Rule No. 560-X-10-.14. Resident Rights

The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident, specified in 42 CFR 483.10.

(1) Exercise of rights.

(a) The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

(b) The resident has the right to be free of interference, coercion, discrimination, or reprisal from the facility in exercising his or her rights.

(c) In the case of a resident adjudged incompetent by a court of competent jurisdiction, the rights of the resident are exercised by the person appointed under State law to act on the resident's behalf.

(2) Notice of rights and services.

(a) 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.

(b) The resident has the right to inspect and purchase photocopies of all records pertaining to the resident, upon written request and 48 hours' notice to the facility.

(c) 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.

(d) The resident has the right to refuse treatment, and to refuse to participate in experimental research.

(e) The facility must:

1. 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:

(i) The items and services that are included in nursing facility services under the State plan and for which the resident may not be charged.

(ii) Those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services; and

2. Inform each resident when changes are made to the items and services specified in paragraphs (e)1.(i) and (ii) of this section.

(f) The facility must inform each resident before, or at the time of admission, 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 Medicaid and Medicare.

(g) The facility must furnish a written description of legal rights which includes:

1. A description of the manner of protecting personal funds, under paragraph (3) of this section; and

2. A statement that the resident may file a complaint with the State survey and certification agency concerning resident abuse, neglect, and misappropriation of resident property in the facility.

(h) The facility must inform each resident of the name, specialty and way of contacting the physician responsible for his or her care.

(i) The facility must prominently display in the facility written information, and provide to residents and potential residents 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.

(j) Notification of changes.

1. Except in a medical emergency or when a resident is incompetent, a facility must consult with the resident immediately and notify the resident's physician, and if known, the resident's legal representative or interested family member within 24 hours when there is:

(i) An accident involving the resident which results in injury.

(ii) A significant change in the resident's physical, mental, or psychosocial status.

(iii) A need to alter treatment significantly; or

(iv) A decision to transfer or discharge the resident from the facility as specified in 42 C.F.R. Section 483.12(a).

2. The facility must also promptly notify the resident and, if known, the resident's legal representative or interested family member when there is:

(i) A change in room or roommate assignment as specified in 42 C.F.R. Section 483.15(e)(2).

(ii) A change in resident rights under Federal or State law or regulations as specified in 42 C.F.R. Section 483.10(b)(1).

3. The facility must record and periodically update the address and phone number of the resident's legal representative or interested family member.

(3) Protection of resident funds.

(a) The resident has the right to manage his or her financial affairs and the facility may not require residents to deposit their personal funds with the facility.

(b) Management of personal funds. Upon written authorization of a resident, the facility must hold, safeguard, manage and account for the personal funds of the resident deposited with the facility, as specified below.

(c) Deposit of funds.

1. Funds in excess of $50. The facility must deposit any resident's personal funds in excess of $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 account to his or her account.

2. Funds less than $50. The facility must maintain a resident's personal funds that do not exceed $50 in a non-interest bearing account or petty cash fund.

(d) Accounting and records. The facility must establish and maintain a system that assures a full and 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.

1. The system must preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.

2. The individual financial record must be available on request to the resident or his or her legal representative.

(e) Notice of certain balances. The facility must notify each resident that receives Medicaid benefits:

1. When the amount in the resident's account reaches $200 less than the SSI resource limit for one person, as specified in Section 1611(a)(3)(B) of the Social Security Act; and

2. That, if the amount in the account, in addition to the value of the resident's other nonexempt resources, reaches the SSI resource limit for one person, the resident may lose eligibility for Medicaid or SSI.

(f) Conveyance upon death. Upon the death of a resident with a personal fund deposited with the facility, the facility must convey within 30 days ~~promptly~~ the resident's funds and a final accounting of those funds, to the individual ~~administering the resident's estate.~~ designated on the Administrator of Estate Designation Form. If no form has been completed or no administrator has been designated by the probate court, the funds will be conveyed in accordance with Medicaid Administrative Code 560-X-22-.25(5)(e). Pursuant to 42 C.F.R.§ 433.139, the Alabama Medicaid Agency is the payer of the last resort. Upon the death of a resident, the facility must determine if a credit balance exists on the facility's financial records and promptly convey the funds to the proper source.

(g) Assurance of financial security. The facility must purchase a surety bond, or provide self-insurance to assure the security of all personal funds of residents deposited with the facility.

(h) 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.

(i) Refer to Alabama Medicaid Administrative Code, Chapter 22 for further details.

(4) Free choice. The resident has the right to:

(a) Choose a personal attending physician.

(b) Be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and

(c) Unless adjudged incompetent or otherwise found to be incapacitated under the laws of the State, participate in planning care and treatment or changes in care and treatment.

(5) Privacy and confidentiality. The resident has the right to personal privacy and confidentiality of his or her personal and clinical records.

(a) Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room.

(b) The resident may approve or refuse the release of personal and clinical records to any individual outside the facility, except that the resident's right to refuse release of personal and clinical records does not apply when:

1. The resident is transferred to another health care institution; or

2. Record release is required by law or third-party payment contract.

(6) Grievances. A resident has the right to:

(a) Voice grievances with respect to treatment or care that is or fails to be furnished, without discrimination or reprisal for voicing the grievances.

(b) Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(7) Examination of survey results. A resident has the right to:

(a) Examine the results of the most recent survey of the facility conducted by Federal or State surveyors and any plan of correction in effect with respect to the facility. The results must be posted by the facility in a place accessible to residents; and

(b) Receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies.

(8) Work. The resident has the right to:

(a) Refuse to perform services for the facility.

(b) Perform services for the facility, if he or she chooses, when:

1. The facility has documented the need or desire for work in the plan of care;

2. The plan specifies the nature of the services performed and whether the services are voluntary or paid;

3. Compensation for paid services is at or above prevailing rates; and

4. The resident agrees to the work arrangement described in the plan of care.

(9) Mail. The resident has the right to privacy in written communications, including the right to:

(a) Send and receive mail promptly that is unopened; and

(b) Have access to stationery, postage and writing implements at the resident's own expense.

(10) Access and Visitation Rights.

(a) The resident has the right and the facility must provide immediate access to any resident by the following:

1. Any representative of the Department of Health and Human Services.

2. Any representative of the State.

3. The resident's individual physician.

4. The State long term care ombudsman (established under _307(a)(12) of the Older Americans Act of 1965).

5. The agency responsible for the protection and advocacy system for developmentally disabled individuals (established under part C of the Developmental Disabilities Assistance and Bill of Rights Act).

6. The agency responsible for the protection and advocacy system for mentally ill individuals (established under the Protection and Advocacy for Mentally Ill Individuals Act).

7. Subject to the resident's right to deny or withdraw consent at any time, immediate family or other relatives of the resident; and

8. 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.

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

(c) The facility must allow representatives of the State Long Term Care 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.

(11) Telephone. The resident has the right to have regular access to the private use of a telephone.

(12) 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.

(13) Married couples. The resident has the right to share a room with his or her spouse when married residents live in the same facility and both spouses consent to the arrangement.

(14) Self-Administration of Drugs. Each resident has the right to self-administer drugs unless the interdisciplinary team, as defined by 42 C.F.R. Section 483.20(d)(2)(ii), has determined for each resident that this practice is unsafe.

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