

ADMISSIONS NOTICE PACKET

**IMPORTANT INFORMATION FOR NURSING
FACILITY RESIDENTS AND THEIR SPOUSES**



pennsylvania

DEPARTMENT OF PUBLIC WELFARE

PART 1

NOTICE OF RIGHTS OF NURSING FACILITY RESIDENTS

(Applies to Everyone)

Dear Resident:

This is your personal copy of the notice of rights given by the law to residents living in nursing facilities as required by Title XIX of the Social Security Act. The applicable sections (Sec.) of the Social Security Act are provided for your information.

The nursing facility is committed to provide you with professional care and support services which will accommodate your medical and personal care services needs.

By law you have the following rights:

ADVANCE DIRECTIVE - Sec. 1902(w)

You have the right to give advance written instructions to your doctor and others, that in the event you become incapacitated, your nursing facility and your physician will honor your wishes regarding your choice to accept, refuse, or discontinue medical care or surgical treatments.

FREEDOM OF CHOICE - Sec. 1919(c)(1)

You have the right to choose a personal attending physician and to be fully informed in advance about the care and treatment you will receive; to participate in planning your care and treatment; and, to be fully informed in advance of any changes in your care plan or treatment.

FREEDOM FROM RESTRAINTS - Sec. 1919(c)(1)

You have the right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints unless they are required to treat your medical symptoms and are not used for purposes of discipline or for the convenience of staff. Restraints may only be used to ensure your physical safety or the safety of other residents. These limitations must be based upon the written order of a physician which specifies the duration and circumstances which require such restraints.

PRIVACY - Sec. 1919(c)(1)

You have the right to privacy with regard to accommodations, medical treatment, written and telephone communications, visits and meetings with family and other resident groups. Your right to privacy should not be interpreted as a right to a private room.

CONFIDENTIALITY - Sec. 1919(c)(1)

Neither your personal nor your clinical record may be released to anyone who is not involved in providing or monitoring the care provided to you under your plan of care, except with your consent. Exception - your records will be released when required by law, or when you are transferred to another health care institution.

ACCOMMODATION OF NEEDS - Sec. 1919(c)(1)

You have the right to have your personal needs and preferences provided for to the extent that they do not interfere with the rights of other residents of the nursing facility. You must have advance notice of any intention to change either your room or your roommate in order that your personal preferences may be considered prior to any being made.

GRIEVANCES - Sec. 1919(c)(1)

You have the right to object to any treatment or care which has been furnished as well as that which has not been furnished with the assurance that there will be no reprisals for voicing your grievances which must be resolved promptly and fairly. If the need should arise, you may choose to be represented by an attorney.

PARTICIPATION IN RESIDENT AND FAMILY GROUPS - Sec. 1919(c)(1)

You have the right in your nursing facility to organize and participate in resident groups which may include families and friends.

PARTICIPATION IN OTHER ACTIVITIES - Sec. 1919(c)(1)

You have the right to participate in social, religious, and community activities which do not interfere with the rights of other residents in the nursing facility.

EXAMINATION OF SURVEY RESULTS - Sec. 1919(c)(1)

You have the right to examine the results of the most recent survey of the nursing facility as conducted by state or federal authorities and any plan of correction in effect with respect to your nursing facility. The survey results must be made available for your examination by the facility in a place readily accessible to you.

NOTICE OF RIGHTS - Sec. 1919(c)(1)

Your nursing facility must inform you orally and in writing, at the time of your admission to the facility, of your legal rights while you are a resident of the facility. A written statement of your rights must also be provided to you by your nursing facility upon reasonable request.

RIGHTS OF INCAPACITATED RESIDENTS - Sec. 1919(c)(1)

If you are found to be incapacitated under the laws of the state, a guardian will be appointed under state law to act on your behalf.

USE OF PSYCHOPHARMACOLOGIC DRUGS - Sec. 1919(c)(1)

These drugs may only be administered to you on the orders of a physician and only as part of your written plan of care. Your plan of care must describe the plan to eliminate or modify the symptoms for which the drugs are prescribed. At least annually an independent, external consultant must review the appropriateness of your receiving such drugs.

