

DHS 132.53 Transfers and discharges

(1)

SCOPE. This section shall apply to all resident transfers and discharges, except that in the event of conflict with s. 49.45(6c) (c) and (d), 49.498(4) or 50.03(5m) or (14), Stats., the relevant statutory requirement shall apply.

(2)

CONDITIONS. (a) Prohibition and exceptions. No resident may be discharged or transferred from a facility, except: 1. Upon the request or with the informed consent of the resident or guardian; 2. For nonpayment of charges, following reasonable opportunity to pay any deficiency; 3. If the resident requires care other than that which the facility is licensed to provide; 4. If the resident requires care which the facility does not provide and is not required to provide under this chapter; 5. For medical reasons as ordered by a physician; 6. In case of a medical emergency or disaster; 7. If the health, safety or welfare of the resident or other residents is endangered, as documented in the resident's clinical record; 8. If the resident does not need nursing home care; 9. If the short-term care period for which the resident was admitted has expired; or 10. As otherwise permitted by law. (b) Alternate placement. 1. Except for transfers or discharges under par. (a) 2. and 6., for nonpayment or in a medical emergency, no resident may be involuntarily transferred or discharged unless an alternative placement is arranged for the resident. The resident shall be given reasonable advance notice

of any planned transfer or discharge and an explanation of the need for and alternatives to the transfer or discharge except when there is a medical emergency. The facility, agency, program or person to which the resident is transferred shall have accepted the resident for transfer in advance of the transfer, except in a medical emergency. 2. No resident may be involuntarily transferred or discharged under par. (a) 2. for nonpayment of charges if the resident meets both of the following conditions: a. He or she is in need of ongoing care and treatment and has not been accepted for ongoing care and treatment by another facility or through community support services; and b. The funding of the resident's care in the nursing home under s. 49.45(6m), Stats., is reduced or terminated because either the resident requires a level or type of care which is not provided by the nursing home or the nursing home is found to be an institution for mental diseases as defined under 42 CFR 435.1009.

(a)

Prohibition and exceptions. No resident may be discharged or transferred from a facility, except: 1. Upon the request or with the informed consent of the resident or guardian; 2. For nonpayment of charges, following reasonable opportunity to pay any deficiency; 3. If the resident requires care other than that which the facility is licensed to provide; 4. If the resident requires care which the facility does not provide and is not required to provide under this chapter; 5. For medical reasons as ordered by a physician; 6. In case of a medical emergency or disaster; 7. If the health, safety or welfare of the resident or other residents is endangered, as documented in the resident's clinical record; 8. If the resident does not need nursing home care; 9. If the short-term care period for which the resident was admitted has expired; or 10. As otherwise permitted by law.

1.

Upon the request or with the informed consent of the resident or guardian;

2.

For nonpayment of charges, following reasonable opportunity to pay any deficiency;

3.

If the resident requires care other than that which the facility is licensed to provide;

4.

If the resident requires care which the facility does not provide and is not required to provide under this chapter;

5.

For medical reasons as ordered by a physician;

6.

In case of a medical emergency or disaster;

7.

If the health, safety or welfare of the resident or other residents is endangered, as documented in the resident's clinical record;

8.

If the resident does not need nursing home care;

9.

If the short-term care period for which the resident was admitted has expired; or

10.

As otherwise permitted by law.

(b)

Alternate placement.1. Except for transfers or discharges under par. (a) 2. and 6., for nonpayment or in a medical emergency, no resident may be involuntarily transferred or discharged unless an alternative placement is arranged for the resident. The resident shall be given reasonable advance notice of any planned transfer or discharge

and an explanation of the need for and alternatives to the transfer or discharge except when there is a medical emergency. The facility, agency, program or person to which the resident is transferred shall have accepted the resident for transfer in advance of the transfer, except in a medical emergency. 2. No resident may be involuntarily transferred or discharged under par. (a) 2. for nonpayment of charges if the resident meets both of the following conditions: a. He or she is in need of ongoing care and treatment and has not been accepted for ongoing care and treatment by another facility or through community support services; and b. The funding of the resident's care in the nursing home under s. 49.45(6m), Stats., is reduced or terminated because either the resident requires a level or type of care which is not provided by the nursing home or the nursing home is found to be an institution for mental diseases as defined under 42 CFR 435.1009.

