

~~RESIDENT WHO IS, OR WILL BECOME, A MEDICAL ASSISTANCE RECIPIENT, IS PRESUMED TO BE PROPOSING THE DISCHARGE OR TRANSFER FOR AN UNALLOWABLE CAUSE. IF SUCH AN ALLOWABLE CAUSE IS REASONABLY BELIEVED TO EXIST, THE FACILITY SHALL GIVE THE PATIENT OR RESIDENT AND THE GUARDIAN OR NEXT OF KIN OF THE PATIENT OR RESIDENT SHALL BE GIVEN AT LEAST THIRTY (30) DAYS ADVANCE WRITTEN NOTICE OF THE PROPOSED ACTION TOGETHER WITH THE REASONS FOR THE DECISION AND AN OPPORTUNITY FOR AN IMPARTIAL HEARING TO CHALLENGE SUCH ACTION IF THE PATIENT SO WISHES. IN EMERGENCIES SUCH NOTICE NEED NOT BE GIVEN IN ADVANCE.~~

(18) (I) A PATIENT OR RESIDENT MAY NOT BE TRANSFERRED OR DISCHARGED INVOLUNTARILY FROM A SKILLED NURSING FACILITY OR INTERMEDIATE CARE FACILITY EXCEPT FOR:

1. MEDICAL REASONS;
2. THE PATIENT'S OWN OR OTHER PATIENT'S WELFARE;
3. VIOLATION OF CONTRACT PROVISIONS BY KNOWINGLY DIVESTING HIMSELF OF HIS PERSONAL ASSETS FOR THE SOLE PURPOSE OF RECEIVING MEDICAL ASSISTANCE; OR
4. NONPAYMENT FOR THE STAY.

(II) PAYMENT AS A MEDICAL ASSISTANCE RECIPIENT MAY NOT CONSTITUTE NONPAYMENT TO A MEDICAID CERTIFIED FACILITY FOR PURPOSES OF THIS PARAGRAPH.

(III) A MEDICAID CERTIFIED FACILITY PROPOSING TO DISCHARGE OR TRANSFER UNDER THIS PARAGRAPH A PATIENT OR RESIDENT WHO IS, OR WILL BECOME, A MEDICAL ASSISTANCE RECIPIENT IS PRESUMED TO BE PROPOSING THE DISCHARGE OR TRANSFER FOR AN UNALLOWABLE CAUSE.

(IV) IF AN ALLOWABLE CAUSE UNDER THIS PARAGRAPH IS BELIEVED REASONABLY TO EXIST, THE FACILITY SHALL GIVE THE PATIENT OR RESIDENT AND THE GUARDIAN OR NEXT OF KIN OF THE PATIENT OR RESIDENT AT LEAST 30 DAYS ADVANCE WRITTEN NOTICE OF THE PROPOSED ACTION TOGETHER WITH THE REASONS FOR THE DECISION AND AN OPPORTUNITY FOR AN IMPARTIAL HEARING TO CHALLENGE THE ACTION IF THE PATIENT SO WISHES. IN EMERGENCIES THE NOTICE NEED NOT BE GIVEN IN ADVANCE.

(V) AN ADMISSION CONTRACT OF A MEDICAID CERTIFIED FACILITY MAY NOT REQUIRE A PATIENT TO REMAIN A PRIVATE PAY PATIENT FOR MORE THAN 12 MONTHS AS A CONDITION FOR REMAINING IN THE NURSING HOME IN THE EVENT THE PATIENT BECOMES MEDICAID ELIGIBLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene shall conduct a study concerning appropriate methodologies for the reimbursement of nursing homes under the Medical Assistance