HOME HEALTH CONDITION OF PARTICIPATION: PATIENT RIGHTS (§484.50)

Effective 11/29/19 – Revised June 2021 (Updated Oct 2021)

§484.50 Condition of Participation: Patient Rights

The patient and representative (if any), have the right to be informed of the patient's rights in a language and manner the individual understands. The Home Health Agency (HHA) must protect and promote the exercise of these rights.

§484.50(a) Standard: Notice of Rights

The HHA must -

(1) Provide the patient and the patient's representative (if any), the following information during the initial evaluation visit, in advance of furnishing care to the patient:

(i) Written notice of the patient's rights and responsibilities under this rule, and the HHA's transfer and discharge policies as set forth in paragraph (d) of this section *(see page 3, Transfer and Discharge)*. Written notice must be understandable to persons who have limited English proficiency and accessible to individuals with disabilities;

(ii) Contact information for the HHA, including the administrator's name, business address, and business phone number in order to receive complaints.

Agency Name: _____

24 Hour On-Call Number: _____

Administrator Name: _____

Business Address: _____

Business Phone Number: _____

(iii) An OASIS privacy notice to all patients for whom OASIS data is collected. *(The Outcome and Assessment Information Set (OASIS) is a group of standard data elements the HHA collects for Medicare/Medicaid beneficiaries to allow measurement of patient outcomes at two points in time i.e., start of care and discharge.)*

(2) Obtain the patient's or legal representative's signature confirming that he or she has received a copy of the notice of rights and responsibilities.

(3) Removed and reserved effective 11/29/19

(4) Provide written notice of the patient's rights and responsibilities under this rule and the HHA's transfer and discharge policies as set for in paragraph (d) of this section *(see page 3, Transfer and Discharge)* to a patient-selected representative within 4 business days of the initial evaluation visit.

§484.50(b) Standard: Exercise of Rights**

(1) If a patient has been adjudged to lack legal capacity to make health care decisions as established by state law by a court of proper jurisdiction, the rights of the patient may be exercised by the person appointed by the state court to act on the patient's behalf.

(2) If a state court has not adjudged a patient to lack legal capacity to make health care decisions as defined by state law, the patient's representative may exercise the patient's rights.

(3) If a patient has been adjudged to lack legal capacity to make health care decisions under state law by a court of proper jurisdiction, the patient may exercise his or her rights to the extent allowed by court order.

§484.50(c) Standard: Rights of the Patient

The patient has the right to -

(1) Have his or her property and person treated with respect;

(2) Be free from verbal, mental, sexual, and physical abuse, including injuries of unknown source, neglect and misappropriation of property;

(3) Make complaints to the HHA regarding treatment or care that is (or fails to be) furnished, and the lack of respect for property and/or person by anyone who is furnishing services on behalf of the HHA;

Rights of the Patient (continued)

(4) Participate in, be informed about, and consent or refuse care in advance of and during treatment, where appropriate, with respect to –

(i) Completion of all assessments;
(ii) The care to be furnished, based on the comprehensive assessment;
(iii) Establishing and revising the plan of care;
(iv) The disciplines that will furnish the care;
(v) The frequency of visits;
(vi) Expected outcomes of care, including patient-identified goals, and anticipated risks and benefits;
(vii) Any factors that could impact treatment effectiveness; and
(viii) Any changes in the care to be furnished.

(5) Receive all services outlined in the plan of care;

(6) Have a confidential clinical record. Access to or release of patient information and clinical record is permitted in accordance with HIPAA *(Health Insurance Portability and Accountability Act)* regulations (45 CFR part 160-*General Administrative Requirements* and part 164-*Privacy of Individually Identifiable Health Information)*.

(7) Be advised, **orally and in writing,** of –

(i) The extent to which payment for HHA services may be expected from Medicare, Medicaid, or any other federally funded or federal aid program known to the HHA,

(ii) The charges for services that may not be covered by Medicare, Medicaid, or any other federally funded or federal aid program known to the HHA.

(iii) The charges the individual may have to pay before care is initiated; and

(iv) Any changes in the information provided (regarding the payer or charges for services as identified above) in accordance with paragraph (c) (7) of this section *(see (7)(i), (ii), and (iii) above)* when they occur. The HHA must advise the patient and representative (if any) of these changes as soon as possible, in advance of the next home health visit. The HHA must comply with the patient notice requirements at 42 CFR 411.408(d) (2) and 42 CFR 411.408(f*). (These regulations specify the requirements for the written notice used by the HHA to inform the patient in writing before service is provided, if Medicare is likely to deny payment for that service because it is not reasonable or necessary. The Medicare beneficiary or legal representative (if any) would sign the notice and agree in writing to pay for the service.)*

(8) Receive proper written notice, in advance of a specific service being furnished, if the HHA believes that the service may be non-covered care; or in advance of the HHA, reducing or terminating on-going care. The HHA must also comply with the requirements of 42 CFR 405.1200 through 405.1204. *(These regulations specify the requirements for the HHA to provide written notice to the Medicare beneficiary no later than 2 days before the proposed end of home health services, the content of the notice, and the beneficiary's right to appeal the decision.)*

(9) Be advised of the state toll free home health telephone hot line, its contact information, its hours of operation, and that its purpose is to receive complaints or questions about local HHAs.