TRANSFER AND DISCHARGE - Sec. 1919(c)(1) and (2)

You cannot be transferred or discharged from your nursing facility except in an emergency; the nursing facility ceases operations; you may endanger the health and safety of the other residents; nonpayment of your share, if any, of your cost of care; improvement in your health to the point where you no longer need nursing facility care; or an urgent need for medical services the nursing facility cannot provide. Except for an emergency or your urgent need for medical services the nursing facility cannot provide, the nursing facility must give you and a relative or other responsible person you have named, 30 days advance written notice of your transfer or discharge. The nursing facility must arrange for your safe and orderly transfer to a site where your needs can be adequately provided for, and the nursing facility must thoroughly prepare you for your upcoming transfer or discharge.

Transfer or discharge does not mean movement of a resident to a bed within the same certified facility.

BED HOLD POLICIES - MEDICAL ASSISTANCE RESIDENTS - Sec. 1919(c)(2)

The Medical Assistance Program will make payment to your nursing facility to hold (reserve) the bed for you when you are away from the nursing facility for a continuous 24 hour period because you are in the hospital or on therapeutic leave. A bed must be available for you when you return to the nursing facility. Pennsylvania's limits on Medical Assistance Program payments for reserved bed days are as follows:

1. Hospitalizations - A maximum of 15 consecutive days per hospitalization. During the 15 day period, the same bed shall be available to you upon your return to the nursing facility.
2. Therapeutic leave - A maximum of 30 days per calendar year (leave days must be included in your Plan of Care and must be ordered by your attending physician.)

ACCESS AND VISITATION RIGHTS - Sec. 1919(c)(3)

You have the right to say who may or may not have access to your nursing facility for the purpose of visiting with you. This includes your family, relatives, or others. Also, you have the right to immediate access by your attending physician or any representative of the federal Department of Health and Human Services, the state Departments of Public Welfare and Health, and the Department of Aging Ombudsman Program. Organizations or individuals providing health, social, legal, or other services may, with your consent, have reasonable visits with you.

EQUAL ACCESS TO QUALITY CARE - Sec. 1919(c)(4)

Your nursing facility must establish and maintain the same policies and practices for all residents regardless of source of payment, regarding transfer, discharge and provision of nursing facility services required under the state plan.

ADMISSION POLICY - Sec 1919(c)(5)

Your nursing facility cannot prohibit or discourage you from applying for or receiving Medicare or Medical Assistance benefits. Your nursing facility must prominently display or provide you with individually written and oral information about how to apply for Medicare or medical assistance benefits, how to use these benefits and how to receive refunds for any prior payments made by you that are covered by these benefits.

If you are entitled to Medical Assistance for nursing facility services, neither you nor anyone on your behalf may be required by the nursing facility to make any payments to the nursing facility as a condition of your admission, to speed up your admission or to guarantee your continued stay in the nursing facility. This requirement does not stop the nursing facility from requesting, accepting, or receiving genuine charitable, religious or humanitarian contributions from organizations or people that are not related to you, if the contribution is not a condition of your admission, to speed up your admission or to guarantee your continued stay in the nursing facility.

The nursing facility must advise you in advance when payments for items or services to be delivered are not covered by the Medical Assistance Program. You must be advised of the costs of the noncovered items or services, and be given the option of accepting or rejecting the charges and the noncovered items or services. This requirement does not stop a nursing facility from charging you for items or services which you requested and received that are not covered by the Medical Assistance Program.

PROTECTION OF PERSONAL FUNDS - Sec 1919(c)(6)

You are not required to deposit your personal funds with your nursing facility.

If you choose, however, to deposit your personal funds with your nursing facility, your nursing facility must provide you with a written authorization form which you must sign, that requires the nursing facility to manage and account for your personal funds OVER \$50.00 in an interest-bearing account. This account must be kept separate from any of your nursing facility's operating accounts. If your funds are kept in the same account (pooled accounts) as other residents, there must be an accounting of each resident's share of the funds and interest in the account.

Any of your personal funds **UNDER** \$50.00 must be kept in a noninterest-bearing account, interest-bearing account, or petty cash fund. Your nursing facility must maintain a full and complete separate accounting of your personal funds; a written record of all financial transactions involving your personal funds; and permit you or your legal representative reasonable access to the records of your account.

If you are a resident receiving Medical Assistance benefits, your nursing facility must let you know when the balance in your account plus the value of your other nonexempt resources reaches \$200.00 less than the amount that may cause you to lose your eligibility for Medical Assistance benefits.

In the event of your death, your nursing facility must promptly (within 30 days) turn over to the executor of your estate your personal funds with a final accounting of those funds.

Your nursing facility must provide assurances to the appropriate state authorities that the personal funds you deposited with your nursing facility are safe and can be accounted for.

