

Resident Rights

Resident Rights

The resident has a right to a dignified existence, self-determination, and services inside and outside the facility. A facility must protect and promote the rights of each resident, including each of the following rights:

(a) Exercise of rights

- (1) The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or a resident of the United States.
- (2) The resident has the right to be free of interference, coercion, discrimination, reprisal from or threat of reprisal from the facility in exercising his or her rights.
- (3) In the case of a resident adjudged incompetent under the laws of the state by a court of competent jurisdiction, the rights of the residents are exercised by the person appointed under state law to act on the resident's behalf.
- (4) In the case of an incompetent resident who has not been adjudicated incompetent by a state court, any legal representative may exercise the resident's rights to the extent provided by state law.

(b) Notice of rights and services

- (1) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. Such notification must be made prior to or upon admission and during the resident's stay. Receipt of such information, and any amendments to it, must be acknowledged in writing. A copy of the resident's rights must be available in a publicly accessible area. The copy must be a least 12-point type.
- (2) The resident has the right to immediate access to the current active clinical record, upon an oral or written request to access all other records pertaining to himself or herself within twenty-four (24) hours, and after receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard, photocopies of the records or any portions of them upon request and two (2) working days advance notice to the facility.
- (3) The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including, but not limited to, his or her medical condition.
- (4) The resident has the right to refuse treatment. Any refusals of treatment must be accompanied by counseling on the medical consequences of such refusal.
- (5) The resident has the right to refuse participation in experimental research. All experimental research must be conducted in compliance with state, federal, local laws, and professional standards.
- (6) The facility must provide written information to each resident concerning the following:

- (i) The resident's rights under IC 16-36-1-3 and IC 16-36-1-7 to make decisions concerning their care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives.
 - (ii) The facility's written policies regarding the implementation of such rights, including a clear and precise statement of limitation if the facility or its agent cannot implement an advance directive on the basis of conscience pursuant to IC 30-5-7-4.
- (7) The facility must –
 - (i) Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or when the resident becomes eligible for Medicaid of the following:
 - (A) The items and services that are included in nursing facility services under the state plan and for which the resident may not be charged.
 - (B) Those other items and services that the facility offers and for which the resident may be charged, and the amount of the charges.
 - (ii) Inform each resident when changes are made to the items and services specified in (A) or (B).
- (8) Inform each resident before, or at the time of admission, in writing and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility's per diem rate.
- (9) The facility must furnish on admission a written description of legal rights, including the following:
 - (i) A description of the manner of protecting personal funds under this section.
 - (ii) a statement that the resident may file a complaint with the State survey and certification agency concerning resident abuse, neglect, misappropriation of resident property, and other practices of the facility.
 - (iii) the most recently known addresses and telephone numbers, including but not limited to, the Indiana State Department of Health, the office of the secretary of family and social services, the ombudsman designated by the division of disability, aging, and rehabilitation services, the area agency on aging, the local mental health center, the protection and advocacy services commission, and adult protective services. These shall be displayed in a prominent place in the facility.
- (10) The facility must inform each resident of the name, specialty, and way of contacting the physician responsible for his or her care.
- (11) The facility must prominently display in the facility written information, and provide to residents and applicants for admission, oral and written information about how to apply for and use Medicare and Medicaid benefits, and how to receive refunds for previous payments covered by such benefits.
- (12) Notification of changes.
 - (i) A facility must immediately inform the resident, consult with the resident's physician, and, if known, notify the resident's legal representative or an interested family member when there is-
 - (A) An accident involving the resident that results in injury and has the potential for requiring physician invention;
 - (B) a significant change in the resident's physical, mental, or psychosocial status, that is, a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications;

- (C) a need to alter treatment significantly that is, a need to discontinue an existing form of treatment due to adverse consequences or to commence a new form of treatment; or
- (D) A decision to transfer or discharge the resident from the facility.
- (ii) The facility must also promptly notify the resident and, if known, the resident's legal representative or interested family member, when there is—
 - (A) A change in room or roommate assignment; or
 - (B) A change in resident rights under federal or state law or regulation.
- (iii) The facility must record and periodically update the address and phone number of the resident's legal representative or interested family member.

