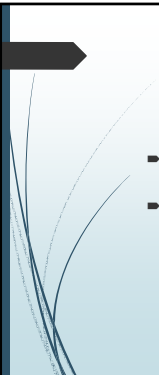



Transfer, Discharge and Readmission

- Presented by Lisa Hall
- CAHF Director of Regulatory Affairs



OBJECTIVES

- Understand the regulations regarding the Transfer, Discharge and Readmission of a Resident
- Review the concerns regarding these regulations



Review of the AFL 16-01

- This AFL was on January 20, 2016 by the California Department Of Public Health (CDPH) Licensing and Certification (LNC)
- The summary stated

All Facilities Letter (AFL) Summary

SNFs and ICFs may only transfer and discharge residents under specified circumstances and shall notify all residents of the facility's written bed hold policy. Upon request, all SNFs and ICFs shall hold the bed of any resident transferred to a general acute care hospital for at least 7 days. The facility's policy shall allow for readmission to the facility upon the first available bed if the bed hold period has lapsed.

AFL 16-01 continued

- This AFL went over both the Federal and State Regulations that govern the Transfer, Discharge and Readmission of a Resident
- There are no new regulations, this is just a reminder and education on the requirements that are out there

FEDERAL REGULATIONS



Code of Federal Regulations

- F177
 - 483.10 (o) Refusal of Certain Transfers
- (1) An individual has the right to refuse a transfer to another room within the institution, if the purpose of the transfer is to relocate-
- (i) A resident of a SNF, from the distinct part of the institution that is a SNF to a part of the institution that is not a SNF, or
 - (ii) A resident of a NF, from the distinct part of the institution that is a NF to a distinct part of the of institution that is a SNF.
- (2) A resident's exercise of the right to refuse transfer under paragraph (o) (1) of this section does not affect the individual's eligibility or entitlement to Medicare or Medicaid benefit.

F177 continued

The interpretive guidelines clarify that this applies to a transfer within the physical plant. This allows a resident to refuse a transfer from a room in one distinct part of a facility to a room in another part of the facility for purpose of obtaining Medicare or Medicaid eligibility. If a resident refuses to transfer from a portion of the institution that is not Medicare certified, the resident forgoes the possibility of Medicare coverage for the care received there. If that portion of the facility is Medicaid certified and the resident is Medicaid-eligible, then Medicaid covered services would be paid by Medicaid.

F 177 Admission, Transfers, and Discharge Rights 483.12 (a) Transfer and Discharge

- Transfer and discharge includes movement of a resident to a bed outside the certified facility whether that bed is in the same physical plant or not.
- Transfer and Discharge does not refer to movement of a resident to a bed within the same certified facility.

What are the reasons allowed for a transfer or discharge

According to the Code of Federal Regulations 483.12 (a)(2) Transfer and Discharge Requirements (F201) the reasons are:

- 1) The transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility;
- 2) 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;
- 3) The safety of the individuals in the facility is endangered;

What are the reasons allowed for a transfer or discharge continued

- 4) The health of individuals in the facility would be otherwise be endangered;
- 5) The resident has failed, after the reasonable and appropriate notice, to pay for a stay a the facility; for a resident who becomes eligible for Medicaid after admission to the facility, the facility may charge a resident only allowable charges under Medicaid.
- 6) The facility ceases to operate.
- 7)The resident has made a material or fraudulent representation of his or her finances

How do I document/demonstrate that this occurred?

- Code of Federal Regulations 483.12 (a)(3) (F202)
- To demonstrate that any of the events as stated on number 1 to 5 there must be documentation in the resident's clinical record to support these facts. For number 1 and 2 there resident's physician must provide the documentation.
- For issue the number 4 the documentation can be provided by any physician

Examples from the Interpretive Guidelines

- If transfer is due to significant change in the resident's condition, but not an emergency requiring an immediate transfer, then prior to any action, the facility must conduct the appropriate assessment to determine if a new care plan would allow the facility to meet the needs of the resident.
- Conversion from a private pay rate to payment at the Medicaid rate does not constitute non-payment.
- Refusal of treatment would not constitute grounds for transfer, unless the facility is unable to meet the needs of the resident or protect the health and safety of others.

