

XV. Notice to Patients and Public Regarding Suspension/Revocation/Non-Renewal of Designation Status

15.1 If a designation is suspended, revoked, or not renewed, a home health agency shall notify all its patients in writing about the action within 5 days of receipt of the notification of a suspension, revocation or non-renewal. The notice shall include the date of the suspension, revocation or non-renewal and, if the change involves closure of a program or the home health agency, the date upon which the home health agency will no longer accept patients and the effective date of closure, if applicable.

15.2 If a designation is suspended, revoked, or not renewed, a home health agency shall advise the public of such action. The public notice shall be in the form of a paid legal notice in the local area newspaper(s), published within 15 calendar days following receipt by the home health agency of written notification of the suspension, revocation or non-renewal of the designation.

XVI. Admissions, Denials, Reduction of Services, Discharge of Patients and Notice

16.1 A home health agency shall develop and implement policies and procedures that set forth the steps that the home health agency will follow regarding:

- (a) denial of an admission for designated home health services (as used in this Section, a “denial”);
- (b) reduction of services for patients; and
- (c) discharge of patients.

16.2 Discharge planning for patients shall be initiated at the time of admission of a patient to home health services and shall be provided as part of the ongoing assessment of a patient’s continuing care needs and in accordance with expected patient care outcomes.

16.3 When a home health agency denies an application for admission, or reduces the services being provided to a patient or discharges a patient from services pursuant to 16.4(a), 16.4(b) or 16.4(c), the home health agency shall provide a verbal notice followed by a written notice, to the patient and patient representative as applicable. Notices shall be accessible and written in language that is understandable to a layperson. The home health agency shall provide verbal notice to the patient and patient representative, if applicable, either in person or by telephone. The home health agency shall provide written notice by hand-delivery or by mailing the notice to their last known mailing

addresses. For patients placed on a waiting list for homemaker services, a verbal notice alone shall suffice.

16.4 A home health agency may reduce the designated services being provided to a patient or discharge a patient from services only as provided for in this subsection:

- (a) A home health agency may reduce the designated services being provided to a patient or discharge a patient from services with verbal and written notice as soon as practicable when one (1) or more of the following occurs:
 - (i) The patient has requested that the home health services be reduced or that the patient be discharged from services;
 - (ii) The patient has moved out of the home health agency's designated service area;
 - (iii) The patient has chosen another provider and arrangements have been made for the alternate provider to assume responsibility for the home health care needs of the patient; or
 - (iv) The patient is admitted to a hospice, hospital, nursing home, residential care home, or rehabilitation facility;
- (b) A home health agency may reduce the designated services being provided to a patient or discharge a patient from services with written notice at least 2 business days before the reduction in or discharge from services when one (1) or more of the following occurs:
 - (i) Goals and treatment objectives have been met and skilled services are no longer medically necessary as determined by the physician and reflected in the physician's orders;
 - (ii) The home health agency has been notified by the third-party payer, the patient or the case manager that the patient no longer meets the eligibility requirements for the services, or the services are no longer authorized or covered by the patient's health insurance plan; or
 - (iii) The home health agency has been unable to obtain written orders for skilled services from the patient's physician.
- (c) A home health agency may reduce the designated services being provided to a patient or discharge a patient from services with written

notice at least 14 calendar days before the reduction in or discharge from services when one (1) or more of the following occurs:

- (i) The patient has failed to pay for services for which he or she is responsible;
 - (ii) After attempting to resolve the situation, the home health agency determines and documents that the patient's needs cannot be adequately met in the home by the home health agency; or
 - (iii) The patient, primary caregiver or other person in the home has exhibited behavior, including, but not limited to, physical abuse, sexual harassment, verbal threats or abuse, or threatening behavior that poses a safety risk to agency staff.
- (d) A home health agency may reduce services or discharge a patient immediately and without advance notice if the patient, primary caregiver or other person in the home has exhibited behavior which presents an imminent risk of harm to agency staff.
- (e) In emergency situations, when the home health agency cannot reasonably provide advance notice, the agency must provide verbal and written notice as soon as practicable.

