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Elder Rights

INFORMATION PACKET

SEE ALSO: ADVANCE DIRECTIVES | FALLS PREVENTION | ELDER FINANCIAL PLANNING | CAREGIVER SUPPORT

The Summit Senior Coalition is proud to offer this packet of information for your use. We've collected resources from local offices and website from around the Internet. We believe this is a good start to building your toolkit as you research the topic.

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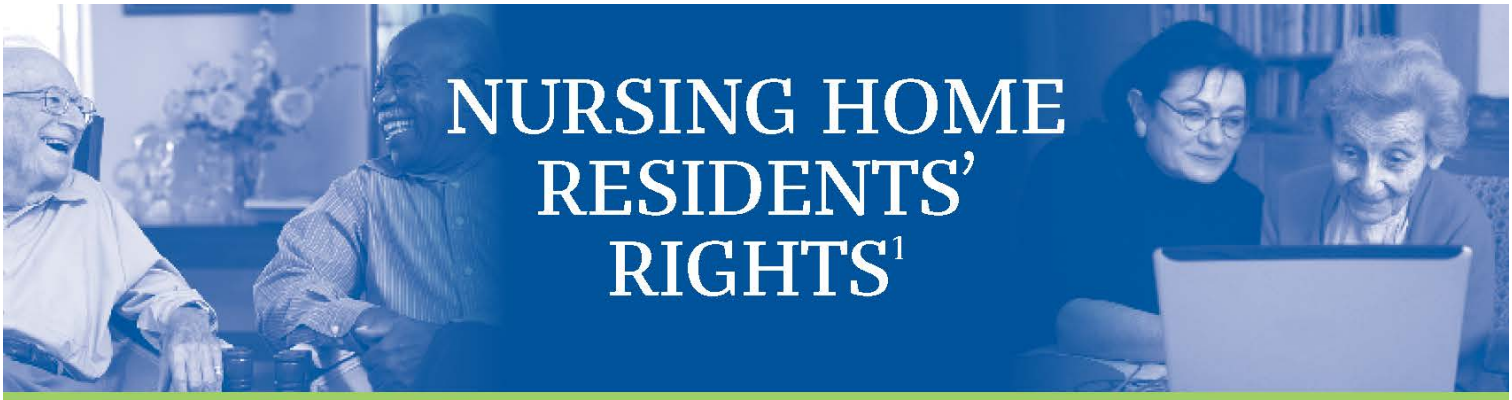
How to Use This Packet

Residing in a long-term care facility does not mean that you have given up your autonomy. Learn what rights you have on pages 3-4. Pages 5 - 16 offer information on what kind of care one should expect from a facility. Advice on how to choose the nursing home that best fits you can be found on pages 17 - 22. On page 23 you will find information on what staffing and coverage is required in a nursing facility by Medicare.



NURSING HOME RESIDENTS' RIGHTS[1]

[1]See 42 CFR §483 for a full listing of Residents' Rights

Residents of nursing homes have rights that are guaranteed by the federal Nursing Home Reform Law. The law requires nursing homes to "promote and protect the rights of each resident" and stresses individual dignity and self-determination. Many states also include residents' rights in state law or regulation.

Right to a Dignified Existence

- Be treated with consideration, respect, and dignity, recognizing each resident's individuality
- Freedom from abuse, neglect, exploitation, and misappropriation of property
- Freedom from physical or chemical restraints
- Quality of life is maintained or improved
- Exercise rights without interference, coercion, discrimination, or reprisal
- A homelike environment, and use of personal belongings when possible
- Equal access to quality care
- Security of possessions

Right to Self-Determination

- Choice of activities, schedules, health care, and providers, including attending physician
- Reasonable accommodation of needs and preferences
- Participate in developing and implementing a person-centered plan of care that incorporates personal and cultural preferences
- Choice about designating a representative to exercise his or her rights
- Organize and participate in resident and family groups
- Request, refuse, and/or discontinue treatment

Right to be Fully Informed of

- The type of care to be provided, and risks and benefits of proposed treatments
- Changes to the plan of care, or in medical or health status
- Rules and regulations, including a written copy of residents' rights
- Contact information for the long-term care ombudsman program and the state survey agency
- State survey reports and the nursing facility's plan of correction
- Written notice before a change in room or roommate
- Notices and information in a language or manner he or she understands (Spanish, Braille, etc.)

Right to Raise Grievances

- Present grievances without discrimination or retaliation, or the fear of it
- Prompt efforts by the facility to resolve grievances, and provide a written decision upon request
- To file a complaint with the long-term care ombudsman program or the state survey agency

Right of Access to

- Individuals, services, community members, and activities inside and outside the facility
- Visitors of his or her choosing, at any time, and the right to refuse visitors
- Personal and medical records
- His or her personal physician and representatives from the state survey agency and long-term care ombudsman program
- Assistance if sensory impairments exist
- Participate in social, religious, and community activities

Rights Regarding Financial Affairs

- Manage his or her financial affairs
- Information about available services and the charges for each service
- Personal funds of more than $100 ($50 for residents whose care is funded by Medicaid) deposited by the facility in a separate interest-bearing account, and financial statements quarterly or upon request
- Not be charged for services covered by Medicaid or Medicare

Right to Privacy

- Regarding personal, financial, and medical affairs
- Private and unrestricted communication with any person of their choice
- During treatment and care of personal needs

Rights During Discharge/Transfer

- Right to appeal the proposed transfer or discharge and not be discharged while an appeal is pending
- Receive 30-day written notice of discharge or transfer that includes: the reason; the effective date; the location going to; appeal rights and process for filing an appeal; and the name and contact information for the long-term care ombudsman
- Preparation and orientation to ensure safe and orderly transfer or discharge
- Notice of the right to return to the facility after hospitalization or therapeutic leave

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GET HELP

The National CONSUMER VOICE for Quality Long-Term Care formerly NCCNHR

For more information about Residents' Rights, or questions or concerns, contact your Long-Term Care Ombudsman Program. The Long-Term Care Ombudsman Program promotes and protects the rights of residents in licensed long-term care facilities. Visit **www.theconsumervoice.org** for more information.

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BASICS OF INDIVIDUALIZED QUALITY CARE

Individualized care is the right of every nursing home resident. The Nursing Home Reform Law of 1987 requires that residents receive services and activities to "attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident in accordance with a written plan of care..." Quality of care means what care is provided. The law also requires nursing facilities to "care for its residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident." An emphasis is placed on dignity, choice, and self determination for residents. Quality of life means how care is provided.

The law requires nursing facilities to provide quality of care in a way that supports quality of life for each resident. When facilities do this, they achieve individualized care for each resident. Residents and family members should expect the facility to provide individualized care based on Quality of Care Basics.

Read a real resident's experience in one nursing home and follow how an Individualized Plan of Care should be developed. For this example, four areas of care will be used: (1) the assessment and care plan process (the basis for individualized care), (2) toileting, (3) hydration, and (4) mobility. (For more information, see Burger et al "Nursing Homes: Getting Good Care There," Chapters 4 and 5, available from the Consumer Voice).