Share of Cost nonpayment

- A facility **may** involuntarily discharge a resident for failure to pay his or her share of cost. **HOWEVER** they cannot be transferred for non-payment if all the paperwork has been submitted for the bill to be paid by a third-party payor. Non-payment occurs if a third-party payor, which includes Medicare or Medi-Cal, denies the claim and the resident refuses to pay for their stay. If a resident is dual-eligible and resides in a Medi-Cal certified facility they have the right to transition to Medi-Cal from Medi-Care if they need continuing care in the facility.

Transferring due to payment source

- If a facility participates in Medi-Cal or Medicare, the facility may not transfer or discharge a resident, a resident within the facility due to the payment source changed from private pay or Medicare to Medi-Cal.
- **HOWEVER**
- You may transfer the resident from a private room to a semiprivate room if the resident changes to Medi-Cal payment status.

What notice needs to be provided however prior to the transfer

Code of Federal Regulations 493.12 (a)(4) Notice before Transfer (F203)
 Before a facility transfers or discharges a resident, the facility must

- Notify the resident and, if known, a family member or legal representative of the resident of transfer or discharge and the reasons for the move in writing and in a language and manner they understand
- Record the reasons in the resident's clinical record; and
- Include in the notice the items (a) (6) of this section

Those are the items 1 through 6 we previously reviewed

How soon to I have to give the notice

- Code of Federal Regulations 483.12 (a)(5) F 203 states it must be at least 30 days before the resident is transferred or discharged.
- It does also state that the notice may be made as soon as practicable before transfer or discharge when
 - The safety of the individuals would be endangered
 - The health of individuals in the facility would be endangered
 - The residents health improves sufficiently to allow for more immediate transfer or discharge

Exceptions to the 30 days timeframe

- An immediate transfer or discharge is required by the resident's urgent medical needs
- A resident has not resided in the facility for 30 days.

How about a transfer to another SNF

- The documentation must support why you could not meet the needs of the resident in your SNF!

If this occurs the surveyors are instructed to look for a change in payor source!

Remember no such thing as short versus long term beds they are all Skilled Nursing Beds.

How about transferring from a room to another room within the facility?

- Except in an emergency, a facility may not transfer a resident to another room within the facility against their wishes, unless given prior reasonable notice.
- Unfortunately reasonable notice is no where defined.

What needs to be included in the notice?

- The code of Federal Regulations F 203 also outlines what must be in the content of the 30 day notice.

The written notice must include

- (i) The reason for transfer or discharge
- (ii) The effective date of transfer or discharge;
- (iii) The location to which the resident is transferred or discharged;
- (iv) A statement that the resident has the right to appeal the action to the State;
- (v) The name, address and telephone number of the State long term care ombudsman;

Notice content continued

- (vi) For nursing facility residents with development disabilities the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled under Part C of the Developmental Disabilities Assistance and Bill of Rights Act;
- And
- (vii) for nursing facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for the Mentally Ill Individuals act

Bed hold notice and resident right to return to facility

- There is both Federal and State requirements for this.
- The Federal Regulation 483.12 (b)(1) Notice before transfer (F205)
This states that before a facility transfers a resident to a hospital or allows a resident to go on a therapeutic leave, the nursing facility must provide written information to the resident and a family member or legal representative
 - The duration of the bed-hold policy under the State plan, if any, during which the resident is permitted to return and resume residence in the nursing facility

California Bed Hold Notice Regulation

- Title 22 72520 Bed Hold.
(a) If a patient of a skilled nursing facility is transferred to a general acute care hospital as defined in Section 1250 (a) of the Health and Safety Code, the skilled nursing facility shall afford the patient a bed hold of seven (7) days, which may be exercised by the patient or the patient

What else do I need know about bed hold notice's

- Title 22 72520 (b)
- Upon admission to the facility and upon transfer of the patient of a SNF to a acute care hospital, the skilled nursing facility shall inform the patient, or the patient's representative, in writing of the right to exercise this bed hold provision. Each notice shall include information that non-Medi-Cal eligible patients will be liable for the cost of the bed hold days and that insurance may or may not cover such cost.