(c) Protection of resident funds

- (1) The resident has the right to manage his or her financial affairs and the facility may not require resident to deposit their personal funds with the facility.
- (2) Upon written authorization of the resident and the facility must hold, safeguard, manage, and account for personal funds of the resident deposited with the facility.
- (3) Deposit of funds.
 - (i) unless otherwise required by federal law, the facility must deposit any residents' personal funds in excess of fifty dollars (\$50) in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts, and that credits all interest earned on the resident's funds to his or her account. (In pooled accounts, there must be a separate accounting for each resident's share.)
 - (ii) The facility must maintain residents' personal funds that do not exceed fifty dollars (\$50) in a noninterest bearing account, interest bearing, or petty cash fund.
- (4) Accounting and records. The facility must establish and maintain a system that assures a full, complete, and separate accounting according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.
 - (i) The system must preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.
 - (ii) The facility must—
 - (A) Provide reasonable access during normal business hours to the funds in the account;
 - (B) return to the resident in not later than fifteen (15) calendar days, upon written request, all or any part of the resident's funds given to the facility for safe keeping; and
 - (C) Provide reasonable access during normal business hours, to the written records of all financial transactions involving the individual resident's funds upon request.
 - (iii) The individual financial record must be provided to the resident or his or her legal representative upon request of the resident and through quarterly statements.
- (5) Notice of certain balances. The facility must notify each resident that receives Medicaid benefits—
 - (i) When the amount in the resident's account reaches \$200 less than the SSI resource limit for one person, and

- (ii) That, if the amount in the account, in addition to the resident's other nonexempt resources, reaches the SSI resource limit for one person; the resident may lose eligibility for Medicaid or SSI.
- (6) Conveyance upon death. Upon the death of a resident with a personal fund deposited with the facility, the facility must convey within thirty (30) days the resident's funds, and a final accounting of those funds, to the individual or the probate jurisdiction administering the resident's estate.
- (7) Assurance of financial security. The facility must purchase surety bond insurance, or otherwise provide assurance satisfactory to the state survey agency, to assure the security of all personal funds of residents deposited with the facility.
- (8) Limitation on charges to personal funds. The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under Medicaid or Medicare (except for applicable deductible and coinsurance amounts). The facility may charge the resident for requested services that are more expensive than or in excess of covered services. This does not affect the prohibition on facility charges for items and services for which Medicaid has paid.
- (i) Services included in Medicare or Medicaid payment. During the course of a covered Medicare or Medicaid stay, facilities may not charge a resident for the following categories of items and services:
- (A) Nursing services as required by law.
 - (B) Dietary services as required by law.
 - (C) An activities program as required by law.
 - (D) Room/bed maintenance services.
 - (E) Routine personal hygiene items and services as required to meet the needs of residents, including, but not limited to hair hygiene supplies, comb, brush, bath soap, disinfecting soaps or specialized cleansing agents when indicated to treat special skin problems or to fight infection, razor, shaving cream, toothbrush, toothpaste, denture adhesive, denture cleaner, dental floss, moisturizing lotion, tissues, cotton balls, cotton swabs, deodorant, incontinence care and supplies, sanitary napkins and related supplies, towels, washcloths, hospital gowns, over-the-counter drugs, hair and nail hygiene services, bathing, and basic personal laundry.
 - (F) Medically-related social services, as required by law.
- (ii) Items and services that may be charged to residents' funds. Listed below are general categories and examples of items and services that the facility may charge to residents' funds if they are requested by a resident, if the facility informs the resident that there will be a charge, and if payment is made by Medicare or Medicaid:
- (A) Telephone.
 - (B) Television/radio for personal use.
 - (C) Personal comfort items, including smoking materials, notions and novelties, and Confections.
 - (D) Cosmetic and grooming items and services in excess of those for which payment is made under Medicaid or Medicare.
 - (E) Personal clothing.
 - (F) Personal reading matter.
 - (G) Gifts purchased on behalf of a resident.
 - (H) Flowers and plants.