HOW ONE NURSING HOME RESIDENT AND HER DAUGHTER CAN ACHIEVE THE BASICS OF INDIVIDUALIZED CARE

Your mother lived independently until she suffered a stroke two months ago. Your need to work prevents you from bringing her to your home for care. Together you made the decision that she would go to a nursing home for rehabilitation. The stroke left her with right-sided weakness (she is also right-handed) and some inability to make herself understood. Based on your mother's excellent response to rehab in the hospital, her physician thinks she should continue to make progress and return home in eight to twelve weeks.

The nursing home staff welcomed your mom. You both felt confident about your decision. Your mom's roommate was glad for the company and was patient with her slow speech. Your mom asked you to attend the first care planning conference with her. The staff said your mom would receive physical therapy three times a week, and speech and occupational therapy once a week.

You're both pleased with the therapy program, but your mother complained that the nursing staff will not take her to the toilet except as part of the therapy sessions. A fastidious woman, your mother knows when she has to go the bathroom and was determined to use the toilet, not a brief (diaper), bedpan, or commode. At the end of her second month in the facility, you noticed that you had difficulty opening your mother's right hand for the manicure she loved to get. Her skin looked very dry and flaky. Your mom's spirits seemed to be sinking. In fact, recently she seemed to be getting worse, not better.

When you mentioned these concerns to the staff, you were told that this happens to all frail, old people. The nursing staff then suggested speaking with the doctor to obtain an order for an antidepressant. You became really concerned.

ASSESSMENT AND CARE PLANNING

The Resident Assessment and Care Plan Process: In order to know what care and services to provide and how to provide them, the law requires a careful and thorough assessment of your mom. Staff need to learn your mom's strengths and needs. A list of assessment items relating to your mom includes:

- Her life history, daily routines, strengths, interests, food likes and dislikes, and other personal information. (Think of this information as the important details about your mother that reflects who she is as an individual, and which will form the basis for planning her care.)

- Her ability to function including walking, dressing, using the toilet, and eating. (The stroke has affected your mom's right and dominant side, so she will need assistance to regain independence.)

- Physical or mental conditions that may affect her ability to recover. (Except for the stroke, she is quite healthy mentally and physically.)
- Her potential for improvement. (Her physician expects her to recover and go home.)
- Communication abilities. (Her speech is slowed.)
- Nutritional status and medications. (She must relearn to feed herself and manage her own medications.)

The assessment is completed by day 7 in a skilled unit (your mother's situation at first); by the 14th day in a nursing facility (long term chronic care); and once a year thereafter, or whenever a resident's condition changes. The assessment is done by the interdisciplinary team (IDT) that includes: the resident, direct caregiver(s), nurse, physician, physical therapist, occupational therapist, speech therapist, activity therapist, dietitian, and social worker. The assessment information is the foundation for the care planning process.

DEVELOPING AN INDIVIDUALIZED CARE PLAN

The Care Plan, by law, is initially prepared with participation to the extent practicable of the resident or the resident's family or legal representative. The initial care plan must be complete by the 21st day of her stay, and subsequent care plan reviews are repeated quarterly, or whenever there is a major change in a resident's condition. The initial care plan process begins during the assessment. It is called an Individualized Care Plan because each resident's conditions, abilities, needs, routines, and goals are unique, requiring a plan of care (road map for care) that reflects who this individual is. The overarching goal is for your mother to return home and live as independently as possible. There are many little goals along the way. Care plan goals are all measurable, time limited, and the team member responsible for each is identified. This simply means that each goal will be clearly identified and stated. Each goal will also list an estimated time for accomplishment, as well as the specific team member(s) responsible in assisting to achieve that goal.

Physical Therapy will help your mother to regain the ability to walk. Occupational Therapy will assist her in attaining independence in dressing, eating, and toileting. Speech Therapy will help to improve her slow speech pattern. But therapy only takes up a few hours each day. The IDT must plan what happens for the rest of the 24-hour period. This plan must support your mother's goal for independence and prevent any harm from occurring. The Plan of Care must then be relayed to each staff member, including the Certified Nursing Assistants (CNAs), so that everyone is consistent in helping your mom reach her stated goals.

Traditionally, nursing homes have used nursing/medical model care plans. That type of plan is not suited to individualized nursing home care. It is written from the staff perspective rather than each resident's perspective.

Here is an example of what you may find:

Problem
Incontinence

Goal
Will become independent in toileting

Approaches
Assist to bedpan at 6 am, 9am, 12 noon, 4pm, 9pm (or when requests) (CNA). Assess ability to stand and pivot on left leg in one week to transfer to commode or toilet, 2/14/16 (N/PT*).

Here is an example of an individualized care plan written from a resident's perspective:

Need
I need assistance with using the bathroom.

Goal
I want to regain my independence in using the toilet so that I may go home.

Approaches
I know when I have to go to the bathroom and will tell you. Please assist me to the bed pan on my usual schedule from home at 6am, 9am, 12 noon, 4pm, 9pm (and when I request) (CNA). Assess my ability to stand and pivot on left leg in one week. Then help me to the commode or toilet, 2/14/16 (N/PT*).

*CNA=Certified Nursing Assistant, N=Nursing; PT=Physical Therapy; OT=Occupational Therapy; ST=Speech Therapy; D=Dietary

THREE EXAMPLES OF BASIC QUALITY OF CARE PRACTICES FOLLOW: TOILETING, HYDRATION, AND MOBILITY

Toileting

Basic Quality of Care Practices for Toileting:

- If a resident can toilet with a little assistance, then assistance must be available as needed 24 hours a day.
- Toileting assistance is given according to a written individualized schedule and whenever a resident asks.
- The number of people to safely assist with transfer/ambulation is clearly stated and are available. This may change as the resident becomes more independent (e.g. two person assist, one person assist, and staff monitor for safety).
- The toileting equipment is appropriate to the person's ability, and changes as ability improves (e.g. bedpan, commode, bathroom toilet).
- Each resident has a clearly identified, functional method of asking for assistance (e.g. call bell or other signal device placed for easy use).
- Privacy is assured in toileting so a resident is never exposed (e.g. room door is closed, curtain between beds is pulled, window blinds are closed).
- Toileting hygiene is meticulous to avoid skin irritation/breakdown as well as the spread of infection.
- Night toileting schedule is identified depending on each resident's preferences and need for uninterrupted sleep (e.g. some residents prefer to remain sleeping and opt to use an adult brief (diaper) at night).
- Nurses/CNAs and others observe the urine for color, smell, and amount as described in the Care Plan.

Your Mom and You

Your mom knows when she has to use the toilet, but needs help. Her bladder has always functioned well, and she still uses the toilet after breakfast, before lunch, late afternoon, before bed at 9:00pm, and upon awakening. Her routine is to use the toilet five times in a 24-hour period.

