

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) ~~Medical reasons~~ 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 ~~or of another resident~~ cannot be met in the home;
- (3) ~~Nonpayment of charges due the home. For purposes of this provision, "nonpayment" means that the~~ The resident has failed, after receiving reasonable and appropriate notice, to pay for, or to have the paid under medicare or medicaid program pay on the resident's behalf, the charges due for the care provided by the home. A resident shall 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;
- (4) The home's license ~~is being~~ has been revoked under Chapter 3721. of the Revised Code;
- (5) The home is being closed pursuant to section 3721.08, sections 5111.35 to 5111.62 or section 5155.31 of the Revised Code, or the home otherwise ceases to operate;
- (6) The resident is a recipient of ~~medical assistance under section 5111.01 of the Revised Code~~ medicaid and the home's participation in the ~~medical assistance~~ medicaid program is involuntarily terminated or denied;
- (7) The resident is a beneficiary under ~~Title XVIII of the Social Security Act~~ the medicare program and the home's ~~certification under Title XVIII~~ participation in the medicare program is involuntarily terminated or denied;
- (8) The safety of individuals in the home is endangered;
- (9) The health of individuals in the home would otherwise be endangered.

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

Effective:

R.C. 119.032 review dates: 09/30/2004

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 3721.11  
Rule Amplifies: 3721.13, 3721.16  
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