

3701-61-02

**Right to challenge transfer or discharge.**

(A) A home may transfer or discharge a resident, in the absence of a request from the resident, only for the following reasons:

- (1) The resident's health has improved sufficiently so that the resident no longer needs the services provided by the home;
- (2) The welfare and needs of the resident cannot be met in the home;
- (3) The resident has failed, after receiving reasonable and appropriate notice, to pay or to have the medicare or medicaid program pay on the resident's behalf, for the care provided by the home. A resident ~~shall~~will not be considered to have failed to have the resident's care paid for if the resident has applied for medicaid, unless both of the following are the case:
  - (a) The resident's application, or a substantially similar previous application, has been denied by the county department of job and family services;
  - (b) If the resident appealed the denial pursuant to division (C) of section 5101.35 of the Revised Code, the director of job and family services has upheld the denial; If the Resident has appealed the denial of Medicaid and the appeal or review process is still pending with Medicaid, or if the resident has submitted an amended or substitute application with Medicaid that is accepted for review by that agency, the facility will not initiate discharge proceedings.
- (4) The home's license has been revoked under Chapter 3721. of the Revised Code;
- (5) The home is being closed pursuant to section 3721.08, sections 5165.60 to 5165.89 or section 5155.31 of the Revised Code, or the home otherwise ceases to operate;
- (6) The resident is a recipient of medicaid and the home's participation in the medicaid program is involuntarily terminated or denied;
- (7) The resident is a beneficiary under the medicare program and the home's participation in the medicare program is involuntarily terminated or denied;
- (8) The safety of individuals in the home is endangered due to the clinical or behavioral status of the resident;
- (9) The health of individuals in the home would otherwise be endangered.

- (B) Pursuant to division (D) of section 3721.16 of the Revised Code, and paragraph (E) of rule 3701-61-03 of the Administrative Code a resident or resident's sponsor may challenge a transfer or discharge by requesting an impartial hearing unless the transfer or discharge is ~~required~~ necessary because of one of the reasons specified in paragraphs (A)(4) to (A)(7) of this rule.

Effective: 2/1/2024

Five Year Review (FYR) Dates: 11/6/2023 and 02/01/2029

CERTIFIED ELECTRONICALLY

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Certification

01/22/2024

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Date

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Rule Amplifies: 3721.13, 3721.16

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