16.5 The written notice of a denial of admission to home health services, a reduction in existing home health services, or a discharge from services, shall include the following information:

- (1) The specific reason(s) for the denial, reduction of or discharge from services;
- (2) The effective date of the decision to reduce services or discharge a patient from services;
- (3) Specific information about *how* to appeal, in accordance with Section XXIII. of these regulations;
- (4) Contact information for the Office of the Health Care Advocate and the State Long-Term Care Ombudsman;
- (5) A statement that, while an appeal is pending, the patient may request to continue existing services only, or a statement that no services are available for appeals of the denial of admission to home health services; and

(6) A statement that a request for continuing services, if any, following a reduction in or discharge from services under circumstances listed in Section 16.4(c)(ii) or (iii), shall be made to the Division of Licensing and Protection's State Survey Agency and must be made before the effective date of the intended action.

16.6 A home health agency shall provide for the following when discharging a patient to protect the safety of staff pursuant to Section 16.4(c)(iii).

(a) When discharging a patient from services pursuant to Section 16.4(c)(iii) above, the home health agency shall:

(1) notify the physician, if working under a physician's order, and the case manager, if applicable, of the reason for discharge (i.e., safety concerns);

(2) advise the patient and the patient representative, if applicable, that a discharge from services for safety reasons is being considered;

(3) demonstrate and document in the patient's medical record that a reasonable effort has been made to resolve the problem(s) presented by the patient's behavior or the situation that caused safety concerns; and

(4) document in the patient's record the problem(s) and efforts made to resolve the problem(s).

(b) When, based on the specific circumstances, there is an immediate need to reduce services or to discharge a patient from services due to an imminent risk of harm and the home health agency cannot reasonably provide advance notice, the home health agency need not comply with the requirements set forth in 16.5 and 16.7. Rather, the home health agency must adequately document the basis for its determination that an immediate need to discharge or reduce services existed. The determination as to an immediate need to discharge or reduce services shall be based on an assessment by the home health agency that risk of harm to the home health agency staff providing the services is imminent. The home health agency shall notify the physician, if working under a physician's order, and the case manager, if applicable, of the reason for discharge (i.e., safety concerns);

(c) The home health agency shall provide verbal and written notice to the patient and the patient representative, if applicable, as soon as practicable immediately following the determination to discharge from or

reduce services based on an imminent risk of harm. The notification shall explain:

- (1) the description of the imminent risk of harm;
- (2) the basis for the discharge from or reduction of services;
- (3) the reason why advance notice was not given;
- (4) the effective date of the reduction of services or discharge from services;
- (5) what steps, if any, the patient may take to remediate the situation such that services may be restored;
- (6) specific information about how to appeal, in accordance with Section XXIII of these regulations, including, but not limited to, a statement that the patient may request that services currently in place continue while the appeal is pending, if applicable, and that continuing services are not available unless and until the imminent risk of harm has been remediated.

16.7 When a home health agency determines that a patient will require continuing care after services are discontinued, the agency shall arrange, with the patient's consent, or actively assist the patient with arranging for such services. The home health agency shall document its efforts to arrange for, or assist the patient with arranging for, continued care in the patient's clinical record, and shall provide sufficient clinical information to the receiving entity to assure continuity of care and services. The home health agency shall educate the patient about how to obtain further care, treatment and services to meet his or her identified needs, if applicable.

16.8 A home health agency shall follow the CMS regulations governing notices and appeal rights when the home health agency reduces Medicare covered services for a patient or discharges a patient receiving only Medicare-covered services.

16.9 When a home health agency discharges a patient from services for any of the circumstances specified in this section, the circumstances shall be documented in the patient record.

16.10 In addition to the requirements of this section, in the event that a home health agency discontinues offering a service (other than a designated service) or ceases operation, notice shall be provided in accordance with Section 14.3 above.