Need

Need assistance to the bathroom

Goal

Gain independence in toileting

Approaches

- Assist to bedpan at 6am, 9am, 12 noon, 4pm, 9pm (or when requests) (CNA*). Assess ability to stand and pivot on left leg to transfer to commode or toilet in one week, 2/14/16 (N/PT)
- Assist to bedside commode: (same schedule) (CNA). Assess ability to walk to bathroom (15 feet) with assistance in two weeks, 3/1/16 (N/PT).
- With each incontinent episode, assist resident to wash with her own personal soap. After careful drying, apply a skin barrier cream (CNA).
- Monitor skin for redness, irritation, skin breakdown, turgor, etc. (N).
- Weekly skin assessment for redness, irritation, skin breakdown, turgor, etc. (N).
- Place hand washing supplies (sanitizing hand wipes) on left side of the bed within easy reach (CNA/N).
- Place a trash disposal system on left side of the bed within easy reach (CNA/N).
- Two-person assist to bathroom (same schedule) (CNA). Assess ability for one person to assist in one week, 3/8/16 (N/PT).
- One-person assist to bathroom (same schedule) (CNA). Assess ability for independence with cane in two weeks, 3/22/16 (N/PT).
- Monitor safety of self-toileting with the use of quad cane (N).

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Tips for Monitoring the Individualized Care Plan for Toileting/Continence

- Be vigilant that your mother is toileted on her individualized schedule rather than someone else's schedule (e.g. on her lifelong schedule every 3-5 hours, rather than every two hours, which does not help your mother and wastes staff time).
- Be especially watchful on evenings, nights, weekends, Mondays and Friday, and holidays, when there may be less staff. If the facility is short staffed, or staff is poorly monitored, then they may tell a resident that she must use a brief (diaper). This is both a quality of care and quality of life issue. The indignity of soiling herself and the feelings of helplessness may be the cause of depression.
- Provide your mom with her special soap and skin creams. Also provide the easy-open, sanitizing hand wipes. Check remaining quantities to see if they are being used.
- Check that the call bell is on her left side so she can request help until she can use her right side.
- Staff shortages can cause staff to withhold fluids so the need to toilet is less frequent. Does she drink her tea when pills are passed, at lunch, and between meals?
- Telephone the charge nurse at odd hours (e.g.1a.m); ask about the number of available staff on duty. Keep a record of who you spoke to and what was said.
- While visiting, check that the call bell is on the left side and monitor the timeliness of staff assistance to the toilet. Ask your mom if she ever has to wait too long for assistance to the bathroom. Incontinence causes wet skin and clothing, which may lead to skin breakdown and pressure ulcers.
- When possible, vary your visit times to avoid staff from becoming too familiar with your arrival times (some staff members are inclined to give care only when the family is expected to visit).
- If you help your mother to the bathroom, be sure you are aware of her current transfer, ambulation, and assist ability. This is to avoid the possibility of injury to your mother or yourself. When in doubt, always ask.

Hydration (getting enough to drink)

Basic Quality of Care Practices for Hydration:

- Most residents should drink about eight glasses of fluid a day.
- Fluids that the resident likes should be available, within reach, 24 hours a day. At meal-time, fluids should be served at a temperature that is safe and is according to the resident's preference.
- If a resident cannot remember to drink, then staff must remember and assist with drinking throughout the day according to the resident's lifelong routine.
- If a resident cannot drink, then staff must assist at meals, between meals, and at night as needed.
- If a resident needs to relearn how to drink, then staff must teach her and take responsibility for providing the rest of the fluid through IV, naso-gastric, or stomach tube.
- A resident is assessed by Occupational Therapy and, if needed, given special equipment such as a large handled/weighted cup to foster independence in drinking. Fluids are the right consistency to promote safe swallowing (e.g. thin liquids, thickened liquids, jello, puddings), to avoid the possibility of liquids going into the lungs, causing a condition.
- Staff monitor the amount of fluid taken every 24 hours and monitor for signs of dehydration (e.g. dry, flaky skin, poor skin tension, dry, cracked lips, dry mucous membranes in mouth, increased irritation, restlessness or confusion, and the presence of strong, odorous, dark colored urine).
- Staff should also keep track of the amount of urine passed each 24 hours (this is referred to as "I & O", Intake and Output, the monitoring of the amount of fluids taken in compared to the amount of urine passed out).
- Staff monitors the progress of a resident to drink independently and changes the care plan as often as needed to reach that goal.

Your Mom and You

You noticed already that your mom has very dry skin and seems to be shriveling up before your eyes. Her urine smells strong, another sign of not enough to drink. To effectively address this issue, your mother's individualized care plan might say:

Need
Assistance with drinking an adequate amount of fluids.

Goal
Gain independence in hydration.

Approaches
Encourage to use both hands and large handled cup filled with iced tea at meals. Put bedside/chair side tea on left side. Hates water, likes iced tea. Assess ability to use right hand in two weeks, 2/21/16 (N/OT/D).

Encourage use of right hand using large handled cup filled with iced tea. Put bedside/chair side tea on right side. Assess ability for independent drinking in two weeks, 3/7/16 (N/OT/D).

Monitor and record independent hydration (eight glasses/64 ounces/2000cc per 24 hours) for one week to assure ability to hydrate independently (N).

Tips for Monitoring the Individualized Plan of Care for Hydration

- Make sure the large handled cup is at the bedside on the left side until your mother is able to reach with her right side, then reverse bedside table to force use of her right hand.
- You and your family members agree to bring your mother's favorite iced tea mix. You follow up to be sure your mother is having this drink.
- Families should see residents drink fluids at meals three times a day, between meals when pills are passed (usually 4-8 ounces), and before bedtime at the very minimum.
- Check your mother's skin, eyes, and mouth for increased dryness, especially on Mondays, Fridays, weekends, and holidays. Report any signs of dryness to staff.
- Notice and report the presence of any skin changes/irritations/breakdown, as well as the presence of strong, dark, odorous, or small amounts of urine.
- Advise the staff of the amount of fluids that were taken during your visit so that it can be calculated in the 24 hour total (I & O).

Mobility

- Any part of a resident's body that moves independently upon entering the nursing home must be maintained by the resident or staff.
- If any part of the body cannot be moved independently, then staff must move it for the resident (e.g. move each joint in each finger).
- Active and passive range of motion (ROM) exercises are done at least twice a day to prevent loss of mobility (e.g. if your mom is able to move her left arm above her head on the day of admission, that ability is maintained by active range of motion).
- Passive ROM is done for a person until active ROM is achieved (e.g. if your mom is not able to lift her arm above her head on the day of admission, then that ability is attained first through passive ROM and then active ROM).
- Active ROM is done with a resident or independently by a resident.
- A resident who can walk without assistance should maintain that ability.
- A resident who does not need a wheelchair on admission should not use one.
- When a resident is sitting or lying down, alignment of the body (so that the two sides look equal) is accomplished by use of pillows, bolsters, towel rolls, and wedges.