Missouri Hotline Number: 1-800-392-0210
Hours of Operation: 7:00 AM to 8:00 PM, 7 days a week

(10) Be advised of the names, addresses, and telephone numbers of the following federally-funded and state-funded entities that serve the area where the patient resides:

(i) Agency on Aging

Name:_____

Address:_____

Telephone Number: _____

(ii) Center for Independent Living

Name:_____

Address:_____

Telephone Number: _____

(iii) Protection and Advocacy Agency

Name:_____

Address:_____

Telephone Number: _____

(iv) Aging and Disability Resource Center

Name:_____

Address:_____

Telephone Number: _____

(v) Quality Improvement Organization

Name: **LIVANTA LLC**, BFCC-QIO PROGRAM

Address: 10820 Guilford Road, Suite 202, Annapolis Junction, MD 20701-1105

Telephone Number: PHONE: 1-888-755-5580 TTY: 1-888-985-9295

(11) Be free from any discrimination or reprisal for exercising his or her rights or for voicing grievances to the HHA or an outside entity.

(12) Be informed of the right to access auxiliary aids and language services as described in paragraph (f) of this section *(see page 4, Accessibility),* and how to access these services.

§484.50(d) Standard: Transfer and Discharge

The patient and representative (if any), have a right to be informed of the HHA's policies for transfer and discharge. The HHA may only transfer or discharge the patient from the HHA if:

(1) The transfer or discharge is necessary for the patient's welfare because the HHA and the physician who is responsible for the home health plan of care agree that the HHA can no longer meet the patient's needs, based on the patient's acuity. The HHA must arrange a safe and appropriate transfer to other care entities when the needs of the patient exceed the HHA's capabilities;

(2) The patient or payer will no longer pay for the services provided by the HHA;

(3) The transfer of discharge is appropriate because the physician who is responsible for the home health plan of care and the HHA agree that the measurable outcomes and goals set forth in the plan of care in accordance with §484.60(a)(2)(xiv) *[HHA regulation governing the home health plan of care]* have been achieved, and the HHA and the physician who is responsible for the home health plan of care agree that the patient no longer needs the HHA's services;

(4) The patient refused services, or elects to be transferred or discharged;

(5) The HHA determines, under a policy set by the HHA for the purpose of addressing discharge for cause that meets the requirements of paragraphs (d)(5)(i) through (d)(5)(iii) of this section *(see below),*that the patient's (or other persons in the patient's home) behavior is disruptive, abusive, or uncooperative to the extent that delivery of care top the patient or the ability of the HHA to operate effectively is seriously impaired. The HHA must do the following before it discharges a patient for cause:

(i) Advise the patient, representative (if any), the physician(s) issuing orders for the home health plan of care, and the patient's primary care practitioner or other health care professional who will be responsible for providing

Transfer and Discharge *(continued)*

care and services to the patient after discharge from the HHA (if any), that a discharge for cause is being considered;

(ii) Make efforts to resolve the problem(s) presented by the patient's behavior, the behavior of other persons in the patient's home or situation;

(iii) Provide the patient and representative (if any) with contact information for other agencies or providers who may be able to provide care; and

(iv) Document the problem(s) and efforts made to resolve the problem(s), and enter this documentation into its clinical records;

(6) The patient dies; or

(7) The HHA ceases to operate.

§484.50(e) Standard: Investigation of Complaints**

(1) The HHA must -

(i) Investigate complaints made by a patient, the patient's representative (if any), and the patient's caregivers and family, including, but not limited to, the following topics:

(A) Treatment or care that is (or fails to be) furnished, is furnished inconsistently, or is furnished inappropriately; and

(B) Mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and/or misappropriation of patient property by anyone furnishing services behalf of the HHA.

(ii) Document both the existence of the complaint and the resolution of the complaint, and

(iii) Take action to prevent further potential violations, including retaliation, while the complaint is being investigated.

(2) Any HHA staff (whether employed directly or under arrangements) in the normal course of providing services to patients, who identifies, notices, or recognizes incidences or circumstances of mistreatment, neglect, verbal, mental, sexual, and/or physical abuse, including injuries of unknown source, or misappropriation of patient property, must report these findings immediately to the HHA and other appropriate authorities in accordance with state law.

§484.50(f) Standard: Accessibility

Information must be provided to patients in plain language and in a manner that is accessible and timely to -

(1) Persons with disabilities, including accessible web sites and the provision of auxiliary aids and services at no cost to the individual in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. (*Section 504 of the 1973 Rehabilitation Act was the first disability civil rights law to be enacted in the United States. It prohibits discrimination against people with disabilities in programs that receive federal financial assistance, and set the stage for enactment of the Americans with Disabilities Act.)*

(2) Persons with limited English proficiency through the provision of language services at no cost to the individual, including oral interpretation and written translations.

**Items starred do NOT need to be listed on the patient rights information provided to the patient at the start of care per CMS. The Bureau of Home Care and Rehabilitative Standards recommends that you include this information, but you are not required to do so. (Revised January 2020)