1.

Except for transfers or discharges under par. (a) 2. and 6., for nonpayment or in a medical emergency, no resident may be involuntarily transferred or discharged unless an alternative placement is arranged for the resident. The resident shall be given reasonable advance notice of any planned transfer or discharge and an explanation of the need for and alternatives to the transfer or discharge except when there is a medical emergency. The facility, agency, program or person to which the resident is transferred shall have accepted the resident for transfer in advance of the transfer, except in a medical emergency.

2.

No resident may be involuntarily transferred or discharged under par. (a) 2. for nonpayment of charges if the resident meets both of the following conditions: a. He or she is in need of ongoing care and treatment and has not been accepted for ongoing care and treatment by another facility or through community support services; and b. The funding of the resident's care in the nursing home under s. 49.45(6m), Stats., is reduced or terminated because

either the resident requires a level or type of care which is not provided by the nursing home or the nursing home is found to be an institution for mental diseases as defined under 42 CFR 435.1009.

a.

He or she is in need of ongoing care and treatment and has not been accepted for ongoing care and treatment by another facility or through community support services; and

b.

The funding of the resident's care in the nursing home under s. 49.45(6m), Stats., is reduced or terminated because either the resident requires a level or type of care which is not provided by the nursing home or the nursing home is found to be an institution for mental diseases as defined under 42 CFR 435.1009.

(3)

PROCEDURES. (a) Notice. The facility shall provide a resident, the resident's physician and, if known, an immediate family member or legal counsel, guardian, relative or other responsible person at least 30 days notice of transfer or discharge under sub. (2) (a) 2. to 10., and the reasons for the transfer or discharge, unless the continued presence of the resident endangers the health, safety or welfare of the resident or other residents. The notice shall also contain the name, address and telephone number of the board on aging and long-term care. For a resident with developmental disability or mental illness, the notice shall contain the mailing address and telephone number of the protection and advocacy agency designated under s. 51.62(2) (a), Stats. (b) Planning conference. 1. Unless circumstances posing a danger to the health, safety or welfare of a resident require otherwise, at least 7 days before the planning conference required by subd. 2., the resident, guardian, if any, any appropriate county agency, and others designated by the resident, including the resident's

physician, shall be given a notice containing the time and place of the conference, a statement informing the resident that any persons of the resident's choice may attend the conference, and the procedure for submitting a complaint to the department. 2. Unless the resident is receiving respite care or unless precluded by circumstances posing a danger to the health, safety, or welfare of a resident, prior to any involuntary transfer or discharge under sub. (2) (a) 2. to 10., a planning conference shall be held at least 14 days before transfer or discharge with the resident, guardian, if any, any appropriate county agency, and others designated by the resident, including the resident's physician, to review the need for relocation, assess the effect of relocation on the resident, discuss alternative placements and develop a relocation plan which includes at least those activities listed in subd. 3. 3. Transfer and discharge activities shall include: a. Counseling regarding the impending transfer or discharge; b. The opportunity for the resident to make at least one visit to the potential alternative placement, if any, including a meeting with that facility's admissions staff, unless medically contraindicated or waived by the resident; c. Assistance in moving the resident and the resident's belongings and funds to the new facility or quarters; and d. Provisions for needed medications and treatments during relocation. 4. A resident who is transferred or discharged at the resident's request shall be advised of the assistance required by subd. 3. and shall be provided with that assistance upon request. (c) Records. Upon transfer or discharge of a resident, the documents required by s. DHS 132.45(5) (L) and (6) (h) shall be prepared and provided to the facility admitting the resident, along with any other information about the resident needed by the admitting facility.

