

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 30—Division of Regulation and Licensure**  
**Chapter 82—General Licensure Requirements**

**PROPOSED AMENDMENT**

**19 CSR 30-82.050 Transfer and Discharge Procedures.** The Department is amending sections (4), (6), (7), and (8).

*PURPOSE: This amendment transitions transfer and discharge hearings from the Department of Social Services to the Department of Health and Senior Services, updates the mailing address and adds a fax number, a phone number and email address about where to send transfer or discharge appeals and motions and where to contact the Department of Health and Senior Services.*

(4) Before a facility transfers or discharges a resident, the facility shall—

(A) Send written notice to the resident in a language and manner reasonably calculated to be understood by the resident. The notice must also be sent to any legally authorized representative of the resident and to at least one family member. In the event that there is no family member known to the facility, the facility shall send a copy of the notice to the appropriate regional coordinator of the Missouri State Ombudsman's office;

(B) Include in the written notice the following information:

1. The reason for the transfer or discharge;

2. The effective date of transfer or discharge;

3. The resident's right to appeal the transfer or discharge notice to the director of the *[Division of Aging]* **Department of Health and Senior Services** or his/her designated hearing official within thirty (30) days of the receipt of the notice;

4. *[The address to which the]* **That a request for a hearing should be sent to *[Administrative Hearings Unit, Division of Legal Services, P.O. Box 1527, Jefferson City, MO 65102-1527]***

**Department of Health and Senior Services Appeals Unit, P.O. Box 570, 912 Wildwood Drive 3<sup>rd</sup> floor, Jefferson City, Missouri 65102-0570; by fax to (573) 751-0247 or by email to [DHSS.Appeals@health.mo.gov](mailto:DHSS.Appeals@health.mo.gov) and the phone number for the appeals unit is (573) 522-1699;**

5. That filing an appeal will allow a resident to remain in the facility until the hearing is held unless a hearing official finds otherwise;

6. The location to which the resident is being transferred or discharged;

7. The name, address and telephone number of the designated regional long-term care ombudsman office;

8. For Medicare and Medicaid certified facility residents with developmental disabilities, the mailing address and telephone number of the Missouri Protection and Advocacy Agency, 925 South Country Club Drive, Jefferson City, MO 65109, (573) 893-3333, or the current address and telephone number of the protection advocacy agency if it has changed. The protection and advocacy agency is responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act. For Medicare and Medicaid certified facility residents with mental illness, the address and telephone number of Missouri Protection and Advocacy Agency, the agency responsible for persons with mental illness under the Protection and Advocacy for Mentally Ill Individuals Act; and

(C) Record and document in detail in each affected resident's record the reason for the transfer or discharge. The recording of the reason for the transfer or discharge shall be entered into the resident's record prior to the date the resident receives notice of the transfer or discharge, or prior to the time when the transferring or discharging facility decides to transfer or discharge the resident.

(6) Any resident of a facility who receives notice of discharge from the facility in which he/she resides may file an appeal of the notice with the *[Administrative Hearings Section, Division of Legal Services, P.O. Box 1527, Jefferson City, MO 65102-1527]* **Department of Health and Senior Services Appeals Unit, P.O. Box 570, 912 Wildwood Drive 3<sup>rd</sup> floor, Jefferson City, Missouri 65102-0570; by fax to (573) 751-0247 or by email to DHSS.Appeals@health.mo.gov** within thirty (30) days of the date the resident received the discharge notice from the facility. The resident's legal guardian, the resident's attorney-in-fact appointed under sections 404.700–404.725, RSMo (Durable Power of Attorney Law of Missouri) or pursuant to sections 404.800–404.865, RSMo (Durable Power of Attorney for Health Care Act) or any other individual may file an appeal on the resident's behalf. A Nursing Facility Transfer or Discharge Hearing Request form (MO Form 886-3245) to request a hearing may be obtained from the Division of Aging or the regional ombudsman. However, the use of a form is not required in order to file a request for a hearing. The request for a hearing shall be verified in writing by the resident, his/her legal guardian, attorney-in-fact, or any other party requesting a hearing on the resident's behalf by attesting to the truth of the resident's request for a hearing.

(7) The director of the Department of *[Social Services]* **Health and Senior Services** shall designate a hearing official to hear and decide the resident's appeal.

(A) The designated hearing official shall notify the resident, the state long-term care ombudsman and the facility that the request for a hearing has been received and that a hearing has been scheduled.

(B) The hearing may be held by telephone conference call or in person at any location the designated hearing official deems reasonably appropriate to accommodate the resident's needs.

(8) The discharge of the resident shall be stayed at the time the request for a hearing was filed unless the facility can show good cause why the resident should not remain in the facility until a written hearing decision has been issued by the designated hearing official. Good cause shall include, but is not limited to, those exceptions when the facility may notify the resident of a discharge from the facility with less than thirty (30) days notice as set forth in section (5) of this rule.

(A) The facility may show good cause for discharging the resident prior to a hearing decision being issued by the designated hearing official by filing a written Motion to Set Aside the Stay with the *[Administrative Hearings Unit]* **Department of Health and Senior Services Appeals Unit** at the address, **fax number or email address** in paragraph (4)(B)4. The facility must provide a copy of the Motion to Set Aside the Stay to the resident, or to the resident's legally authorized representative and to at least one (1) family member, if one is known. In the event that a resident has no legally authorized representative and no known family members, then a copy of the Motion to Set Aside the Stay must be provided to the Missouri State Long-Term Care Ombudsman's Office.

(B) Within five (5) days after a written Motion to Set Aside the Stay has been filed with the *[Administrative Hearings Unit,]* the designated hearing official shall schedule a hearing to determine whether the facility has good cause to discharge the resident prior to a written hearing decision being issued. Notice of the good cause hearing need not be in writing. All parties and representatives who received a copy of the Motion to Set Aside the Stay under subsection (8)(A) of this rule shall also be notified of the good cause hearing.

1. The designated hearing official shall have the discretion to consolidate the facility's good cause hearing with the discharge hearing requested by the resident. In the case of an emergency discharge, an expedited hearing shall be held upon the request of the resident, legally authorized representative, family member, and in a case where notice was required to be sent to the regional ombudsman, to the state long-term care ombudsman, so long as the parties waive the ten (10)-day notice requirement specified in section (9).

2. Subsequent to the good cause hearing, the designated hearing official shall issue an order granting or denying the facility's Motion to Set Aside the Stay. If the facility's good cause hearing and the resident's discharge hearing were consolidated, the order shall also set forth whether the facility may discharge the resident.

*AUTHORITY: sections 192.2000, 198.088, [RSMo 1994, and 660.050,] and 198.009 RSMo [Supp. 1997] 2016.\* This rule was originally filed as 13 CSR 15-10.050. Original rule filed Feb. 13, 1998, effective Sept. 30, 1998. Moved to 19 CSR 30-82.050, effective Aug. 28, 2001.*

*Original authority: 198.088, RSMo 1997, amended 1988, 1989, 1994 and 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Carmen Grover-Slattery, Regulation Unit Manager, Section for Long-Term Care Regulation, PO Box 570, Jefferson City, MO 65102-0570 or at RegulationUnit@health.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*