Your Mom and You

Your mother's right side is weak and special care is needed to prevent permanent damage from a contracture, which occurs because weak muscles tend to shorten or contract. You noticed her curled right hand (remember the manicure?) indicating harm is already occurring. Her individualized care plan might say:

Need
Assistance with keeping joints mobile

Goal
Prevent contractures

Approaches

- Assist with passive ROM exercises of all joints on right side when dressing and undressing. Assist with active ROM on left side (CNA). Assess ability to participate actively on right side in one week, 2/14/16 (N/PT).
- Position in bed, chair, and wheelchair for good body alignment with pillows, bolsters, and blankets. Use small rolled towel for the right hand (CNA). Assess in one week, 2/14/16 (N/PT).
- Assist with and teach active ROM exercises of all joints on right and left side when dressing and undressing. Assess ability to do these active exercises independently in one month, 3/14/16 (N/OT/PT).
- Assess right hand contracture for possible need of splint; provide instructions for application (OT).
- Assess ability to do active exercises independently on both sides in one month, 3/14/16 (N/OT/PT).
- Position in bed, chair, and wheelchair for good body alignment with pillows and bolsters. Assess for teaching independence in positioning in three weeks, 3/7/16 (N/PT).

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Tips for Monitoring the Individualized Care Plan for Mobility

- Ask your mom if the certified nursing assistants (CNAs) are assisting with the active ROM to her left side at 10:00 a.m. and 8:00 p.m.
- Ask CNAs to describe and demonstrate the active exercise program to you. They may not know how to do them.
- Visit your mom on Mondays, Fridays, evenings, weekends, and holidays to be sure ROM is occurring as scheduled each day. (PT and OT programs are usually closed on weekends and holidays and nursing staff is often reduced).
- Help your mother take responsibility for these exercises as soon as possible. Encourage your mother to do ROM exercises on her own as much as she can, adding more as her strength and flexibility improve
- If your mom is leaning to her right side when she sits in a chair, ask the staff for help in repositioning her. She should be supported on her right side so that it looks even with the left (e.g. good body alignment should be maintained as much as possible).
- If a hand splint or hand roll is being used, remove and check your mom's hand for cleanliness, an unpleasant odor, and skin irritations.

Tips on How to be a Proactive Partner in Care

It is important, to the extent possible, that you remain involved in monitoring the care that your loved one receives. Below are some important tips for staying involved.

- Work closely with the nurse and CNAs to provide important details of your mother's life (e.g. toileting schedule, preferred drinks, usual appearance of body and skin).
- Participate in the IDT care planning conference. Ask for one if you have unanswered concerns. If the professional jargon becomes too confusing, suggest using an "I" Care Plan format (described on the next page).
- Know the specific goals as outlined in the Care Plan.
- Be aware of any changes in the Plan of Care; ask the staff to keep you informed. Monitor the steps of the Plan of Care as outlined; address lack of implementation immediately.

- Physical, Occupational, and Speech Therapy are only parts of the Care Plan. Assure the basics of 24 hour care are covered on the plan, including nutrition, hydration, toileting, activities (not just bingo), mobility to support the goals of the therapy.
- When possible, make frequent telephone calls to the nursing facility. Avoid calling at times of high activity for example, the change of shifts, meal times and medication pass times.
- Know your rights under the law. Individualized care identifies both what and how care is to be provided.
- Remember, care and services are provided to maintain current abilities and attain those abilities lost by a resident's condition. Abilities should decrease only if a new disease occurs, there is an irreversible progression of the condition, or a resident refuses care. In this nursing home, the cause of your mother's hand contracture, incontinence, and dehydration was directly related to her lack of Basic Quality of Individualized Care.

A BEST PRACTICE

First Person Care Plans:

In the previous sections we have outlined the Basic Quality Practices in three areas of care and how they can and should be individualized for the resident. As illustrated, care plans tend to be very clinical, written in language that residents and CNAs do not understand. Try suggesting the use of an "I" Care Plan written in the words you and your mother would use. You will notice that a resident "problem" becomes a "need" and the "intervention" is changed to "approaches." This language turns the whole thought and planning process around so that it is the resident who identifies her own particular goals. Clarity is further enhanced when the resident's own words and phrases are used. Let's look at mobility in an "I" Care Plan.

If the nursing home where your family member resides does not use the "I" Care Plan, you can suggest ways to individualize her care in the interdisciplinary care planning meeting. For instance, it will help staff to know that your mother wants to become stronger; therefore that should be written. Your mother's strongest time of day should be in writing in the care plan. Ask for a copy of the care plan and rewrite it in the first person with your mother. Let's look at mobility using an "I" Care Plan.

Need

- I need to keep my left side strong
- I need to strengthen my right side

Goal

- Long-Term Goal: I want to return to my home for my birthday on June 1st. Short-Term Goal: "I want to be able to go to the bathroom on my own."
- I want staff to help me strengthen my right side.

Approaches

- "I want to help the staff move each joint on my left side." "Please remind me when dressing and undressing to move each joint on my left side." "Remind me to reach for my tea, which is on my left side until I can use my right side," 2/14/16 (CNAs/N/OT).
- "I want to help the staff strengthen the right side of my body." "Please help me by moving every joint on my right side until I can begin to do it by myself," 2/14/16 (PT/CNAs/N/OT).
- "Please schedule my physical therapy early in the day when I am most energetic. I fade in the afternoon," 2/14/16 (PT/CNAs/N/OT)."I topple over on my right side. This is very uncomfortable. Please put pillows and towels to support my right side so that it looks like my left side when I sit in the chair. Then I can stay out of bed for an extra hour, until four every afternoon, and be up for supper at 6:00p.m." (CNA/N) "My right hand feels better when I am grasping a big rolled towel" (CNA/N).

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TIPS FOR MOVING TOWARD AN "I" CARE PLAN

- Share your individual needs and preferences at the care planning conference
- Show how the information will improve care
- Be sure the information is written in the care plan
- Help staff to add personal information if they do not see why it is important

For more information and resources on individualized quality care, go to www.theconsumervoice.org

National Consumer Voice for Quality Long-Term Care (formerly NCCNHR) is a nonprofit organization founded in 1975 by Elma E. Holder to protect the rights, safety and dignity of American's long-term care residents.

Tel. 202. 332.2275, Fax 202.3322949, email: info@theconsumervoice.org, website: www.theconsumervoice.org

The National CONSUMER VOICE for Quality Long-Term Care formerly NCCNHR

FACT SHEET

ABUSE, NEGLECT, EXPLOITATION, and MISAPPROPRIATION OF PROPERTY

Federal law gives each nursing home resident the right to quality care and quality of life. This includes freedom from neglect, abuse, exploitation, and misappropriation of property.

WHAT ARE ABUSE, NEGLECT, EXPLOITATION and MISAPPROPRIATION OF PROPERTY?

Abuse is the deliberate inflection of injury, unreasonable confinement, intimidation, or punishment, which results in physical harm, pain, or mental anguish. This includes verbal, sexual, physical, or mental abuse, as well as abuse enabled through the use of technology.

Examples include:

- Hitting, pinching, shoving, force-feeding, scratching, slapping, and spitting;
- Scolding, ignoring, ridiculing, or cursing a resident,
- Threats of punishment or deprivation;
- Non-consensual sexual contact of any type including rape, improper touching or forcing a resident to perform sexual acts;
- Rough handling during caregiving or moving a resident;
- Taking, using, and/or sharing photographs or recordings of residents that would demean or humiliate them.

Neglect is the failure to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish or emotional distress. Neglect may or may not be intentional.