(a)

Notice. The facility shall provide a resident, the resident's physician and, if known, an

immediate family member or legal counsel, guardian, relative or other responsible person at least 30 days notice of transfer or discharge under sub. (2) (a) 2. to 10., and the reasons for the transfer or discharge, unless the continued presence of the resident endangers the health, safety or welfare of the resident or other residents. The notice shall also contain the name, address and telephone number of the board on aging and long-term care. For a resident with developmental disability or mental illness, the notice shall contain the mailing address and telephone number of the protection and advocacy agency designated under s. 51.62(2) (a), Stats.

(b)

Planning conference. 1. Unless circumstances posing a danger to the health, safety or welfare of a resident require otherwise, at least 7 days before the planning conference required by subd. 2., the resident, guardian, if any, any appropriate county agency, and others designated by the resident, including the resident's physician, shall be given a notice containing the time and place of the conference, a statement informing the resident that any persons of the resident's choice may attend the conference, and the procedure for submitting a complaint to the department. 2. Unless the resident is receiving respite care or unless precluded by circumstances posing a danger to the health, safety, or welfare of a resident, prior to any involuntary transfer or discharge under sub. (2) (a) 2. to 10., a planning conference shall be held at least 14 days before transfer or discharge with the resident, guardian, if any, any appropriate county agency, and others designated by the resident, including the resident's physician, to review the need for relocation, assess the effect of relocation on the resident, discuss alternative placements and develop a relocation plan which includes at least those activities listed in subd. 3. 3. Transfer and discharge activities shall include: a. Counseling regarding the impending transfer or discharge; b. The opportunity for the resident to make at least one visit to the potential alternative placement, if any,

including a meeting with that facility's admissions staff, unless medically contraindicated or waived by the resident; c. Assistance in moving the resident and the resident's belongings and funds to the new facility or quarters; and d. Provisions for needed medications and treatments during relocation. 4. A resident who is transferred or discharged at the resident's request shall be advised of the assistance required by subd. 3. and shall be provided with that assistance upon request.

1.

Unless circumstances posing a danger to the health, safety or welfare of a resident require otherwise, at least 7 days before the planning conference required by subd. 2., the resident, guardian, if any, any appropriate county agency, and others designated by the resident, including the resident's physician, shall be given a notice containing the time and place of the conference, a statement informing the resident that any persons of the resident's choice may attend the conference, and the procedure for submitting a complaint to the department.

2.

Unless the resident is receiving respite care or unless precluded by circumstances posing a danger to the health, safety, or welfare of a resident, prior to any involuntary transfer or discharge under sub. (2) (a) 2. to 10., a planning conference shall be held at least 14 days before transfer or discharge with the resident, guardian, if any, any appropriate county agency, and others designated by the resident, including the resident's physician, to review the need for relocation, assess the effect of relocation on the resident, discuss alternative placements and develop a relocation plan which includes at least those activities listed in subd. 3.

3.

Transfer and discharge activities shall include: a. Counseling regarding the impending transfer or discharge; b. The opportunity for the resident to make at least one visit to the potential alternative placement, if any, including a meeting with that facility's admissions

staff, unless medically contraindicated or waived by the resident; c. Assistance in moving the resident and the resident's belongings and funds to the new facility or quarters; and d. Provisions for needed medications and treatments during relocation.

a.

Counseling regarding the impending transfer or discharge;

b.

The opportunity for the resident to make at least one visit to the potential alternative placement, if any, including a meeting with that facility's admissions staff, unless medically contraindicated or waived by the resident;

c.

Assistance in moving the resident and the resident's belongings and funds to the new facility or quarters; and

d.

Provisions for needed medications and treatments during relocation.

4.

A resident who is transferred or discharged at the resident's request shall be advised of the assistance required by subd. 3. and shall be provided with that assistance upon request.

(c)

Records. Upon transfer or discharge of a resident, the documents required by s. DHS 132.45(5) (L) and (6) (h) shall be prepared and provided to the facility admitting the resident, along with any other information about the resident needed by the admitting facility.

