

SUBCHAPTER 5. MANDATORY ACCESS TO CARE

8:39-5.1 Mandatory policies and procedures for access to care

- (a) The facility shall comply with applicable Federal, State, and local laws, rules, and regulations.
- (b) There shall be no discrimination against any resident or group of residents based on method of payment.
- (c) The facility shall meet all currently applicable conditions attached to any certificate of need that has been granted to it.
- (d) If a facility has reason to believe, based on a resident's behavior, that the resident poses a danger to himself or herself or others, and that the facility is not capable of providing proper care to the resident, then an evaluation should be performed and documented in accordance with Guidelines for Inappropriate Behavior and Resident to Resident Abuse in Appendix B, incorporated herein by reference.
- (e) The facility shall make available to indigent individuals at least five percent of its beds or, if the facility is licensed for 100 or more beds, at least 10 percent of its beds. For purposes of this section, an individual is "indigent" if he or she is an applicant for admission or a current resident of the facility, and if he or she would otherwise meet the eligibility requirements of Medicaid reimbursement or county or municipal financial assistance for nursing home care.

8:39-5.2 Admissions

(a) The facility shall establish a single waiting list in chronological order. The order of names shall be predicated upon the order in which a completed written application is received. Hospitalized individuals ready for readmission to the facility are to be added to the top of the list as soon as the hospital notifies the facility of the contemplated discharge. As soon as a bed becomes available, it shall be filled from this waiting list. Provisions can be made for emergency, life-threatening situations or life-care community admissions.

1. The facility shall meet the following requirements:

- i. The facility shall maintain only one waiting list; this list shall reflect a roster updated on a regular basis, of all individuals who have applied for admission to the facility;
- ii. The waiting list shall reflect in chronological order the full name and address of the individual applying by the date the written application for admission is made;
- iii. Facilities that participate in the Medicaid program shall utilize the waiting list to admit individuals on a first-come, first-serve basis in the order in which they apply until the provider's Medicaid occupancy level equals the Statewide occupancy level, or the Medicaid occupancy level set forth in the provider's Certificate of Need, whichever is higher; and
- iv. A file shall be maintained containing full documentation to support any valid reason why the individual whose name appears first on the waiting list is not admitted to the facility.

2. Any Medicaid participating facility whose Medicaid occupancy level is less than the Statewide occupancy level shall not deny admission to a Medicaid eligible individual who has been authorized for nursing facility services by the Long-Term Care Field Office, when a bed becomes available in accord with the waiting list.

- i. Under the provisions of N.J.S.A 10:5-12.2, a facility with a residential unit or a life-care community may give its own residents priority when a bed becomes available.

(b) The facility shall not deny admission to any applicant for admission (“applicant for admission” means an individual who has made a formal application) based on diagnosis or health care needs if the applicant’s health care needs can be reasonably accommodated without reducing the quality of care provided to other residents, and are commensurate with the services provided by the facility.

(c) Whenever the facility denies admission to an applicant for admission, the facility, within 14 days of the denial, shall provide written notice of the denial and the reasons therefore, to the applicant or person applying on the applicant’s behalf. A record of each completed application, including the disposition and stated reason if admission is denied, shall be kept for one year.

8:39-5.3 Transfers

(a) Policies for transfer shall include method of transportation, procedures for security of the resident and all personal belongings or other items that accompany or immediately follow a transferred resident, a transfer form that is consistent with “Patient Information Transfer Form” in Appendix C, incorporated herein by reference, copies of relevant medical records, including assessments (MDS; PASRR) and advance directives if applicable.

(b) The facility shall arrange for transfer of residents to other health care facilities, and to health care services provided outside the nursing home, and in accordance with the physician’s or advanced practice nurse’s orders.

(c) All transfers shall be in accordance with N.J.A.C. 8:39-4.1.

8:39-5.4 Discharges

(a) No resident shall be discharged between 5:00 P.M. and 8:00 A.M., except in an emergency or with the consent of the resident and family or responsible person.

(b) Discharge plans, for those residents considered to be likely candidates for discharge into the community or a less intensive care setting, shall be developed by the interdisciplinary team prior to discharge and shall reflect communication with the resident and/or the resident’s family.

(c) All discharges shall be in accordance with N.J.A.C. 8:39-4.1 and 39.

SUBCHAPTER 6. ADVISORY ACCESS TO CARE

8:39-6.1 Advisory admission policies and procedures

(a) The waiting list of the facility incorporates a system to contact applicants or families at least quarterly, or according to an alternate schedule approved by the Department, to advise them concerning the status of the application and to inquire of the applicant's interest in remaining on the waiting list.

(b) Before admission, the resident's physician, the facility's social worker, the facility's admissions officer (if different from the social worker), and a registered professional nurse discuss the appropriateness of the placement.

(c) The facility makes available to indigent individuals at least 10 percent of its beds or, if the facility is licensed for 100 or more beds, at least 15 percent of its beds. For purposes of this subsection, an individual is "indigent" if he or she is an applicant for admission or a current resident of the facility, and if he or she would otherwise meet the eligibility requirements of Medicaid reimbursement or county or municipal financial assistance for nursing home care.

(d) The facility provides a copy of admissions policies and criteria to all applicants for admission.