

WHAT DO WE MEAN BY TRANSFER AND DISCHARGE?

Transfer is when a long-term care resident is moved into another long-term care facility.

Involuntary transfer is when a facility intends to transfer a resident to a new facility, but the resident does not agree that the facility has provided sufficient reason to discharge them.

Discharge is when a resident permanently exits a facility into the community.

Involuntary discharge is when a facility requests that a resident leaves, but the resident does not agree that the facility has provided sufficient reason to discharge them.

WHAT ARE THE REASONS FOR TRANSFER AND DISCHARGE?

A facility may transfer/discharge you for the following reasons:

- You require a higher level of care than the facility can provide (for example, you are in assisted living but you need the kind of care only a nursing home offers)
- You no longer need a high level of care due to improvements in your health
- The facility has determined you are a danger to the health and/or safety of others or yourself
- You have not paid for your stay
- The facility is closing or no longer takes your Medicaid/Medicare

YOU HAVE RIGHTS

- The facility must provide sufficient reason for transfer or discharge in the form of documentation. A physician must document their belief that you should be transferred or discharged and provide a clear, well-supported explanation.
- If the facility claims you either do not need nursing home care anymore or that you need to be moved to a nursing home (changing needs), your physician must document the specific needs that can't be met, how the facility has tried to accommodate your changing needs, and how the new facility can meet these needs.
- You have the right to at least 30 days notice of your involuntary discharge or transfer, and facilities must also send the notice to the local Long-Term Care Ombudsman.
 - The notice should be written in a way you and/or your family can understand.
 - It must include the reason for the move, end date of services, where you will be moved, an explanation of your right to appeal, and the contact for your local Long-Term Care Ombudsman.

WHAT CAN YOU DO IF FACED WITH INVOLUNTARY TRANSFER OR DISCHARGE?

Immediately contact your local Boulder County Long-Term Care Ombudsman at 303-441-1173. They will assist you with an appeal. **The facility cannot discharge a resident while an appeal is pending.** If you need assistance contacting the Ombudsman, the facility is required to help you.

You, your family, and/or your guardian may consult with an elder law attorney if needed. Your Ombudsman can provide more information.

WHAT DOES THE APPEALS PROCESS LOOK LIKE?

There are several levels of appeals. Policies may be complex or confusing; your ombudsman can help you understand what you need to do.

FIRST APPEAL

You must file a written or oral grievance (the complaint) within 14 days of receiving your involuntary transfer or discharge notice. Either the facility's administrator or a staff member designated to respond to complaints must respond within three days.

SECOND APPEAL

If you are dissatisfied with the response, your next step is to file an appeal to the facility's grievance committee within ten days of the most recent response. The committee must present its findings in writing within ten days of the second appeal.

WHAT DOES THE APPEALS PROCESS LOOK LIKE?

THIRD APPEAL

If you are still dissatisfied, your next level of appeal is to the Colorado Department of Public Health and Environment-Health Facilities Division. You must file this third level of appeal within ten days of receiving the response from the grievance committee.

The CDPHE-HF can be contacted at 303-692-2442 or 1-800-886- 7689, ext. 2442.

FOURTH APPEAL

A final appeal is an option if you are dissatisfied with CDPHE-HF's findings. You must respond within 30 days of receiving the written findings to CDPHE-HF to request a hearing of the issue, handled by an administrative law judge, the CDPHE itself, or an appointed hearing officer. The hearing is the final level of appeal.

Federal regulations governing long-term care resident rights around involuntary discharge can be found in the Code of Federal Regulations at 42 CFR § 483.15.

State of Colorado regulations governing assisted living resident rights around involuntary discharge can be found in the Colorado Code of Regulations at 6 CCR 1011-1 Chapter 7, Section 11.