Electronic Monitoring and Consumer Protections

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MGS WEBINAR
JUNE 17, 2019

Electronic Monitoring

• Protections go into effect January 1, 2020
• Applies to Nursing Homes, Housing With Services, and future Assisted Living facilities
• Provides a framework for when a resident can install a monitoring device
• Consent form required
• Notice to facility, with exceptions
Discharge Protections

• Go into effect in 2021

• Facility can only discharge you for certain reasons
  • Non payment
  • Not compliant with the AL contract
  • Can't meet needs
  • Resident is endangering others

Discharge Protections

• Facility must hold a meeting to try and resolve issues before discharge
• Facility must let resident back in after a short stay in the hospital
• Resident has appeal rights
Discharge Protections

• If resident is discharged, facility must help plan for discharge to ensure you have an appropriate next home

• If a facility wants to non-renew the lease portion of the Assisted Living contract for persons not receiving services, they must provide 60-day notice and discharge planning protections

Appeals Rights

• If an Assisted Living resident disagrees with the reason for discharge, will now have same appeals rights as Nursing Home residents

• Office of Administrative Hearings decides if the underlying reason for discharge is justified
Retaliation Protections

• Retaliation Protections go into effect August 1, 2019

• Protections are for residents, and those advocating for residents (including employee)

• Applicable to Nursing Homes and Housing With Services (Assisted Living in 2021)

Retaliation Protections

• MDH in charge of determining if retaliation occurred, using a three-part process – detailed in section 101.1
  • Resident or someone on resident's behalf must show they performed one of the protected actions (like complain to the facility about the care)

  • Resident/representative needs to show that the facility took action that could be considered retaliatory within 30 days of the protected action in step one

  • Facility has to explain to MDH (with evidence) why that action was not retaliatory
Other Consumer Rights

• Assisted living resident councils

• Assisted living disclosures about the services offered

• Better regulations around “wellness” checks – a service not well defined in law before this act

Other Consumer Rights

• Protections when a facility is closed or other regulatory action is taken against the facility

• Protections when and under what conditions a resident can be internally transferred within an Assisted Living facility

• Resident Quality of Care and Outcomes Task Force