Examples include:

- Incorrect body positioning -- leads to limb contractures and skin breakdown;
- Lack of assistance with toileting or changing of disposable briefs –causes incontinence a resident sitting in urine and feces, increased falls and agitation, indignity and/or skin breakdown;
- Lack of assistance with eating and drinking -- leads to malnutrition and dehydration;
- Lack of assistance with walking –leads to lack of mobility;
- Lack of bathing –leads to indignity, and poor hygiene;
- Lack of assistance with participating in activities of interest –leads to withdrawal and isolation;
- Ignoring call bells or cries for help.

Exploitation means taking advantage of a resident for personal gain through the use of manipulation, intimidation, threats, or coercion. **Misappropriation** is the deliberate misplacement, misuse, or exploitation of a resident's belongings or money without the resident's consent.

Examples include:

- Not placing resident funds in separate interest-bearing accounts where required;
- Threatening or coercing a resident to give money in order to receive care or services;
- Stealing or embezzling a resident's money or personal property, such as real estate, jewelry or clothing;
- Using a resident's personal property such as a TV, phone, or clothing.

REPORTING ABUSE, NEGLECT, EXPLOITATION, AND MISAPPROPRIATION

If you, or a resident you know, have been the victim of abuse, seek help right away! You are not alone! It is a violation of State and Federal law

for any person, including facility staff, volunteers, visitors, family members or guardians, or another resident, to neglect or abuse a resident. Facilities, and most licensed professionals providing care and services, are required to report allegations of abuse, neglect, exploitation, and misappropriation.

- Anyone can and should report abuse! If you suspect neglect, abuse, or exploitation; if your money or property has been stolen or misappropriated; or if a resident tells you they are experiencing these problems, it is important to believe the resident and **report the allegation immediately**. This will help prevent further suffering by any resident.
- Put your report in writing, date it, and keep a copy. Provide as much background information as possible. A thorough report will help the investigator to address the situation quickly.

Remember to include:

WHO—The name and address of the victim; the name of the facility and the people responsible for the victim's care; and the identity of the person who you believe abused, neglected, or exploited the resident.

WHAT—The nature and extent of harm and any physical signs of abuse or neglect; any previous incidents; and a description of what happened, if you witnessed the incident. If possible, and only if you have the resident's permission, document any visible signs of harm with photographs.

WHERE and WHEN—The place, time, and date of any incident or concern.

MAKE YOUR REPORT TO:

- The nursing home's administrator, director of nursing, and social worker
- The state survey agency that licenses and certifies nursing homes (often in the state Health Department) and investigates complaints
- The local police or State law enforcement – since mistreatment with willful intent could be a crime
- A Protection and Advocacy or Adult Protective Services agency
- The Long-Term Care Ombudsman Program – advocates for residents in long-term care facilities
- A citizen advocacy group, or other church or community group that visits regularly

AFTER THE REPORT

- Follow up with the resident and facility to make sure the neglect or abuse has stopped.
- Follow up with the person or agency conducting the investigation. Ask for written copies of findings if allowed by law.
- Follow up with licensing authorities to ensure they are aware of any charges against a perpetrator. Substantiated findings by a State survey agency, or a finding of guilt by a court, of any type of abuse of a resident by a nurse aide or licensed staff person must be reported to the State nurse aide registry or the State licensing board. Facilities must not engage individuals with these findings, or who have had a disciplinary action taken against his/her professional license, meaning facilities must not hire the individual or allow them to volunteer.

For more information and resources on abuse, neglect, exploitation, and misappropriation of property go to www.theconsumervoice.org.

National Consumer Voice for Quality Long-Term Care (formerly NCCNHR) is a nonprofit organization founded in 1975 by Elma E. Holder to protect the rights, safety and dignity of American's long-term care residents.

Tel. 202. 332.2275, Fax 202.3322949, email: info@theconsumervoice.org, website: www.theconsumervoice.org

The National CONSUMER VOICE for Quality Long-Term Care formerly NCCNHR

FACT SHEET

INVOLUNTARY TRANSFER AND DISCHARGE

The threat of transfer or discharge from a nursing home can be both frightening and stressful for residents and their families. Too often, a facility may respond to a resident's difficulties, increasing need for care, or repeated questions or complaints from family members by attempting to transfer or discharge the resident. The Nursing Home Reform Law of 1987 protects residents from involuntary transfer and discharge. Contact the Long Term Care Ombudsman in your area for more information about legal rights and protections and for assistance in working with the facility.

TRANSFER and DISCHARGE

Transfer is movement from a certified institution to another institutional setting that assumes legal responsibility for the resident's care. **Discharge** is movement from a certified institutional setting to a non-institutional setting. After discharge, the facility is no longer legally responsible for the resident's care.

WHAT THE LAW SAYS ABOUT INVOLUNTARY TRANSFER/DISCHARGE:

The Nursing Home Reform Law of 1987 prohibits nursing homes from transferring or discharging a resident unless it can establish that one of the permissible reasons for transfer/discharge exist. Those reasons are:

- the nursing home cannot provide adequate care for the resident;
- the resident's health has improved to the point that he or she no longer needs nursing home care;
- safety of individuals in the facility is endangered;
- the health of others in the facility would otherwise be endangered;
- the resident has failed, after reasonable and appropriate notice, to pay for care (although the facility cannot evict a resident who is waiting for Medicaid eligibility and should work with other state agencies to obtain payment if the resident's money is being held by a family member or other individual); or
- the facility ceases to operate.

Before proposing a transfer/discharge, a facility must identify and try to meet the resident's individual medical, nursing, and psychosocial needs, by formulating and implementing an individualized care plan designed to meet those needs. Many of the permissible reasons for transfer or discharge can be addressed through assessment and care planning, making transfer or discharge unnecessary. Because most nursing homes provide fairly complex care for sick residents, it is rare that the facility cannot find a way to provide adequate care for the resident or to keep the resident and others safe with the use of a good assessment and care plan. Furthermore, universal health precautions should be in place in every nursing home that protect the health of residents and others and prevent the spread of infection. The nursing home assesses the care needs of prospective residents upon initial admission. Once a resident has been accepted by the nursing home, the nursing home should find ways to provide safe and appropriate care.

NOTIFICATION

If a resident is to be transferred or discharged, the facility must record the reason for transfer in the resident's clinical record, and notify the resident and the resident's family member, guardian, or legal representative in writing. The notice must include:

- the reason for the transfer or discharge,
- the location to which the resident will be moved,
- the date of transfer or discharge, and
- information about the resident's right to appeal to the state concerning the transfer or discharge,
- with the name, address, and telephone number of the state long term care ombudsman.

The location the resident will be moved to must be specific, appropriate, available, and agreeable to taking the resident.

TIME LIMITS

The law requires that a nursing home must inform the resident and the resident's family member, guardian or legal representative about a transfer or discharge at least thirty (30) days in advance.

