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Heather A. Bruemmer

MEMORANDUM

SUBJECT: PROCEDURE CLARIFICATION: Required Notification to the Office of the State Long Term Care Ombudsman of Transfers and Discharges of Residents of Nursing Homes

FROM: Heather A. Bruemmer, State Long Term Care Ombudsman

DATE: March 1, 2017
Revised June 7, 2017

This Procedure Clarification from the Office of the State Long-Term Care Ombudsman addresses the requirements for nursing homes to provide information to residents and/or to resident representatives about the State Long Term Care Ombudsman Program, and the CMS requirement to send copies of transfer and discharge notices to a representative of the Office of the State Long Term Care Ombudsman.

On October 4, 2016 final regulations for nursing homes participating in the Medicare and/or Medicaid program were published in the Federal Register. The first phase of implementing these rules went into effect on November 28, 2016. CMS issued additional clarification on May 12, 2017 in Memo Reference S & C: 17-27-NH.

42 CFR Part 483.15 (c)(3)(i) states, "Before a facility transfers or discharges a resident, the facility must— (i) 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. The facility must send a copy of the notice to a representative of the Office of the State Long Term Care Ombudsman."

42 CFR Part 483.15 (c) (5) (v) further states, "The written notice specified in paragraph (b) (3) of this section must include the following: (v) The name, address (mailing and email) and telephone number of the Office of the State Long Term Care Ombudsman."

Effective immediately, when the nursing home has decided to discharge the resident while the resident is still hospitalized, the nursing home must send a notice of discharge to the resident and resident representative, and must also send a copy of the notice of discharge to a representative of the Office of the State Long Term Care Ombudsman. **Notice to the Office of the State Long Term Care Ombudsman must occur at the same time the notice of discharge is provided to the resident and resident representative.**

For any other types of facility-initiated discharges, the facility must provide notice of discharge to the resident and resident representative, along with a copy of the notice to the Office of the State Long Term Care Ombudsman, **at least 30 days prior to the discharge or as soon as possible.** Notice to the

Office of the State Long Term Care Ombudsman **must be sent at the same time notice is provided to the resident and resident representative.**

When a resident is temporarily transferred on an emergency basis to an acute care facility, notice of the transfer may be provided to the resident and resident representative as soon as practicable, according to 42 CFR 483.15(c)(4)(ii)(D). Copies of notices for emergency transfers must also still be sent to the Office of the State Long Term Care Ombudsman, but they may be sent when practicable, such as in a list of residents on a monthly basis.

A resident-initiated transfer or discharge means the resident or, if appropriate, the resident representative has provided verbal or written notice of intent to leave the facility. The medical record must contain documentation or evidence of the resident's or resident representative's verbal or written notice of intent to leave the facility. A resident's expression of a general desire or goal to return home or to the community, or elopement of a resident who is cognitively impaired should not be taken as notice of intent to leave the facility. **For resident-initiated transfers or discharges, sending a copy of the notice to the Office of the State Long Term Care Ombudsman is not required.**

Nursing homes are expected to transmit copies of the above-referenced notices to the Office of the State Long Term Care Ombudsman, using the contact information appearing on the letterhead above, or to a representative of the Office (Regional Ombudsman). As stated, **this transmission is expected to occur at the same time that the notice is provided to the resident or to her or his representative, and is to be a copy of the actual notice.** The Office of the State Long Term Care Ombudsman will forward all such notices to regional ombudsman staff. Depending on the scheduled timeline and the conditions of the notice, it may be appropriate for the ombudsman to initiate action, though the typical response would be to wait for a call requesting the ombudsman's services.

If you have any questions regarding this Procedure Clarification Memo, please contact your regional ombudsman by calling 1-800-815-0015 or via e-mail at boaltc@wisconsin.gov.