- (I) Social events and entertainment offered outside the scope of the activities program provided by law.
 - (J) Noncovered special care services such as privately-hired nurses or aides.
 - (K) Private room, except when therapeutically required (for example, isolation for infection control)
 - (L) Specially prepared or alternative food requested instead of the food generally prepared by the facility, as required by law.
- (iii) Requests for items and services.
 - (A) The facility must not charge a resident (or his or her representative) for any item or service not requested by the resident.
 - (B) The facility must not require a resident (or his or her representative) to request any item or services as condition of admission or continued stay.
 - (C) The facility must inform the resident (or his or her representative) requesting an item or service for which a charge will be made that there will be a charge for the item or service and what the charge will be.
- (d) **Free Choice.** The resident has the right to—
 - (1) Choose a personal attending physician or other provider of services. If a physician, or other provider of services, of the resident's choosing fails to fulfill a given federal or state requirement to assure the provisions of appropriate and adequate care and treatment, the facility will have the right after consulting with the resident and the physician, or other provider of services, to seek alternate physician participation, or services from another provider.
 - (2) Be fully informed in advance about care and treatment, and of any changes in that care and treatment, that may affect the resident's well-being.
 - (3) Participate in planning care and treatment or changes in care and treatment unless adjudged incompetent or otherwise found to be incapacitated under state law.
- (e) **Privacy and confidentiality.** The resident has the right to personal privacy and confidentiality of his or her personal and clinical records.
 - (1) Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, meetings of family and resident groups, but this does not require the facility to provide a private room for each resident.
 - (2) Except as provided in (3) below, the resident may approve or refuse the release of personal and clinical records to any individual outside the facility.
 - (3) The resident's rights to refuse release of personal and clinical records does not apply when—
 - (i) The resident is transferred to another health care institution; or
 - (ii) Record release is required by law.
- (f) **Grievances.** A resident has the right to –
 - (1) Voice a grievance without discrimination or reprisal. Such grievances include those with respect to treatment which has been furnished as well as that which has not been furnished.
 - (2) Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

- (3) Recommend changes in policy and procedure, and receive reasonable responses to their requests without fear of reprisal or interference. Each facility shall develop and implement policies for investigating and responding to complaints and grievances made by an individual resident, a resident group, a family member, or family group or other individuals.
- (g) **Examination of survey results.** A resident has the right to—
- (1) Examination of the results of the most recent annual survey of the facility conducted by federal or state surveyors and any plan of correction in effect with respect to the facility, and any subsequent surveys. The results must be available for examination in the facility in a place readily accessible to residents, and a notice posted of their availability.
 - (2) Receipt of information from agencies acting as client advocates, and the opportunity to contact these agencies.
- (h) **Work.** The resident has the right to—
- (1) Refuse to perform services for the facility;
 - (2) Perform services for the facility, if he or she chooses, when:
 - (i) The facility has documented the need or desire for work in the care plan;
 - (ii) The plan specifies the nature of the services performed and whether the services are voluntary or paid;
 - (iii) Compensation for paid services is at or above the prevailing rates; and
 - (iv) The resident agrees to the work arrangement described in the care plan.
- (i) **Mail.** The resident has the right to privacy in written communications, including the right to—
- (1) Send and promptly receive mail that is unopened unless the administrator has been instructed otherwise in writing by the resident;
 - (2) Have access to stationery, postage, and writing implements at the resident's own expense; and
 - (3) Receive any literature or statements of services that accompany mailings from Medicaid that the facility receives on behalf of the resident.
- (j) **Access and visitation rights.**
- (1) Residents have the right to choose with whom they associate. The facility shall provide reasonable visiting hours when should include a least nine (9) hours a day The hours shall be posted in a prominent place in the facility and made available to each resident Policies shall also provide for emergency visitation at other than posted hours.
 - (2) The resident has the right and the facility must provide immediate access to any resident by the following:
 - (i) Individuals representing state or federal agencies.
 - (ii) Any authorized representative of the state.
 - (iii) The resident's individual physician.
 - (iv) The state and area long term care ombudsman.
 - (v) The agency responsible for the protection and advocacy system for developmentally disabled individuals.
 - (vi) The agency responsible for the protection and advocacy system for mentally ill individuals.