PREPARATION BEFORE TRANSFER OR DISCHARGE

The nursing home must provide discharge planning and sufficient preparation and orientation to residents being transferred/discharged. The law guarantees the right of the resident (and/or family member) to participate in planning care and treatment, which should include choosing a new place to live. The nursing home should also prepare an orientation, such as a visit to the new home, and assure a safe arrival. The resident should know where he or she is going. The facility should also inform the new residence about the resident's needs, preferences and habits. Lastly, the nursing home should ensure possessions aren't lost in the moving process, and any personal funds are given to the resident or transferred to a new account.

BED HOLD AND READMISSION

The Nursing Home Reform Law gives Medicaid recipients the right to return to their facility after they have been out of the facility due to hospitalization or therapeutic leave. Some states will pay to hold a bed for Medicaid residents who are temporarily absent. If a Medicaid recipient loses a bed -- either because the state does not pay to hold the bed, or they have exceeded the state's bed hold period, readmission rights permit him or her to return to the next available bed in a semi-private room in the nursing home. Residents are entitled to notice about bed-hold and readmission rights twice-- upon admission and at the time of transfer. A facility's bed hold policy must be consistent with state regulations.

ADDITIONAL RIGHTS

The Nursing Home Resident Protection Amendment of 1999 requires that nursing homes continue to provide care for Medicaid residents already living in the facility even if the nursing home chooses to cease participation in Medicaid.

- A resident has the right to participate in planning care and treatment or changes in care and treatment.
- A resident and their family member or legal representative must receive notice before the resident's room or roommate in the facility is changed.
- A resident can refuse transfer from a portion of the nursing home that is certified at one level of care to another portion with different certification.

COMPLAINTS AND APPEALS

A resident has the right to appeal the facility's decision to transfer/discharge him or her. The transfer or discharge notice must include information about how to request a hearing, the resident's right to use legal counsel or other spokesman at the hearing, and the mailing address and telephone number of the State long-term care ombudsman. A complaint may also be filed with the state survey agency.

PROTECTION AGAINST INAPPROPRIATE TRANSFER OR DISCHARGE

Contact the Long Term Care Ombudsman program if you are concerned about plans for transfer or discharge from a nursing home. The ombudsman is empowered by law to advocate for nursing home residents. Also, find out if there is a family council at the nursing home. When families meet to share concerns and organize a consumer voice, this is a source of power for negotiation with the facility's administration.

Go to www.theconsumervoice.org/get_help to find an ombudsman in your area.

For more information and resources on transfer and discharge and residents' rights, go to www.theconsumervoice.org

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The National CONSUMER VOICE for Quality Long-Term Care formerly NCCNHR

FACT SHEET

A CONSUMER GUIDE TO CHOOSING A NURSING HOME

The National Consumer Voice for Quality Long-Term Care (Consumer Voice) knows that placing a loved one in a nursing home is one of the most difficult tasks a family member ever faces. But when it becomes necessary, prospective residents and their families should have the best information possible to make this decision. There are many resources that can help. The purpose of this guide is to help you navigate those resources, understand the information, and make an informed choice. Once your loved one is in a nursing home, the Consumer Voice can help you get good care there.

FIRST, EXPLORE ALTERNATIVES

If at all possible, plan ahead for future long-term care needs. If an individual and those close to them can discuss preferences related to long-term care and plan ahead of time, decisions and arrangements are much easier when the need for long-term care arises.

Before you look for a nursing home, be sure your loved one's condition and support system has been thoroughly evaluated. When properly diagnosed and treated, some conditions may improve significantly. Also, some people with serious medical conditions can remain at home with the proper support system. Talk with your loved one to find out about her/his wishes. Even if s/he has dementia and/or difficulty communicating, the prospective resident should be at the forefront of the decision-making process as much as possible. Since most people prefer to stay in their own home, it is important to investigate alternatives to nursing home care (e.g. home care, day care, assisted living).

Sources of information about available services are the Eldercare Locator, telephone number: 1.800.677.1116 or website: www.eldercare.acl.gov and the Administration on Aging: https://www.acl.gov/node/549

If nursing home care is needed, decide whether long-term care or short-stay rehabilitation is needed.

DO YOUR HOMEWORK

As you begin to evaluate facilities, it's a good idea to do some preliminary research before you visit any nursing homes. Once you have gathered information, visits to the facilities you are considering will provide you with very important insights. (See "Visits to Nursing Homes" section, page 7.) Some issues to consider when evaluating facilities include quality of care and life, bed availability, provision of services that the resident will need, cost, and location in an area where friends and family of the resident can visit often. Ask nursing home residents, residents' families, citizen advocacy groups, your physician, the hospital discharge planner and clergy members for their opinions about various facilities. This guide will highlight some important sources of information to use in your evaluation, including:

- Long-Term Care Ombudsmen
- State or Local-Level Citizen Advocacy Groups
- Cost Information
- Nursing Home Compare website
- State Nursing Home Inspection Reports
- Complaint Information
- Visits to Nursing Homes

EXPERTS TO CONSULT: THE PROSPECTIVE RESIDENT, LONG-TERM CARE OMBUDSMAN AND CITIZEN ADVOCATES

First, consult with experts. The best expert on what will be a good place to live is the prospective resident. Ask him or her about whether s/he wants to live near a particular family member or friend, in his or her hometown, if s/he prefers a large or small facility, etc. Then, a state or local ombudsman program and/or citizen advocacy group can assist you in piecing together the different sources of information to make an informed decision about nursing home care. An ombudsman is a state or county government-funded advocate for residents of nursing homes, board and care homes, and assisted living facilities who will be familiar with the facilities in your area and often with the staff and residents who reside in them. **Ombudsmen assist residents and others by:**

- Educating consumers and long-term care providers about residents' rights and good care practices
- Investigating complaints and advocating for residents rights and quality care in long-term care facilities; and
- Providing information to the public on long-term care facilities and policy issues

S/he can help you find and interpret information from state inspection reports and the resident characteristics or quality measures that can be found on the Nursing Home Compare website: www.medicare.gov/NHCompare/home.asp. To find your Long-Term Care Ombudsman, go to the Consumer Voice website: www.theconsumervoice.org/get_help or call the Consumer Voice at 202.332.2275 for ombudsman contact information. Many states and/or communities have active Citizen Advocacy Groups that are knowledgeable about nursing homes and can be very helpful in evaluating advice and information you receive. To find a local or state citizen advocacy group go to the Consumer Voice web-site: www.theconsumervoice.org/get_help.

COST INFORMATION

Most nursing homes participate in the Medicare and/or Medicaid programs, which reimburse them for part or all of the care that some residents receive. Medicare pays for post-hospital rehabilitation care and hospice care services for short periods of time. Medicaid pays for nursing home care for longer periods for those who are financially eligible.

Most nursing home residents, even if they pay privately when they enter a home, eventually run out of money because of the high costs. They then apply to have the cost of their care paid for by Medicaid. Unless you are certain the resident can pay indefinitely with private funds, choose a facility that accepts Medicaid payment. Find out what your state's Medicaid eligibility rules are. Note that spouses may keep some assets and have a regular income even if their partner is on Medicaid. For additional information about the rights of residents paying for care through Medicaid, contact the long-term care ombudsman program and/or a local consumer advocacy group.