(4)

TRANSFER AGREEMENTS. (a) Requirement. Each facility shall have in effect a transfer agreement with one or more hospitals under which inpatient hospital care or other hospital services are available promptly to the facility's residents when

needed. Each intermediate care facility shall also have in effect a transfer agreement with one or more skilled care facilities. (b) Transfer of residents. A hospital and a facility shall be considered to have a transfer agreement in effect if there is a written agreement between them or, when the 2 institutions are under common control, if there is a written statement by the person or body which controls them, which gives reasonable assurance that: 1. Transfer of residents will take place between the hospital and the facility ensuring timely admission, whenever such transfer is medically appropriate as determined by the attending physician; and 2. There shall be interchange of medical and other information necessary for the care and treatment of individuals transferred between the institutions, or for determining whether such individuals can be adequately cared for somewhere other than in either of the institutions. (d) Notice requirements. 1. Before a resident of a facility is transferred to a hospital or for therapeutic leave, the facility shall provide written information to the resident and an immediate family member or legal counsel concerning the provisions of the approved state medicaid plan about the period of time, if any, during which the resident is permitted to return and resume residence in the nursing facility. 2. At the time of a resident's transfer to a hospital or for therapeutic leave, the facility shall provide written notice to the resident and an immediate family member or legal counsel of the duration of the period, if any, specified under subd. 1. Note: The "approved state medicaid plan" referred to s. 49.498(4) (d) 1a, Stats., and subd. 1. states that the department shall have a bedhold policy. The bedhold policy is found in s. DHS 107.09(4) (j).

(a)

Requirement. Each facility shall have in effect a transfer agreement with one or more hospitals under which inpatient hospital care or other hospital services are available

promptly to the facility's residents when needed. Each intermediate care facility shall also have in effect a transfer agreement with one or more skilled care facilities.

(b)

Transfer of residents. A hospital and a facility shall be considered to have a transfer agreement in effect if there is a written agreement between them or, when the 2 institutions are under common control, if there is a written statement by the person or body which controls them, which gives reasonable assurance that: 1. Transfer of residents will take place between the hospital and the facility ensuring timely admission, whenever such transfer is medically appropriate as determined by the attending physician; and 2. There shall be interchange of medical and other information necessary for the care and treatment of individuals transferred between the institutions, or for determining whether such individuals can be adequately cared for somewhere other than in either of the institutions.

1.

Transfer of residents will take place between the hospital and the facility ensuring timely admission, whenever such transfer is medically appropriate as determined by the attending physician; and

2.

There shall be interchange of medical and other information necessary for the care and treatment of individuals transferred between the institutions, or for determining whether such individuals can be adequately cared for somewhere other than in either of the institutions.

(d)

Notice requirements. 1. Before a resident of a facility is transferred to a hospital or for therapeutic leave, the facility shall provide written information to the resident and an immediate family member or legal counsel concerning the provisions of the approved

state medicaid plan about the period of time, if any, during which the resident is permitted to return and resume residence in the nursing facility. 2. At the time of a resident's transfer to a hospital or for therapeutic leave, the facility shall provide written notice to the resident and an immediate family member or legal counsel of the duration of the period, if any, specified under subd. 1. Note: The "approved state medicaid plan" referred to s. 49.498(4) (d) 1a, Stats., and subd. 1. states that the department shall have a bedhold policy. The bedhold policy is found in s. DHS 107.09(4) (j).

1.

Before a resident of a facility is transferred to a hospital or for therapeutic leave, the facility shall provide written information to the resident and an immediate family member or legal counsel concerning the provisions of the approved state medicaid plan about the period of time, if any, during which the resident is permitted to return and resume residence in the nursing facility.

2.

At the time of a resident's transfer to a hospital or for therapeutic leave, the facility shall provide written notice to the resident and an immediate family member or legal counsel of the duration of the period, if any, specified under subd. 1. Note: The "approved state medicaid plan" referred to s. 49.498(4) (d) 1a, Stats., and subd. 1. states that the department shall have a bedhold policy. The bedhold policy is found in s. DHS 107.09(4) (j).