Bed Hold Notice

- So upon admission must go over the right to a bed hold policy and who will or will not pay for it.
- Once a transfer out is made to the acute hospital, there must be contact made within 24 hours to see if the resident or responsible party wish to have the bed hold or waive it.
- If the patients' attending physician notifies the skilled nursing facility in writing that the patient's stay in is expected to exceed seven (7) days the skilled nursing shall not be required to maintain the bed hold

Readmission

- If the seven (7) day bed hold expires per Code Federal Regulations F 206 the resident is readmitted to the facility immediately upon the first availability of a semi-private room if they require the services provided by the facility and is eligible for Medicaid nursing facility services.

Transfer and Discharge Appeals and Refusal to Readmit Appeals Hearings

- Per AFL 10-20 Issued on August 3, 2010
- These hearings are conducted by the Office of Administrative Hearings and Appeals (OAHA) within the Department of Healthcare Services. Licensing and Certification will investigate complaints regarding transfer/discharges and refusals to readmit. The facility if aware a resident wishes to appeal (this can be the discharge planner at the acute if a refusal to readmit request) must contact OAHA

OAHA INFORMATION

You must give:
 Name of Resident
 The residents authorized representative, if any;
 Facility name and address, and
 Contact information for the resident and/or authorized representative

OAHA Continued

- You may submit the information via email to OAHAefax@dhcs.ca.gov

By fax to 916-440-5105 or by mail at
 Department of Healthcare Services
 Office of Administrative Hearings and Appeals
 TDA/RTR Unit
 1029 J street, Suite 200
 Sacramento, CA 95814
 Phone contact is 916-322-5603

Any Questions so far?



There is going to be a hearing what do I do now?



The Hearing

- The hearing most likely will be over the phone, sometimes an arrangement is made for someone to come to the facility.
- The Hearing Officer will review the information regarding the issue whether it be a transfer discharge issue or a refusal to readmit issue.
- They will focus on the documentation

Make sure your documentation is in order

- Did you give the 30 day notice? Was all the necessary information on the notice?
- Does documentation support that the 7 day bed hold was offered?
- If there are issues with behaviors and not being able to effectively manage them and the steps you have taken.
- Again the hearing office is focused on the documentation

The Decision

- The Hearing Officer can
 - 1) Say it was properly done and there is no issue and there is no further action
 - 2) Decide the transfer was not proper and issue that the resident is to return to the facility if they wish
 - 3) If it is a readmission issue they can decide that the resident is to be readmitted to the facility

THE ENFORCEMENT



CDPH Investigate the issue

- CDPH licensing and certification investigates the hearing decision as a violation of transfer, discharge and readmission requirement.
- If the issue is substantiated (they agree the facility can meet the needs of the resident and need to take them back) they can taken enforcement action

What are the penalties that can be issued?

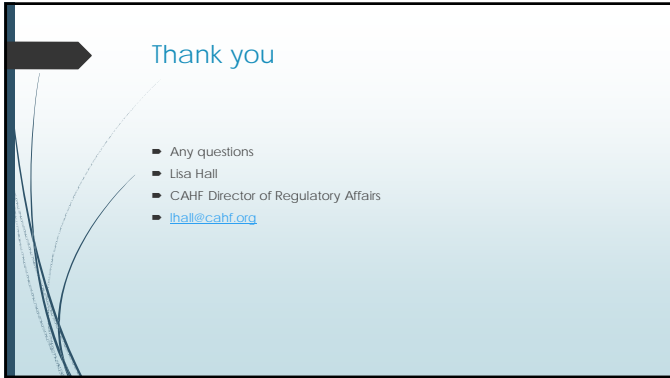
- A Class B Citation with a fine of \$2,000 and additional fines of \$50 per violation (per day) until the resident is readmitted.
- They may also
 - Impose a directed plan of correction for facilities that delay submitting a plan of correction or that provide an unacceptable plan of correction
 - Recommend the imposition of federal civil money penalties for each instance of non-compliance or the number of days the facility remains out of compliance

Penalties continued

- Recommends the imposition of additional federal enforcement actions including
 - Denial of Medicare or Medicaid payment for new admissions
 - A ban on admissions
 - Denial of payment for all Medicare and Medicaid individuals in the facility
 - Termination of the facility's Medicare and/or Medicaid provider agreement

NOW LETS TALK NOTICE TO OMBUDSMAN

- SEE HANDOUT



Thank you

- Any questions
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