(vii) Immediate family or other relatives of the resident, subject to the resident's right to deny or withdraw consent at any time.

(viii) Subject to the resident's right to deny or withdraw consent at any time the resident's legal representative or spiritual advisor.

(ix) subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, others who are visiting with the consent of the resident.

(3) The facility must provide reasonable access to any resident by any entity or individual that provides health, social, legal, and other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(4) The facility must allow representatives of the state ombudsman to examine a resident's clinical records with the permission of the resident or the resident's legal representative, and consistent with state law.

(k) **Telephone.** The resident has the right to have reasonable access to the use of a telephone where calls can be made without being overheard.

(l) **Personal property.** The resident has the right to retain and use personal possessions, including some furnishings and appropriate clothing as space permits unless to do so would infringe upon the rights or health and safety of other residents.

(1) The facility shall exercise reasonable care for the protection of the resident's property from loss or theft.

(2) The administrator or the administrator's designee is responsible for investigating report of lost or stolen residents' property.

(3) The facility will have written policies and procedures outlining the steps to be taken in the event an item is reported lost or stolen.

(4) The policies will include a mechanism to report the results of the investigation to the resident or his or her legal representative in the event the lost or stolen item is not recovered.

(5) If the resident's clothing is laundered by the facility, the facility shall identify the clothing in a suitable manner. The facility is only responsible for marking those items that are recorded on the resident's inventory sheet.

(6) The facility must inventory, upon admission and discharge, the personal effects, money, and valuables declared by the resident at the time of admission. It is the resident's responsibility to maintain and update the inventory listing of the resident's personal property.

(7) The facility shall, in writing, annually remind residents, legal representatives, or family members of the need to update inventory records.

(m) **Married couples/living arrangements.**

The resident has the right to share a room with his or her spouse when married residents live in the same facility, both spouses consent to the arrangement, and a room is available for residents to share. The facility shall have written policy and procedures to address the circumstances in which persons of the opposite sex, other than husband and wife, will be allowed to occupy a bedroom, if such an arrangement is agreeable to the occupants.

(n) **Self-administration of drugs.** An individual resident may self-administer drugs if the interdisciplinary team had determined that the practice is safe.

ADMISSION, TRANSFER AND DISCHARGE RIGHTS

(a) Transfer and discharge—

(1) Definition. “Interfacility transfer and discharge: means the movement of a resident to a bed outside of the licensed facility. For Medicare and Medicaid certified facilities, an interfacility transfer and discharge means the movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not. “Intrafacility transfer” means the movement of a resident to a bed within the same licensed facility. For Medicare and Medicaid certified facilities, an intrafacility transfer means the movement of a resident to a bed within the same certified facility. When a transfer or discharge of a resident is proposed, whether intrafacility or interfacility, provision for continuity of care shall be provided by the facility.

(2) Transfer and discharge requirements. The facility must permit each resident to remain in the facility and not transfer or discharge the resident from the facility unless—

- (i) the transfer or discharge is necessary for the resident’s welfare and the resident’s needs cannot be met in the facility;
- (ii) The transfer or discharge is appropriate because the resident’s health has improved sufficiently so that the resident no longer needs the services provided by the facility;
- (iii) The safety of individuals in the facility is endangered;
- (iv) The health of individuals in the facility would otherwise be endangered;
- (v) 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; or
- (vi) The facility ceases to operate.

