7.9.2.22 RIGHTS OF RESIDENTS

E. ADMISSION INFORMATION: Be fully informed in writing prior to or at the time of admission, of all services and the charges for these services, and be informed in writing, during the resident’s stay, of any changes in services available or in charges for services, as follows:

(1) No person may be admitted to a facility without that person or that person’s guardian or designated representative signing an acknowledgement of having received a statement of information before or on the day of admission which contains at least the following information or, in the case of a person to be admitted for short-term care, the information required under these regulation.

(a) An accurate description of the basic services provided by the facility, the rate charged for those services, and the method of payment for them;

(c) The method for notifying residents of a change in rates or fees;

(d) Terms for refunding advance payments in case of transfer, death or voluntary or involuntary discharge.

(e) Terms of holding and charging for a bed during a resident's temporary absence.

(f) Conditions for involuntary discharge or transfer, including transfers within the facility;

(h) A summary of residents’ rights recognized and protected by this section and all facility policies and regulations governing resident conduct and responsibilities. No statement of admission information may be in conflict with any part of these regulations.

K. TRANSFER, DISCHARGE AND BEDHOLD: Involuntary transfer shall be conducted only for resident’s welfare, health and safety of others, or failure to pay. Reasons other than failure to pay must be documented by a physician in resident’s record. Prior to transfer the facility must notify resident and/or next of kin or responsible party of right to appeal and name and address of ombudsman.

Q. NON-DISCRIMINATORY TREATMENT: Be free from discrimination based on the source from which the facility's charges for the resident's care are paid, as follows:

(1) No facility may assign a resident to a particular wing or other distinct area of the facility, whether for sleeping, dining or any other purpose, on the basis of the source or amount of payment. A facility only part of which is certified for Medicare/Medicaid reimbursement under Title XVIII/XIX of the Social Security Act is not prohibited from
assigning a resident to the certified part of the facility because of the source of payment for
the resident’s care is Medicare/Medicaid.

(2) Facilities shall offer and provide an identical package of basic services meeting the
requirements of these regulations to all individuals regardless of the sources of a resident’s
payment or amount of payment. Facilities may offer enhancements of basic services,
provided that these enhanced services are made available at an identical cost to all
residents regardless of the source of a resident’s payment. A facility which elects to offer
enhancements to basic services to its residents must provide all residents with a detailed
explanation of enhanced services and the additional charges for these services.

(3) If a facility offers at extra charge additional services which are not covered by the
facility’s provider agreement under which it provides Medicaid and Medicare services, it
shall provide them to any resident willing and able to pay for them, regardless of the source
from which the resident pays the facility’s charges.

(4) No facility may require, offer or provide an identification tag for a resident that publicly
identifies the source from which the facility’s charges for that resident’s care are paid.

7.9.2.38 REMOVALS FROM THE FACILITY:
The provisions of this section shall apply to all resident removals.

A. CONDITIONS: No resident may be temporarily or permanently removed from this facility except:

(1) Voluntary removal: Upon the request or with the informed consent of the resident or
guardian.

(2) Involuntary removal:
(a) For nonpayment of charges, following seven (7) days notice and opportunity to pay any
deficiency.

(b) If the resident requires care other than that which the facility is licensed to provide.

(c) For medical reasons as ordered by a physician.

(d) In case of a medical emergency or disaster.

(e) For the resident’s welfare or the welfare of other residents.

(f) If the resident does not need nursing home care, and alternate placement is identified and
arrangements for transfer have been completed.
(g) If the short-term care period for which the resident was admitted has expired; and

(h) As otherwise permitted by law.

(3) Alternate placement: Except for removal under the preceding section, no resident may be involuntarily removed unless an alternate placement is arranged for the resident.

B. PERMANENT REMOVALS:

(1) Notice: The facility shall provide a resident, the resident’s physician and guardian, relative, or other responsible person, at least thirty (30) days notice of removal under Subsection A of 7.9.2.38 NMAC, except Subparagraph (a) of Paragraph (2) of Subsection A of 7.9.2.38 NMAC, unless the continued presence of the resident endangers the health, safety, or welfare of the resident or other residents.

(2) Removal procedures:

(a) The resident, shall be given a notice containing the time and place of a planning conference; a statement informing the resident that any persons of the resident’s choice may attend the conference; and the procedure for submitting a complaint to the Department.

(b) Unless the resident is receiving respite care or unless precluded by circumstances posing a danger to the health, safety, or welfare of a resident, prior to involuntary removal under Section a planning conference shall be held at least three (3) days before removal with the resident, guardian, if any, any appropriate county agency, and others designated by the resident, including the resident’s physician, to review the need for relocation, assess the effect of relocation on the resident, discuss alternative placements, and develop a relocation plan which includes at least those activities listed below.

(c) Removal activities shall include: counseling regarding the impending removal; arrangements for the resident to visit the potential alternative placement and/or meeting with that facility’s admissions staff, unless medically contra-indicated or waived by the resident; assistance to the resident in planning the moving of belongings and funds to the new facility or quarters; and provisions for needed medications and treatments during relocation.

(d) Discharge records. Upon removal of a resident, all relevant documents shall be prepared and
provided to the facility admitting the resident.

7.9.2.40 BEDHOLD:

A. BEDHOLD: A resident who is on leave or temporarily discharged has expressed an intention to return to the facility under the terms of the admission policy for bedhold, shall not be denied readmission, if level of care remains the same.

B. LIMITATION: The facility shall hold a resident’s bed until the resident returns, until the resident waives his right to have the bed held or until the maximum time allowable as defined by facility policies expires. The facility is responsible for notifying resident and/or family of their bedhold policy.

.9.2.43 NOTIFICATION OF CHANGES IN CONDITION OR STATUS OF RESIDENT:

... B. CHANGES IN STATUS: A resident’s guardian and other person designated in writing by the resident or guardian shall be notified promptly of any significant nonmedical change in the resident’s status, including financial situation, any plan to discharge the resident, or any plan to transfer the resident within the facility or to another facility.