



STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
310 Great Circle Road
NASHVILLE, TENNESSEE 37243

IMPORTANT MEMO

Date: December 9, 2014

To: Nursing Facility Providers

From: Julie Johnson, Deputy of Operations
Long Term Services and Supports (LTSS)

CC: TennCare Managed Care Organizations

Re: **Federally Mandated Nursing Facility Transfer and Discharge Requirements and TennCare Templates for Nursing Facility Use**

The purpose of this memo is to again remind you of nursing facility initiated transfer and discharge requirements as set forth in 42 CFR 483.12, and to provide you with a TennCare approved resident notice template that may be used when involuntarily transferring or discharging a resident.

Transfer and discharge requirements as outlined in 42 CFR 483.12(a)(2) require that the nursing 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 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. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid; or
- (vi) The facility ceases to operate.

When a nursing facility transfers or discharges a resident for one of the reasons listed above, 42 CFR 483.12(a)(4) mandates that the nursing facility provide advance written notice to the resident and to a family member or legal representative of the resident (if known). The notice must include the reason(s) for the move and must be written in a language and manner the resident understands. Additionally, according to 42 CFR 483.12(a)(6), the nursing facility is required to include in the notice the items described below:

- (i) The reason(s) for the transfer or discharge;
- (ii) The effective date of the 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;
- (vi) For nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established 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 Mentally Ill Individuals Act.

This written notification must be made by the nursing facility **at least 30 days** prior to the resident's transfer or discharge (42 CFR 483.12(a)(5)(i)). Only under circumstances described in 42 CFR 483.12(a)(5)(ii) may this 30 day requirement be waived. In the specific instances below, notice may be made as soon as practicable before transfer or discharge when:

- a) The safety of individuals in the facility would be endangered;
- b) The health of individuals in the facility would be endangered;
- c) The resident's health improves sufficiently to allow a more immediate transfer or discharge;
- d) An immediate transfer or discharge is required by the resident's urgent medical needs; or
- e) A resident has not resided in the facility for 30 days.

To assist facilities in maintaining compliance with these requirements, a template discharge notice has been developed and is included with this memo. In addition, a voluntary discharge form has been developed for facilities to request a resident to sign when s/he is voluntarily electing to transition to HCBS or otherwise discharge from the facility. Both templates have been posted on the TennCare website at <http://www.tn.gov/tenncare/longtermcare.shtml>

The information in this memo does not repudiate the discharge requirements for residents seeking Medicaid coverage as set forth in the *Doe v. Word* Consent Decree.

Should you have questions regarding this memo, you may call our LTSS Help Desk at 877-224-0219 between the hours of 8:00 AM and 4:30 PM CST.

Nursing Facility Notice of Transfer or Discharge

Refer to 42 CFR 483.12. This form is required for those transfers or discharges initiated **by the nursing facility**, and not by the resident, legal guardian or representative.

Resident Information

Name _____ Medicaid ID (if applicable) _____

Resident Representative (if applicable)

Name _____ Address _____

Phone _____

Location to which resident is transferred or discharged (required)

Name _____ Address _____

Phone _____

Nursing Facility Information

Name _____ Address _____

Phone _____ Facility Contact Name _____ Contact Phone _____

Notice Information

Date notice is given _____ Date of Transfer/Discharge _____

The transfer/discharge date must be at least 30 days **after** the date the notice is given *unless* an exception applies. The resident may choose to move earlier than the effective date.

Reason for discharge or transfer:

- Your bill for services at this facility has not been paid after you received notice and time to pay.
- This facility is closing.

For the following reasons, page 2 of this form must be signed by a physician, or a physician's written order for discharge or transfer must be attached. The physician may be the resident's attending or treating physician, the facility medical director, or a nurse practitioner or physician's assistant as a designee to one of the aforementioned.

- Your needs cannot be met in this facility.
- Your health has improved enough that you no longer need the services provided by this facility.
- The health of other individuals in this facility is endangered.
- The safety of other individuals in this facility is endangered.

You must provide a brief explanation to support this action (attach additional documentation if necessary):

Requesting Assistance

Nursing Facility Notice of Transfer or Discharge

If you ask, nursing facility staff must give you the help you need to contact one of the people or groups below. If you disagree with the discharge or transfer, nursing facility staff must give you the help you need to ask for an appeal. Please see the name and phone number of the nursing home contact person listed on page 1 of this form.

Long -Term Care Ombudsman

You have the right to ask for a review of this notice by a Long -Term Care Ombudsman. They are available to help you with any questions about this notice or the appeal process. If you want to ask for a review of this notice or ask for help from a Long -Term Care Ombudsman, call the Ombudsman Office toll free at **877-236-0013**. You can also ask them for help in writing. Mail your written request to the State Long-Term Care Ombudsman at 502 Deaderick Street 9th Floor Nashville, TN 37243-0860.

TennCare Advocacy Program

Do you have a mental illness and need help with this notice? The TennCare Advocacy Program can help you. Call them for free at **1-800-758-1638**. Do you have an intellectual or developmental disability and need help with this notice? The Department of Intellectual and Developmental Disabilities can help you. Call them for free at 800-535-9725.

Asking for an Appeal of This Decision

You have the right to appeal if you don't agree with this decision. You have up to 30 days from the date this notice is given to request a fair hearing. If you ask for a fair hearing within 30 days of the date this notice is given, you will not be transferred or discharged until the hearing decision has been made, unless your situation requires an emergency transfer or discharge. If you do not ask for a fair hearing within 30 days of the date this notice is given, you will be transferred or discharge at the end of the 30-day notice period. If you wish to appeal this notice and request a hearing, you may do so in writing. Please attach a copy of this notice when you send your appeal. Mail your appeal to TennCare's Office of General Counsel ATTN: Involuntary NF Discharge Appeals 310 Great Circle Road Nashville, TN 37243. You may also fax your appeal to 615-248-4384. If you have questions about appealing this decision, call TennCare's Office of General Counsel for free at **866-797-9469**.

Notice presented by:

Nursing Home Administrator/Designee Name Signature Date

Physician/Designee Name (When Required) Signature Date

Notice received by:

Resident or representative Name Signature Date

Notice given to: Resident, Legal Guardian or Representative _____ (Date)
 Local Long-Term Care Ombudsman _____ (Date)
 Resident Clinical Record _____ (Date)

Resident-Initiated Nursing Home Discharge

I am willingly moving out of the nursing facility. I understand this means I will not get a notice about my discharge from the nursing facility. I am making this choice and no one is asking me or making me leave the nursing home. I understand that since I am making this choice, I can't appeal my discharge from the nursing facility.

I want to move out of the nursing home.

Reason (may include that you don't want to be financially responsible for services, even when an appeal has been filed):

Resident or Representative Printed Name

Resident Signature

Signature Date

By my signature, I attest that this move was initiated by the resident and/or representative and that I have thoroughly discussed this action with the resident to ensure that the resident and/or representative understands what he/she is signing and agrees that the action is being taken at his/her request.

Nursing Facility Administrator/Designee Printed Name

Nursing Facility Administrator/Designee Signature

Signature Date