(3) Documentation. When the facility proposes to transfer or discharge a resident under any of the circumstances specified in subdivision (2) (i) through (v) of this section, the resident’s clinical records must be documented. The documentation must be made by—

- (i) The resident’s physician when transfer or discharge is necessary under subdivision (a) (2) (i) or (a) (2) (ii) of this section; and
- (ii) Any physician when transfer or discharge is necessary under (a) (2) (iv) of this section.

(4) Notice before transfer. Before an interfacility transfer or discharge occurs, the facility must, on a form prescribed by the state department, do the following—

- (i) Notify the resident of the transfer or discharge and the reasons for the move in writing and in a language and manner that the resident understands.
- (ii) The health facility must place a copy of the notice in the resident’s clinical record and transmit a copy to the following:
 - (A) The resident.
 - (B) A family member of the resident if known.
 - (C) The resident’s legal representative is known.
 - (D) The local long term care ombudsman program (for involuntary relocations or discharges only).
 - (E) The person or agency responsible for the resident’s placement, maintenance, and care in the facility.

- (F) In situations where the resident is developmentally disabled, the regional office of the division of aging and rehabilitative services who may assist with placement decisions.
- (G) The resident's physician when the transfer or discharge is necessary under subdivision (2) (iv) through (vi).
- (iii) Record the reasons in the resident's clinical record.
- (iv) Include in the notice the items described in subdivision (7).
- (5) Except when specified in subdivision (6), the notice of transfer or discharge required under subdivision (4) must be made by the facility at least thirty (30) days before the resident is transferred or discharged.
- (6) Notice may be made as soon as practicable before transfer or discharge when:
 - (i) the safety of individuals in the facility would be endangered;
 - (ii) the health of individuals in the facility would be endangered;
 - (iii) the resident's health improves sufficiently to allow a more immediate transfer or discharge;
 - (iv) an immediate transfer or discharge is required by the resident's urgent medical needs; or
 - (v) a resident has not resided in the facility for thirty (30) days.
- (7) For health facilities, the written notice specified in subdivision (5) must include the following:
 - (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 in not smaller than 12-point bold type that reads, "You have the right to appeal the health facility's decision to transfer you. If you think you should not have to leave this facility, you may file a written request for a hearing with the Indiana State Department of Health postmarked with ten (10) days after you receive this notice. If you request a hearing, it will be held within twenty-three (23) days after you receive this notice, and you will not be transferred from the facility earlier than thirty-four (34) days after you receive this notice of transfer or discharge unless the facility is authorized to transfer you under subdivision (2). If you wish to appeal this transfer or discharge, a form to appeal the health facility's decision and to request a hearing is attached. If you have any questions, call the Indiana State Department of Health at 1-800-246-8909.
 - (v) The name of the director, the address, telephone number, and hours of operation of the division.
 - (vi) A hearing request form prescribed by the department.
 - (vii) The name, address, and telephone number of the division and local long term care ombudsman.
 - (viii) For facility residents with developmental disabilities or who are mentally ill, the mailing address and telephone number of the protection and advocacy services commission.
- (8) If the resident appeals the transfer or discharge, the facility may not transfer or discharge the resident within thirty-four (34) days after the resident receives the initial transfer or discharge notice, unless an emergency exists as provided under subdivision (6).

(9) If nonpayment is the basis of a transfer or discharge, the resident shall have the right to pay the balance owed to the facility up to the date of the transfer or discharge and then is entitled to remain in the facility.

(10) The department shall provide a resident who wishes to appeal the transfer or discharge from a facility the opportunity to file a request for a hearing postmarked within ten (10) days following the resident's receipt of the written notice of the transfer or discharge from the facility.

(11) If a facility resident requests a hearing, the department shall hold an informal hearing at the facility within twenty-three (23) days from the date the resident receives the notice of transfer or discharge. The department shall attempt to give at least five (5) days written notice to all parties prior to the informal hearing. The department shall issue a decision within thirty (30) days from the date the resident receives the notice. The facility must convince the department by a preponderance of the evidence that the transfer or discharge is authorized under subdivision (2). If the department determines that the transfer is appropriate, the resident must not be required to leave the facility within the thirty-four (34) days after the resident's receipt of the initial transfer or discharge notice unless an emergency exists under subdivision (6). Both the resident and the facility have the right to administrative or judicial review under IC 4-21.5 of any decision or action by the department arising under this section. If a hearing is to be held de novo, that hearing shall be held in the facility where the resident resides.