'NURSING HOME COMPARE' WEBSITE

(IF YOU DON'T HAVE INTERNET ACCESS, ASK THE OMBUDSMAN FOR THIS INFORMATION.)

Nursing home data is provided by the federal government through 'Nursing Home Compare': www.medicare.gov/NHCompare/home.asp. On this site, you can search for nursing homes by state, county, city, or zip code. Once you have selected a nursing facility or facilities, you are given the option of viewing several different types of information including facility characteristic, inspection, staffing level, and quality measure information. Below are consumer tips on how– and how not–to use each of these sources of information.

FACILITY OVERVIEW

On 'Nursing Home Compare' the "About Homes" section gives an overview of basic characteristics of each facility. Data in this section includes the type of ownership (for-profit, non-profit, church-related, etc.), type of payment accepted (Medicare, Medicaid, or both), the size of the facility, and whether or not the facility is part of a chain. All of this information can be helpful in getting a preliminary picture of what the facility is like.

STATE NURSING HOME INSPECTION REPORTS

'Nursing Home Compare' provides inspection reports for each facility. State inspection or "survey" reports contain information about any deficiencies found when inspectors complete their annual inspection of the facility. Inspections take place at least every 9 to 15 months. You can also obtain state inspection reports from the state survey agency, the facility itself, or the long-term care ombudsman. Each facility is required by law to make the latest state inspection report available for examination in a place readily accessible to residents. To look at a summary of state inspection information on 'Nursing Home Compare', click on the tab labeled "Inspections".

Tips:

- Check the date of the inspection results posted on the website to be sure that they are dated within the last 9-15 months. If the date is earlier than that, there has likely been a more recent inspection. (The date of the Inspection is listed right above the deficiency summary.)
- View previous inspection results (by clicking on the button labeled "View Previous Inspection Results" located above the list of deficiencies) to see what the pattern of quality has been over a three year period.
- Compare the number of deficiencies cited to the state average.
- If a facility has received a deficiency citation in a particular area, be sure to ask questions about this area when you visit the facility.
- Obtain actual inspection reports at the facility itself or from the long-term care ombudsman program if you don't have access to the web.

Cautions:

- Beware of choosing a facility with a very high number of deficiencies compared to other facilities in the area and the state average.
- Don't assume that a "deficiency free" rating necessarily means that there are no problems with care at a particular facility.

COMPLAINT INFORMATION

You should also delve deeper by gathering information about the number and kind of complaints that have been filed against a facility. Verified or "substantiated" complaint information is included along with the nursing home inspection results on the 'Nursing Home Compare' website. Consumers can also obtain information about complaints filed against a particular facility (substantiated or unsubstantiated) by contacting the state survey and inspection agency, the long-term care ombudsman program, or through a website called Member of the Family at: www.memberofthefamily.net.

STAFFING INFORMATION

'Nursing Home Compare' also provides information about the hours of nursing care provided at each facility. Staffing levels are a critically important factor to consider in evaluating the quality of care given at a facility. The information provided on nurse staffing levels includes national and state staffing averages, and the daily average for individual nursing homes.

Tips:

- Pay attention to the number of Certified Nursing Assistant (CNA) staffing hours. CNAs provide 90% of the hands-on resident care.
- Look for facilities with high levels of RN staffing. Studies show that RN involvement in care is important for quality.
- Visit the facility and ask staff and families about the actual numbers of staff available to directly care for residents on each shift.

Cautions:

- The staffing hours reported on 'Nursing Home Compare' include not only direct care from nurses and nursing assistants but also administrative nursing time. This makes it difficult for consumers to know how much direct care residents are receiving.
- The staff hour data used for 'Nursing Home Compare' is self-reported by the facility and is not audited for accuracy.

QUALITY MEASURES

'Nursing Home Compare' also provides information on "Quality Measures." To see this, select the nursing home using the search criteria from the home-page and then click on the tab labeled "Quality." Nursing homes have many opportunities to improve care and their scores on the measures. Ask the facility if they are participating in the training provided by their state's Quality Improvement Organization and if the facility has signed up for the national Advancing Excellence in America's Nursing Homes Campaign.

"Quality Measures" provide important information; however, they are just one piece of the puzzle in choosing nursing home care. The measures are meant to provide indicators of quality care and comparative information. Measures include 14 indicators for chronic care (long-stay) residents, and 5 indicators for acute care (short-stay) residents. The measures use data taken from quarterly assessments of individual residents done by the facility. The information gathered from the individual's assessment is then combined with the assessments of the other residents in the facility to produce a facility-wide measure for each category. **Quality Measures are designed to provide comparison information among facilities and are not intended as a nursing home rating system.**

You should use quality measure information as one indicator of care; however, the importance of actually visiting facilities and talking with residents, family members and staff cannot be overemphasized. **Discuss questions about these measures with a variety of people, including the ombudsman, facility staff, and others you talk to about the facility.**

MEASURES FOR "LONG-STAY" RESIDENTS

"Long-Stay" residents are those in an extended or permanent stay in a nursing home.

1. Percentage of residents given Influenza vaccination during the flu season.

The flu is highly contagious, and is easily passed from person to person by coughing and sneezing, or by touching some-thing with flu viruses on it and then touching one's mouth or nose. The flu can be fatal in elderly people, people with chronic diseases, and anyone with a weak immune system. In cases where the flu is not fatal, older adults in particular, may feel weak for a long time even after other symptoms go away. Residents should be given a flu shot during the flu season (October through March), and should not get another flu shot if they have already received a flu shot at another place, or if there is a medical reason why they should not receive it. Ask the facility to show you the number of residents who get the flu shot each year.

2. Percentage of residents who were assessed and given pneumococcal vaccination.

The pneumococcal vaccination may help prevent, or lower the risk of one becoming seriously ill from pneumonia caused by bacteria. It may also help one to prevent future infections. All nursing home patients should be vaccinated against pneumococcal disease. Ask if your loved one has been vaccinated for pneumonia, and if not, ask for the pneumococcal shot unless there is a medical reason why your loved one should not receive it. Ask the facility to show you the number of residents who get the pneumococcal vaccination each year, and ask if they have standing orders for vaccination of persons admitted to the facility.

A high percentage score on Quality Measures 3 through 6 may indicate there is not enough staff available to attend to residents' individualized plans of care.

3. Percentage of residents whose need for help with activities of daily living (ADLs) has increased.

A high percentage may indicate that residents are not encouraged to do things on their own, such as feeding themselves or moving from one chair to another. Ask how resident independence is promoted.

4. Percentage of residents who spend most of their time in bed or in a chair.

A high percent here may indicate that there is not enough staff to assist residents with getting dressed and out of bed or that there are not organized activities for residents. Ask questions about who is responsible for getting residents up and dressed in the morning and when.

5. Percentage of residents whose ability to move about in and around their room worsened.

Nursing home staff should encourage residents to do as much as possible on their own and to engage in activities. Again, ask questions about how staff provide assistance to promote resident independence.

