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§19–345.1.

(a) Except as provided in subsection (e) of this section, a facility shall provide the resident with written notice of:

(1) Any proposed discharge or transfer; and

(2) The opportunity for a hearing in accordance with the provisions of this section before the discharge or transfer.

(b) The Department shall prepare and provide each facility with a standardized form that provides, in clear and simple language, at least the following information:

(1) Notice of the intended discharge or transfer of the resident;

(2) Each reason for the discharge or transfer;

(3) The right of the resident to request a hearing;

(4) The right of the resident to consult with any lawyer the resident chooses;

(5) The availability of the services of the Legal Aid Bureau, the Older American Act Senior Legal Assistance Programs, and other agencies that may provide assistance to individuals who need legal counsel;

(6) The availability of the Department of Aging and local Office on Aging Long-Term Care Ombudsman to assist the resident; and

(7) The provisions of this section.

(c) Except as otherwise provided in this section, at least 30 days before the facility involuntarily transfers or discharges a resident, the facility shall:

(1) Provide to the resident the written notice required under subsection (a) of this section; and

(2) Provide the written notice required under subsection (a) of this section to:

(i) The next of kin, guardian, or any other individual known to have acted as the individual's representative, if any;

(ii) The Long-Term Care Ombudsman; and

(iii) The Department.

(d) (1) (i) In accordance with regulations adopted by the Secretary, the facility shall provide the resident with an opportunity for a hearing on the proposed transfer or discharge.

(ii) The regulations adopted by the Secretary may provide for the establishment of an escrow account when:

1. The basis for the discharge is nonpayment; and
2. The resident continues to reside in the facility while the appeal is pending.

(2) Except as otherwise provided in this subsection, hearings on proposed transfers or discharges shall be conducted in accordance with the provisions of Title 10, Subtitle 2 of the State Government Article and the Medicaid Fair Hearing Procedures.

(3) Any hearing on a proposed discharge or transfer of a resident:

(i) Is not a contested case as defined in § 10-202 of the State Government Article; and

(ii) May not include the Secretary as a party.

(4) A decision by an administrative law judge on a proposed discharge or transfer of a resident:

(i) Is not a decision of the Secretary;

(ii) Unless appealed, is final and binding on the parties;

(iii) Is not reviewable by the Board of Review of the Department; and

(iv) May be appealed in accordance with § 10-222 of the State Government Article as if it were a contested case but the appeal does not automatically stay the decision of the administrative law judge.

(e) (1) The provisions of this section requiring 30 days' notice and an opportunity for a hearing before discharge or transfer of a resident do not apply if:

(i) An emergency exists and health or safety of the resident or other residents would be placed in imminent and serious jeopardy if the resident were not transferred or discharged from the facility as soon as possible; or

(ii) The resident has not resided in the facility for 30 days.

(2) If a facility discharges or transfers a resident under the provisions of this subsection, the facility shall provide reasonable notice of the proposed discharge or transfer.

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