



# Home and Community Based Services (HCBS) Provider Involuntary Transfers & Discharges

Office of Aging and Adult Services (OAAS)

OAAS-TNG-16-023



# HCBS Provider Involuntary Transfers/Discharges

- ▶ Circumstances for involuntary transfer/discharges:
  - The participant's health improved significantly & no longer requires services,
  - Safety or health of a participant or provider staff is endangered,
  - Participant failed to pay any past due amounts for services he/she is liable for 15 days after receipt of written notice from provider,
  - Provider ceases to operate or closes a module and services are no longer available,
  - Participant/family refuses to cooperate or interferes with care objective.



# Additional Reasons for ADHC Discharges Only

- ▶ Involuntary discharge/transfer from ADHC center or ADHC waiver program may occur for one of the following reasons:
  - Medical protection or the well-being of the individual or others,
  - Emergency situation (i.e. declared or non-declared disasters affecting the ADHC),
  - Health or welfare of the participant is threatened, or
  - Inability of the ADHC provider to provide services indicated in the POC after documented reasonable accommodations have failed.



# Health or Safety Involuntary Discharge

- ▶ Providers are responsible for documenting incidents or accidents that affect the health, safety and welfare of the participant.
  - The burden of proof is on the provider to show that the transfer or discharge is justified per the minimum licensing standards.
- ▶ If there is suspected participant neglect, abuse, exploitation, or extortion, a report should be made to Adult Protective Services/Elderly Protective Services and/or Law Enforcement.
- ▶ If the health or safety of the participant or provider staff is endangered, written notice shall be given as soon as possible before the discharge.

# Before Involuntary Discharges

Attempt to resolve issues before discharge.

- ▶ Inform the Support Coordinator (Waiver) or Long Term Care Contractor (Conduent) for resolution.
- ▶ A Reassessment may be warranted to continue services.
- ▶ OAAS Provider Relations or OAAS Regional Office can also provide assistance.

# Steps for Involuntary Discharge

- ▶ The Provider will:
  - Document their compliance with the discharge procedures in the participant's record.
  - Provide and send a written discharge notice via certified mail with return receipt at least 30 days prior to discharge.
  - The notice is to be sent to:
    - ◆ participant
    - ◆ Family Member (if known)
    - ◆ Authorized Representative (if applicable)
    - ◆ Send copy to SC or Long-Term Care Contractor.
- ▶ Maintain a copy of the notice in the participant's record.



# Written Discharge Notice Requirements

- ▶ The written transfer/discharge notice will include:
  - The reason for transfer or discharge,
  - The effective date of transfer or discharge,
  - An explanation of the participants' right to personal and/or third party representation at all stages of the transfer or discharge process,
  - Contact information for the Advocacy Center,
  - Names of provider staff available to assist the participant and family with decision making and transfer arrangements, and
  - The date, time and place for the discharge planning conference.

# Written Discharge Notice Requirements (cont.)

- ▶ A statement regarding the participants' appeal rights,
- ▶ The name of the director, current address and telephone number of the Division of Administrative Law, and
- ▶ A statement regarding the participants' right to remain with the provider and not be transferred or discharged if an appeal is timely filed.

**Note:** Ensure the notice is written in simple language easy enough for the participant to understand.



# Division of Administration Law (DAL) Contact Info

- ▶ Request for appeals may be made online, or by mailing or faxing the written request.

Enter Director's Name

Division of Administrative Law – LDH Section

P.O. Box 4189

Baton Rouge, LA 70821-4189

Tel: (225) 342-5800

Fax: (225) 219-9823

The Division of Administrative Law Website: <http://www.adminlaw.state.la.us/>

# Appeal Rights

- ▶ If the appeal is filed timely, the provider must not discharge/transfer the participant until the appeal is completed.
- ▶ DAL will hold the appeal hearing at the agency or by phone, within 30 days from the date the appeal is filed.
- ▶ DAL will issue a decision within 30 days from the date of the appeal hearing.
- ▶ Providers are responsible to prove that the transfer/discharge is justified per the provision of the minimum licensing standards.
- ▶ If discharge is due to endangerment of health or safety of staff or individuals, the provider may submit a written request to DAL for a pre-hearing conference.
  - The pre-hearing conference will be held within 10 days of receipt of the request.



# Provider Responsibilities for Discharge:

The Provider must:

- ▶ Conduct a discharge planning conference with the participant, family, SC, legal representative and advocate, (if applicable)
- ▶ Develop discharge options to assure the transfer/discharged setting can be expected to meet his/her needs.
  - Update the participant's Individualized Service Plan (ISP).
  - Prepare a written discharge summary to include, at minimum: a summary of participant's health, behavioral issues, social issues and nutritional status.
    - ◆ A copy of the discharge summary and ISP will be provided to the participant or receiving provider with written authorization from the participant.

# Provider Responsibilities for Discharges (cont.)

The provider must:

- ▶ Provide all required services contained in the final update of the ISP and in the transfer/discharge plan prior to the discharge.
  - A provider is not required to provide services if the discharge is due to the participant moving out the provider's geographical region.



# ADHC Only - Additional Responsibilities

- ▶ Prepare and submit to the receiving center or program an updated discharge service plan that includes at minimum:
  - Medical diagnoses,
  - Medication and treatment history/regimen (current physician's orders),
  - Functional needs (inabilities),
  - Any special equipment utilized (dentures, ambulatory aids, eye glasses, etc.),
  - Social data and needs,
  - Financial resources, and
  - Any other info which would enable the receiving ADHC center/caregiver(s) to provide the continued necessary care without interruption.

# Provider Closures

- ▶ When a provider closes, or decides to no longer participate in the Medicaid program, the provider must:
  - Send a 30-day written advance notice must be sent to all participants served and their responsible representatives as well as the following entities:
    - ◆ Support coordination agency (if applicable),
    - ◆ Long Term Care contractor (if applicable)
    - ◆ Health Standards, and
    - ◆ OAAS.
- ▶ Submit a written plan for the disposition of participant services related records for approval by the department.

**Note:** For ADHC closures, the client's physician must also be notified of the closure.

# References:

- ▶ [LT-PCS Provider Manual. Issued 3.29.2018. Section 30.7: LT-PCS Service Delivery.](#)
- ▶ [Community Choices Waiver Provider Manual. Issued 01.01.2019. Section 7.6: Provider Requirements.](#)
- ▶ [Adult Day Health Care Waiver Provider Manual. Issued 1.16.2019. Section 9.2 participant Requirements; Section 9.5 Provider Requirements.](#)
- ▶ [Louisiana Administrative Code Title 48, Chapter 50 Part I §5037. Involuntary Transfers and Discharges.](#)
- ▶ [Louisiana Administrative Code Title 48, Chapter 50 Part I §5026. Cessation of Business.](#)