Transfer and Discharge Notices

1. **When does a bed-hold notice need to be provided, compared to a notice of transfer or discharge?**

Federal regulations require facilities to provide two distinct bed-hold notices to residents or their representatives. See F205/42 CFR §483.15(d).

The first bed-hold notice must be provided prior to any transfer and include all items listed in F205/42 CFR §483.15(d)(1)(i)-(iv). There is no set time-frame to provide this, so it can be given well in advance of any transfer.

The second bed-hold notice must be provided at the time of transfer for hospitalization or therapeutic leave. See F205/42 CFR §483.15(d)(2).

In cases of emergency, this means notice must be provided to the family, surrogate, or representative within 24 hours of the transfer. This notice must specify the duration of the bed-hold policy described in F206**/**42 CFR §483.15(e)(1).

2. **Does the newly accepted monthly/weekly list of residents who had emergency transfers to the hospital provided to the Ombudsman need to contain *all* required elements of a transfer notice, or can the list be something more useful, such as name, facility transferred from, facility transferred to, and date of transfer?**

Federal regulations require the facility to send a copy of all transfer or discharge notices to the ombudsman. See F203/42 CFR §483.15(c)(3)(i). However, the copies of notices of emergency transfers may be sent in monthly batches per CMS S&C Memo 17-27.

The memo does not describe the required elements for the monthly list that may be sent to the ombudsman but CMS expects the list would contain resident-specific information necessary for the ombudsman as required by F203/ 42 CFR §483.15(c)(5), including the reason for transfer or discharge, date of the transfer or discharge, and the receiving location.

3. **The memo uses the term *may* regarding notice of transfer to resident or resident representatives for an emergency transfer to a hospital (I realize a bed-hold notice is still required to be provided). Because it is a *may* (and not a *must*), does that mean it is not required (unless, of course, the facility refuses to accept the resident back which turns the situation into a facility-initiated discharge)?**

No. Transfer or discharge notices are required in all cases. See F203/42 CFR §483.15(c)(3)(i). "Before a facility transfers or discharges a resident, the facility must:

"Notify the resident and the resident's representative(s) of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand."

Notice must be made as soon as practicable before transfer or discharge in cases of emergency transfers to a hospital.

The use of "may" in the memo was to differentiate the timing requirement for emergency situations, which is as soon as practicable. Additionally for emergency transfers, a copy of the notice must be sent to the ombudsman but may be sent when practicable, such as in a list of residents on a monthly basis.

If the facility decides not to let the resident return from the hospital, this becomes a facility-initiated discharge and another notice of discharge (30 days in advance unless as indicated at F201) must be provided to the resident and representative. A copy of the discharge notice must also go to the ombudsman at the same time that the notice is provided to resident/representative.

4. If a resident has an emergency transfer to the hospital, and the resident subsequently determines he/she wants to discharge from the hospital to a different location other than the transferring facility (maybe to another SNF, or an AL, or home, etc.), I assume that becomes a resident-initiated transfer where no notice is required to either the resident or the Ombudsman?

The facility remains required to provide a transfer notice and bed-hold notice for the initial transfer to the hospital pursuant to F203/42 CFR §483.15(c)(4)(i) and F205/42 CFR §483.15(d)(2). The facility must provide a copy of the transfer notice to the Ombudsman. See F203/42 CFR §483.15(c)(3)(i).

If the resident elects to change facilities upon release from the hospital, this would be a resident-initiated discharge and notice to the resident, representative and the ombudsman would not be required. The resident's record must contain documentation clearly showing that the discharge to another nursing home was the resident's (or representative's) choice.

5. If a resident or resident's representative initiates a transfer to the hospital, will that be considered a resident-initiated transfer or an emergency transfer?

A resident transfer to a hospital would generally fall under one of the reasons for transfer stated in F201/42 CFR §483.15(c)(1)(i), and not resident-initiated.

(A) "The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility" or;

(C) "The safety of individuals in the facility is endangered due to the clinical or behavioral status of the resident."

In these circumstances, this would be a facility- initiated transfer. Depending on the urgency of the transfer, it may be considered an emergency transfer under F203/42 CFR §483.15(c)(4)(ii)(D). In cases where a discharge or transfer is necessitated by any of the items in F201/42 CFR§483.15(c)(1), all notice and documentation requirements under 42 CFR §483.15(c)(2)-(6) must be met.

Additionally, when the resident is transferred to a hospital, regardless of who initiated the transfer, the facility must still comply with the bed-hold policy and return requirements under F205/42 CFR §485.15(d). However, a resident-initiated transfer would not require transfer and discharge notice, and should be documented in the record.

6. The CMS memo does not address death of residents. What notification must be provided when deaths occur?

The memo does not address death of residents as the purpose of the memo was to clarify changes related to SQC and sending copies of the transfer or discharge notice to the ombudsman. Notification of

death would be covered under the requirements for Resident Rights, at F157/42 CFR § 483.10(g)(14) Notification of changes.

A resident's death would be considered "a significant change in the resident's physical . . . status" pursuant to §483.10(g)(14)(i)(B), and therefore requires notification to be provided to the resident's representative(s) and physician.

7. How should resident-initiated discharges that are against medical advice (AMA) be handled in terms of required notices?

The memo clarifies that sending a copy of the notice of transfer or discharge is not required for resident-initiated discharges. However, documentation in the medical record must clearly show that the discharge was resident-initiated.

8. For planned discharges such as those at the end of a rehab stay, as long as the reason for the transfer or discharge is documented appropriately in the medical record, would a discharge notice be required?

This would be a resident-initiated discharge and would not require a notice be sent to the ombudsman.

9. If a resident goes on therapeutic leave, does the facility need to provide a T&D notice?

No. A bed-hold policy would be required per F205/42 CFR §483.15(d).

10. Does MDH have a sample transfer/discharge form that facilities can use to be in compliance? Is the informational bulletin 94-1 – Nursing Home Transfer/Discharge Notices on the MDH website going to be updated with current regulation?

Information Bulletin 94-1 (http://www.health.state.mn.us/divs/fpc/profinfo/ib94_1.htm) is outdated. MDH is working collaboratively with the ombudsman office to update IB 94-1 which will include an updated sample notice facilities can use.

Copies of notices provided to residents (or representative) should be mailed to Office of Ombudsman for Long-Term Care, P.O. Box 64971, St. Paul, MN 55164-0971; or securely faxed to the Ombudsman's central office in St. Paul at 651-431-7452.

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To obtain this information in a different format, call: 651-201-4101.