(5)

BEDHOLD. (a) Bedhold. A resident who is on leave or temporarily discharged, as to a hospital for surgery or treatment, and has expressed an intention to return to the facility under the terms of the admission statement for bedhold, shall not be denied readmission unless, at the time readmission is requested, a condition of sub. (2) (b) has been satisfied. (b) Limitation. The facility shall hold a resident's

bed under par. (a) until the resident returns, until the resident waives his or her right to have the bed held, or up to 15 days following the temporary leave or discharge, whichever is earlier. Note: See s. DHS 107.09(4) (j) for medical assistance bedhold rules.

(a)

Bedhold. A resident who is on leave or temporarily discharged, as to a hospital for surgery or treatment, and has expressed an intention to return to the facility under the terms of the admission statement for bedhold, shall not be denied readmission unless, at the time readmission is requested, a condition of sub. (2) (b) has been satisfied.

(b)

Limitation. The facility shall hold a resident's bed under par. (a) until the resident returns, until the resident waives his or her right to have the bed held, or up to 15 days following the temporary leave or discharge, whichever is earlier. Note: See s. DHS 107.09(4) (j) for medical assistance bedhold rules.

(6)

APPEALS ON TRANSFERS AND DISCHARGES. (a) Right to appeal. 1. A resident may appeal an involuntary transfer or discharge decision. 2. Every facility shall post in a prominent place a notice that a resident has a right to appeal a transfer or discharge decision. The notice shall explain how to appeal that decision and shall contain the address and telephone number of the nearest bureau of quality assurance regional office. The notice shall also contain the name, address and telephone number of the state board on aging and long-term care or, if the resident is developmentally disabled or has a mental illness, the mailing address and telephone number of the protection and advocacy agency designated under s. 51.62(2) (a), Stats. 3. A copy of the notice of a resident's right to appeal a transfer or discharge decision shall be placed in each resident's admission folder.

4. Every notice of transfer or discharge under sub. (3) (a) to a resident, relative, guardian or other responsible party shall include a notice of the resident's right to appeal that decision. (b) Appeal procedures. 1. If a resident wishes to appeal a transfer or discharge decision, the resident shall send a letter to the nearest regional office of the department's bureau of quality assurance within 7 days after receiving a notice of transfer or discharge from the facility, with a copy to the facility administrator, asking for a review of the decision. 2. The resident's written appeal shall indicate why the transfer or discharge should not take place. 3. Within 5 days after receiving a copy of the resident's written appeal, the facility shall provide written justification to the department's bureau of quality assurance for the transfer or discharge of the resident from the facility. 4. If the resident files a written appeal within 7 days after receiving notice of transfer or of discharge from the facility, the resident may not be transferred or discharged from the facility until the department's bureau of quality assurance has completed its review of the decision and notified both the resident and the facility of its decision. 5. The department's bureau of quality assurance shall complete its review of the facility's decision and notify both the resident and the facility in writing of its decision within 14 days after receiving written justification for the transfer or discharge of the resident from the facility. 6. A resident or a facility may appeal the decision of the department's bureau of quality assurance in writing to the department of administration's division of hearings and appeals within 5 days after receipt of the decision. Note: The mailing address of the Division of Hearings and Appeals is P.O. Box 7875, Madison, Wisconsin 53707. 7. The appeal procedures in this paragraph do not apply if the continued presence of the resident poses a danger to the health, safety or welfare of the resident or other residents.

(a)

Right to appeal. 1. A resident may appeal an involuntary transfer or discharge decision.

2. Every facility shall post in a prominent place a notice that a resident has a right to appeal a transfer or discharge decision. The notice shall explain how to appeal that decision and shall contain the address and telephone number of the nearest bureau of quality assurance regional office. The notice shall also contain the name, address and telephone number of the state board on aging and long-term care or, if the resident is developmentally disabled or has a mental illness, the mailing address and telephone number of the protection and advocacy agency designated under s. 51.62(2) (a), Stats.