If you are a resident receiving Medicare or Medical Assistance benefits, your nursing facility may not deduct from your personal funds the cost of any service or item for which payment is covered by Medical Assistance or Medicare, whichever is applicable.

MEDICAL ASSISTANCE ELIGIBILITY AND PROTECTION OF INCOME AND RESOURCES FOR THE SPOUSE IN THE COMMUNITY

Medical Assistance payment for long term care is available for people who do not have enough income and resources to pay for their care. You can learn more about Medical Assistance by reading Part 2 of this Admissions Notice Packet.

There are special Medical Assistance rules (Section 1924 of the Social Security Act) for protecting income and resources for a person whose spouse is in a nursing facility.

Generally, one-half of the couple's total countable resources at the time of admission to the nursing facility can be set aside for the spouse at home, subject to a minimum and a maximum set by federal law. In 2011, the minimum is \$21,912; the maximum is \$109,560. In some circumstances, more resources may be retained to produce income if the community spouse's income is below the maximum amount established by federal law. In 2011, the maximum monthly income amount is \$2,739.

These minimum and maximum figures are revised annually. You can get updated figures for income and resource limits from your nursing facility, the local county assistance office or the Welfare Help Line: 1-800-692-7462.

DETAILED INFORMATION ABOUT THESE SPECIAL RULES FOR PROTECTING INCOME AND RESOURCES FOR THE SPOUSE AT HOME ARE IN PART 3 OF THIS ADMISSIONS NOTICE PACKET. IT IS IMPORTANT FOR YOU TO READ THE INFORMATION IN PART 3 NOW EVEN IF YOU DO NOT NEED MEDICAL ASSISTANCE NOW.

ESTATE RECOVERY PROGRAM

The Department of Public Welfare is required by federal law to recover Medical Assistance costs paid to certain individuals who have died. Individuals affected are those 55 years of age or older, who received Medical Assistance for any nursing facility services, home and community based services, and any related hospital and prescription drug services on or after August 15, 1994. Costs will be recovered from the assets of the person's probate estate. A probate estate exists when a person dies and his or her assets are distributed by will or by state law.

Generally, the Department does not seek Medical Assistance reimbursement from assets that are not part of the probate estate. Recovery will be delayed until the last of the following conditions occurs:

- the death of the surviving spouse;
- the death of any child who is blind or totally and permanently disabled;
- the date any surviving child is 21 years of age;

- the death of a sibling, who has an equity interest in the property and has been living in the home for at least one year prior to the death of decedent; or;
- the sibling, who has an equity interest in the property and who has been living in the home for at least 1 year prior to the death of the decedent, vacates or transfers the home

If estate recovery would cause undue hardship to the surviving family, the executor may request a waiver by writing to:

Estate Recovery Program
P.O. Box 8486
Harrisburg, PA 17105-8486

QUESTIONS REGARDING THIS PROGRAM MAY BE ADDRESSED TO 1-800-528-3708, (Nationwide).

PAYMENT TOWARDS THE COST OF CARE - MEDICAL ASSISTANCE RESIDENTS

If you are found eligible for payment of nursing facility services, the Department will pay the nursing facility its established MA rate. The resident will also be required to make a payment towards the cost of care.

The payment towards the cost of care is determined after allowing certain deductions. One such deduction is the monthly Personal Needs Allowance. The Personal Needs Allowance is used by the resident to pay for incidentals of his or her own choosing.

The payment towards the cost of care may be reduced by the cost of medically necessary services not covered by the Medical Assistance Program. When the amount of the payment towards the cost of care is reduced appropriately, the Medical Assistance payment amount is increased proportionately so that the nursing facility continues to receive its full established Medical Assistance rate.

RIGHT TO APPEAL

If you do not agree with an action taken by the Department of Public Welfare you or someone on your behalf may request a fair hearing. If you do not agree with an action taken by your nursing facility which affects your eligibility for Medical Assistance, you or someone on your behalf may request a fair hearing.

INFORMATION SOURCES

The following information publications may be posted by your nursing facility, in a prominent and accessible location for your observation:

- Pennsylvania Bulletins (published weekly);
- Medical Assistance Bulletins;
- Income Maintenance Directives;
- Medical Assistance Estate Recovery Program and Related Topics, Questions and Answers
 (brochure available from the Estate Recovery Program)
- Other appropriate resident information to which your nursing facility has access.