)**

The facility is unable to meet the needs of the resident.

### **(b)**

The Department may order the removal of all the residents to close the facility.

### **(c)**

The Department shall involve the resident and the resident's family or

representative in the decision to relocate the resident; however, the Department may move the resident without the consent of the resident or the family if necessary to preserve the health, welfare or safety of the resident. If the resident does not consent, then if possible a member of the Adult Protective Services staff must agree in writing that the resident needs to be moved.

**(d)**

The Department shall give written notice to the resident and to the facility of the reasons for the discharge or transfer if the resident or the resident's families do not agree to transfer the resident.

**(e)**

If the resident has no specific preference, the Department shall relocate the residents to the nearest facility capable of care for the resident if acceptable to the resident.

**(f)**

Should a resident be aggrieved by the decision of the Department to relocate or transfer that resident, the Department shall conduct a hearing before relocating the resident unless to do so will fail to preserve the health, welfare or safety of the resident.

**(g)**

The hearing will be conducted following Chapter 2 of this title and the Administrative Procedures Act.

**(h)**

The hearing will be conducted at the facility, and will be attended by the Administrative Law Judge and the Department's legal counsel. The Department will maintain a record on the case as it would for another individual proceeding.

**(i)**

The Administrative Law Judge shall make this case a priority and shall issue a written opinion within one working day from the close of the hearing.

**(j)**

The Administrative Law Judge's order shall include findings of fact, conclusions of law and an order that the transfer was according to law or not.

**(k)**

The order may be appealed to District Court as in any other individual proceeding under the Administrative Procedures Act.