(12) An intrafacility transfer can be made only if:

- (i) The transfer is necessary for medical reasons as judged by the attending physician; or
- (ii) The transfer is necessary for the welfare of the resident or other persons.

(13) If an intrafacility transfer is required, the resident must be given notice at least two (2) days before relocation, except when:

- (i) The safety of individuals in the facility would be endangered;
- (ii) The health of individuals in the facility would be endangered;
- (iii) The resident's health improves sufficiently to allow a more immediate transfer; or
- (iv) An immediate transfer is required by the resident's urgent medical needs.

(14) The written notice of an intrafacility transfer must include the following:

- (i) Reasons for transfer.
- (ii) Effective date of transfer.
- (iii) Location to which the resident is transferred.
- (iv) Name, address, and telephone number of the local and state long term care ombudsman.
- (v) For facility residents with developmental disabilities or who are mentally ill, the mailing address and telephone number of the protection and advocacy services commission.

(15) The resident has the right to relocate prior to the expiration of the two (2) day notice.

(16) Prior to any interfacility or involuntary intrafacility relocation, the facility shall prepare a relocation plan to prepare the resident for relocation and to provide continuity of care. In nonemergency relocations, the planning process shall include a relocation planning conference to which the resident, his or her legal representative, family members, and physician shall be invited. The planning conference may be waived by the resident or his or her legal representative.

- (17) At the planning conference, the resident's medical, psychosocial, and social needs with respect to the relocation shall be considered and a plan devised to meet these needs.
- (18) The facility shall provide reasonable assistance to the resident to carry out the relocation plan.
- (19) The facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.
- (20) If the relocation plan is disputed, a meeting shall be held prior to the relocation with the administrator or his or her designee, the resident, and the resident's legal representative and an interested family member, if known, shall be invited. The purpose of the meeting shall be to discuss possible alternatives to the proposed relocation plan.
- (21) A written report of the content of the discussion at the meeting and the results of the meeting shall be reviewed by the administrator or his or her designee, the resident, the resident's legal representative, and an interested family member, if known, each of whom may make written comments on the report.
- (22) The written report of the meeting shall be included in the resident's permanent record.

(b) Notice of bed-hold policy and readmission.

- (1) Notice before transfer. Before a facility transfers a resident to a hospital or allows a resident to go on therapeutic leave of twenty-four (24) hours duration or longer, the facility must provide written information to the resident and a family member or legal representative that specifies—
 - (i) The duration of the bed-hold policy under the Medicaid state plan during which the resident is permitted to return and resume residence in the facility.
 - (ii) The facility's policies regarding bed-hold periods, which must be consistent with subdivision (3), permitting a resident to return.
- (2) Notice upon transfer. Except in an emergency, at the time of transfer of a resident for hospitalization or therapeutic leave, a facility must provide to the resident and a family member or legal representative written notice which specifies the duration and the bed-hold policy described in subdivision (b) (1).
- (3) Permitting resident to return to facility. Medicaid certified facilities must establish and follow a written policy under which a resident, whose hospitalization or therapeutic leave exceeds the bed-hold period under the state plan, is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident—
 - (i) Requires the services provided by the facility; and
 - (ii) Is eligible for Medicaid nursing facility services.

(c) Equal access to quality care.

- (1) A facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the state plan for all individuals regardless of source of payment.
- (2) The facility may charge any amount for services furnished to non-Medicaid residents consistent with the notice requirement in section (b) (6) describing the charges.
- (3) The State is not required to offer additional services on behalf of a resident other than services provided in the state plan.