6. Percentage of residents who are physically restrained.

Studies show that restraints are detrimental to resident physical and mental well-being. Restraints are often used to compensate for a lack of adequate staff to attend to resident needs and safety. A high percentage in this category is a red flag. You should ask staff what methods, other than restraints, are used to provide a safe environment for mobility. Restraints may not be used without a doctor's order.

A high percentage in Quality Measures 7 to 9 may indicate that there is a lack of adequate staff to toilet residents on an individualized schedule.

7. Percentage of low risk residents who lose control of their bowels or bladder.

Loss of bowel or bladder control is not a normal sign of aging. "Low risk" residents would be those people whose medical or physical condition does not indicate that they would have this problem. Ask questions about whether residents are toileted on an individual schedule, and how bladder and bowel movements, and food and fluid intake are monitored.

8. Percentage of residents who have/had a catheter inserted and left in their bladder.

A catheter should only be used if it is medically necessary—not to compensate for inadequate staffing levels to toilet residents.

9. Percentage of residents with a urinary tract infection (UTI).

UTIs occur when bacteria builds up around a catheter or when the area where waste leaves the body is not kept clean. Ask questions about attention to resident personal hygiene, infection control and treatment procedures if you see a high percentage of residents with UTIs.

10. Percentage of high risk residents who have pressure sores.

A high percentage on this quality measure may indicate that residents are not being repositioned as frequently as necessary. Ask questions about how often residents are repositioned, toileted, or have diapers changed and how fluid intake is monitored.

11. Percentage of low risk residents who have pressure sores.

A high percentage on this measure may indicate that staff are not encouraging able residents to get out of bed or be up and moving around. Ask questions about how residents who are mobile are encouraged to stay active and how frequently residents are toileted.

12. Percentage of residents who have become more depressed or anxious.

A high percentage in this measure may indicate that residents lack meaningful activities and/or that anxiety and depression are not being monitored. Ask questions about ways staff monitor and treat residents depression and specifics on available activities for residents. Activities should be offered based on what residents choose.

13. Percentage of residents with moderate to severe pain.

A high percentage here may indicate that residents do not receive regular pain assessments. If residents are in pain, it should be addressed quickly. Ask staff how frequently residents receive a pain assessment and how quickly medications are prescribed for pain management.

14. Percentage of residents who lose too much weight.

Too much weight loss can make a person weak, cause the skin to break down which can lead to pressure sores, or change how medicine works in the body. A high percentage on this quality measure may indicate that residents are not being fed properly, the home's nutrition program is poor, or their medical care is not being managed properly. Ask questions to ensure that resident diets are balanced and nutritious, and that staff spend enough time feeding people who can't feed themselves. Ask questions and look around to determine if residents: can feed themselves; are allowed to eat when and where they prefer to; are not rushed through meals; can choose from a menu/ foods that they used to eat at home are on the menu; have healthy snacks and alternative foods or beverages readily available to them; have their weight routinely monitored by staff.

MEASURES FOR "SHORT-STAY" RESIDENTS

"Short-Stay" residents are those needing short-term skilled nursing care or rehabilitation, but who are expecting to return home.

1. Percentage of residents given Influenza vaccination during the flu season.

The flu is highly contagious, and is easily passed from person to person by coughing and sneezing, or by touching something with flu viruses on it and then touching one's mouth or nose. The flu can be fatal in elderly people, people with chronic diseases, and anyone with a weak immune system. In cases where the flu is not fatal, older adults in particular, may feel weak for a long time even after other symptoms go away. Residents should be given a flu shot during the flu season (October through March), and should not get another flu shot if they have already received a flu shot at another place, or if there is a medical reason why they should not receive it. Ask the facility to show you the number of residents who get the flu shot each year.

2. Percent of residents who were assessed and given pneumococcal vaccination.

The pneumococcal vaccination may help prevent, or lower the risk of one becoming seriously ill from pneumonia caused by bacteria. It may also help to prevent future infections. All nursing home patients should be vaccinated against pneumococcal disease. Ask if your loved one has been vaccinated for pneumonia, and if not, ask for the pneumococcal shot unless there is a medical reason why your loved one should not receive it. Ask the facility to show you the number of residents who get the pneumococcal vaccination each year, and ask if they have standing orders for vaccination of persons admitted to the facility.

3. Percentage of residents with delirium.

Delirium is severe confusion and rapid changes in brain function, usually caused by a treatable physical or mental illness. A high percentage on this measure could mean that nursing home staff does not adequately deal with symptoms of delirium. Each nursing home should have a plan for helping residents who suffer from delirium. You should ask staff about their plan for handling and preventing delirium.

4. Percentage of residents who had moderate to severe pain.

Residents should always be checked regularly by nursing home staff to see if they are having pain. If residents have pain it should be addressed quickly. Ask staff how frequently residents receive a pain assessment and how quickly medications are prescribed for pain management.

5. Percent of residents with pressure sores.

A high percentage on this quality measure may indicate the residents are not repositioned or encouraged to reposition themselves frequently. Ask questions about how often residents who are immobile are repositioned and toileted to prevent pressure sores from developing and how residents who are mobile are encouraged to move about.

Center for Medicare Advocacy
MedicareAdvocacy.org

The John A. Hartford Foundation

Fact Sheet

Medicare Skilled Nursing Facility Coverage In Light of *Jimmo v. Sebelius*

YOU DO NOT HAVE TO IMPROVE TO QUALIFY FOR MEDICARE COVERAGE

Medicare Beneficiaries Who Receive Daily Skilled Nursing and/or Skilled Therapy Can Qualify For Medicare Coverage of Skilled Nursing Home Care If:

- The skilled nursing facility care was ordered by a physician;
- The individual had a prior three-day inpatient hospital stay (not counting the day of discharge), before the nursing home admission. (Medicare Advantage plans may not include this requirement.) Generally, this means the individual must have been formally admitted to the hospital as an *inpatient*, not as what's known as an "outpatient" on Observation Status, and must be an inpatient for a period that spans at least three midnights. Usually, the nursing home admission must be within thirty days of leaving the hospital;
- The individual must need and receive daily skilled nursing and/or therapy which must be provided by, or under the supervision of, qualified personnel in order to be safe and effective. To meet the daily requirement, the individual must receive skilled nursing care seven days a week, skilled therapy services five days a week, or a combination of both skilled nursing care and skilled therapy seven days a week;
- The skilled nursing and skilled therapy must be necessary to improve, maintain, prevent, or slow the decline of the individual's condition;
- The skilled nursing facility care must be for a condition for which the individual was hospitalized or that arose at the skilled nursing facility while being treated for a condition for which s/he was hospitalized;
- As a practical matter, the skilled services must be required to be provided on an inpatient basis.

Patients who meet these Medicare criteria can qualify for coverage.

Remember: Skilled nursing or therapy services needed to maintain the individual's condition, or prevent or slow decline, meet the skilled service requirement just as much as skilled services to improve a condition.

For additional information, see the Center for Medicare Advocacy's
Medicare Skilled Nursing Facility Coverage and Jimmo v. Sebelius Toolkit

gettingwiser.org

Get Started

Our assistance is FREE
to residents of Summit County.

Contact us today
for an in-home assessment.

800.421.7277

info@dhad.org

gettingwiser.org