3. A copy of the notice of a resident's right to appeal a transfer or discharge decision shall be placed in each resident's admission folder.

4. Every notice of transfer or discharge under sub. (3) (a) to a resident, relative, guardian or other responsible party shall include a notice of the resident's right to appeal that decision.

1.

A resident may appeal an involuntary transfer or discharge decision.

2.

Every facility shall post in a prominent place a notice that a resident has a right to appeal a transfer or discharge decision. The notice shall explain how to appeal that decision and shall contain the address and telephone number of the nearest bureau of quality assurance regional office. The notice shall also contain the name, address and telephone number of the state board on aging and long-term care or, if the resident is developmentally disabled or has a mental illness, the mailing address and telephone number of the protection and advocacy agency designated under s. 51.62(2) (a), Stats.

3.

A copy of the notice of a resident's right to appeal a transfer or discharge decision shall be placed in each resident's admission folder.

4.

Every notice of transfer or discharge under sub. (3) (a) to a resident, relative, guardian or other responsible party shall include a notice of the resident's right to appeal that decision.

(b)

Appeal procedures. 1. If a resident wishes to appeal a transfer or discharge decision, the resident shall send a letter to the nearest regional office of the department's bureau of quality assurance within 7 days after receiving a notice of transfer or discharge from the facility, with a copy to the facility administrator, asking for a review of the decision. 2. The resident's written appeal shall indicate why the transfer or discharge should not take place. 3. Within 5 days after receiving a copy of the resident's written appeal, the facility shall provide written justification to the department's bureau of quality assurance for the transfer or discharge of the resident from the facility. 4. If the resident files a written appeal within 7 days after receiving notice of transfer or of discharge from the facility, the resident may not be transferred or discharged from the facility until the department's bureau of quality assurance has completed its review of the decision and notified both the resident and the facility of its decision. 5. The department's bureau of quality assurance shall complete its review of the facility's decision and notify both the resident and the facility in writing of its decision within 14 days after receiving written justification for the transfer or discharge of the resident from the facility. 6. A resident or a facility may appeal the decision of the department's bureau of quality assurance in writing to the department of administration's division of hearings and appeals within 5 days after receipt of the decision. Note: The mailing address of the Division of Hearings and Appeals is P.O. Box 7875, Madison, Wisconsin 53707. 7. The appeal procedures in this paragraph do not apply if the continued presence of the resident poses a danger to the health, safety or welfare of the resident or other residents.

1.

If a resident wishes to appeal a transfer or discharge decision, the resident shall send a letter to the nearest regional office of the department's bureau of quality assurance within 7 days after receiving a notice of transfer or discharge from the facility, with a copy to the facility administrator, asking for a review of the decision.

2.

The resident's written appeal shall indicate why the transfer or discharge should not take place.

3.

Within 5 days after receiving a copy of the resident's written appeal, the facility shall provide written justification to the department's bureau of quality assurance for the transfer or discharge of the resident from the facility.

4.

If the resident files a written appeal within 7 days after receiving notice of transfer or of discharge from the facility, the resident may not be transferred or discharged from the facility until the department's bureau of quality assurance has completed its review of the decision and notified both the resident and the facility of its decision.

5.

The department's bureau of quality assurance shall complete its review of the facility's decision and notify both the resident and the facility in writing of its decision within 14 days after receiving written justification for the transfer or discharge of the resident from the facility.

6.

A resident or a facility may appeal the decision of the department's bureau of quality assurance in writing to the department of administration's division of hearings and appeals within 5 days after receipt of the decision. Note: The mailing address of the Division of

Hearings and Appeals is P.O. Box 7875, Madison, Wisconsin 53707.

7.

The appeal procedures in this paragraph do not apply if the continued presence of the resident poses a danger to the health, safety or welfare of the resident or other residents.