(d) Admissions policy

(1) The facility must—

- (i) Not require residents or potential residents to waive their rights to Medicare or Medicaid
- (ii) Not require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

(2) The facility must—

- (i) Not require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from the resident's income or resources.

(3) In the case of a person eligible for Medicaid, a nursing facility must not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the state plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission, or continued stay in the facility. However—

- (i) A nursing facility may charge a resident who is eligible for Medicaid for items and services the resident has requested and received and that are not specified in the State plan as included in the term "nursing facility services" so long as the facility give proper notice of the availability and cost of these services to residents and does not condition the resident's admission or continued stay on the request for and receipt of such additional services: and
- (ii) Solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid eligible resident, or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission or continued stay in the facility for a Medicaid eligible resident.

RESIDENT BEHAVIOR AND FACILITY PRACTICES

(a) Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.

(b) Abuse. The resident has the right to be free from verbal, sexual, physical or mental abuse, corporal punishment, and involuntary seclusion.

(c) Staff treatment of residents. The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

(1) The facility must

- (i) Not use verbal, mental, sexual or physical abuse, corporal punishment, or involuntary seclusion;
- (ii) Not employ individuals who have:

- (A) Been found guilty of abusing, neglecting, or mistreating residents or misappropriating residents' property by a court of law; or
- (B) Had a finding entered into the state nurse aide registry concerning abuse, neglect, mistreatment of residents, or misappropriation of their property; and
- (iii) Report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for services as a nurse aide or other facility staff to the state nurse aide registry or licensing authority.
- (2) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property, are reported immediately to the administrator of the facility and other officials in accordance with state law through established procedures, including to the state survey and certification agency.
- (3) The facility must have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.
- (4) The results of all investigations must be reported to the administrator or the administrator's designated representative and to other officials in accordance with state law (including to the department) within five (5) working days of the incident, and if the alleged violation is verified, appropriate corrective action must be taken.

QUALITY OF LIFE

(a) Dignity. A facility must care for its residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

(b) Self-determination and participation. The resident has the right to—

- (1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and plans of care;
- (2) Interact with members of the community both inside and outside the facility; and
- (3) Make choices about aspects of his or her life in the facility that are significant to the resident.

(c) Participation in resident and family groups.

- (1) The resident has the right to organize and participate in resident groups in the facility.
- (2) A resident's family has the right to meet in the facility with the families of other residents in the facility.
- (3) The facility must provide a resident or family group, if one exists, with private space.
- (4) Staff or visitors may attend meetings only at the group's invitation.
- (5) The facility must provide a designated staff person responsible for providing assistance and responding to written requests that result from group meetings.
- (6) When a resident or family group exists, the facility must listen to the views and act upon the grievances and recommendations of residents and families and report back at a later time in accordance with facility policy.

(d) Participation in other activities. A resident has the right to participate in social, religious, and community activities that do not interfere with the right of other residents in the facility.

(e) Accommodation of needs. A resident has the right to—

- (1) Reside and receive services in the facility with reasonable accommodations of the individual's needs and preferences, except when the health or safety of the individual or other residents would be endangered.
- (2) Receive notice before the resident's room or roommate in the facility is changed.
- (3) Make choices about aspects of his or her life in the facility that are significant to the resident.

(f) Activities.

- (1) The facility must provide for an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests and the physical, mental, psychosocial well-being of each resident.

(g) Social services.

- (1) The facility must provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

(h) Environment. The facility must provide—

- (1) A safe, clean, comfortable, and homelike environment, allowing the resident to use his or her personal belongings to the extent possible.
- (2) Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior;
- (3) Clean bed and bath linens that are in good condition;
- (4) Private closet space in each resident room with clothes racks and shelves accessible to the resident;
- (5) Adequate and comfortable lighting levels in all areas;
- (6) Comfortable and safe temperature levels. Each facility shall have an adequate heating and air conditioning system. Facilities initially certified after October 1, 1990 must maintain a temperature range of 71-81 degrees F; and
- (7) For maintenance of comfortable sound levels.