



MEMORANDUM

TO: Facility Administrator / Medical Director

FROM: Lisa Hall, MSSW, LCSW
Community Services Coordinator

DATE: April 30, 2009

RE: INVOLUNTARY DISCHARGES AND INVOLUNTARY TRANSFERS

The number of patients involuntarily discharged from facilities is a concern. Many of these individuals become displaced, with no facility willing to accept them. Any ESRD patient without access to regular chronic dialysis and the necessary support services is at increased risk for morbidity and mortality. The Network requests that you carefully review the information contained in this document.

Regulations

The ESRD Conditions for Coverage [494.70 (b); 494.180 (f)] mandate that facilities inform patients of the facility's policies for transfer, routine or involuntary discharge; and discontinuation of services to patients. The governing body must ensure that all staff follow the facility's patient discharge and transfer policies and procedures. Further, the medical director must ensure that no patient is discharged or transferred from the facility unless –

- The patient or payer no longer reimburses the facility for the ordered services;
- The facility ceases to operate;
- The transfer is necessary for the patient's welfare because the facility can no longer meet the patient's documented medical needs; or
- The facility has reassessed the patient and determined that the patient's behavior is disruptive and abusive to the extent that the delivery of care to the patient or the ability of the facility to operate effectively is seriously impaired, in which case the medical director ensures that the patient's interdisciplinary team –
 - ✓ Documents reassessments, ongoing problem(s), and efforts made to resolve the problem(s), and enters this documentation into the patient's medical record;
 - ✓ Provides the patient and the local ESRD Network with a 30-day notice of the planned discharge;
 - ✓ Obtains a written physician's order that must be signed by both the medical director and the patient's attending physician concurring with the patient's discharge or transfer from the facility;
 - ✓ Contacts another facility, attempts to place the patient there, and documents that effort; and
 - ✓ Notifies the State survey agency of the involuntary transfer or discharge.
- In the case of the immediate severe threats to the health and safety of others, the facility may utilize an abbreviated involuntary discharge procedure.

Interpretive Guidance

Below are excerpts from the most recent Interpretive Guidance to 42 CFR Part 494, related to the topic of Involuntary Discharges:

- [V766] –
 - ✓ Involuntary discharge or transfer should be rare, and preceded by demonstrated effort on the part of the interdisciplinary team to address the problem in a mutually beneficial way.

- ✓ The facility must have and follow written policies and procedures for involuntary discharge.
- [V767] –
 - ✓ The interdisciplinary team must reassess the patient with an intent to identify any potential action or plan that could prevent the need to discharge or transfer the patient involuntarily. The reassessment must focus on identifying the root causes of the disruptive or abusive behavior and result in a plan of care aimed at addressing those causes and resolving unacceptable behavior.
 - ✓ If the reason for discharge is the physician’s determination to no longer care for a particular patient and there is no other physician on staff available or willing to accept the patient, the facility would need to follow this regulation as to reassessment, 30-day notice, attempts for placement, etc., as outlined in 494.180, during the physician’s period of notice to the patient.
 - ✓ An “immediate severe threat” is considered to be a threat of physical harm. For example, if a patient has a gun or a knife and is making credible threats of physical harm. An angry verbal outburst or verbal abuse is not considered to be an immediate severe threat. “Abbreviated” involuntary discharge or transfer procedures may include taking immediate protective actions, such as calling “911” and asking for police assistance.

Data Requirements

In addition to notifying the Network prior to involuntary discharges, facilities are required to report all involuntary discharge events on the Network Patient Activity Report as “Transfer Out – Category C: Involuntary Discharge from treatment.” Any instance where the patient leaves the dialysis facility against his/her will is considered involuntary - regardless of where patients received services after discharge.

Discussion

When involuntary discharge is determined to be the only course of action, the physician and facility are obligated to assist the patient in securing life-sustaining treatment and continuity of care with another facility and/or nephrologist. Groups of providers should not exclude patients from acceptance and treatment from all of their facilities or other physicians. Facility staff must be cognizant of HIPAA requirements and share only factual data from the medical record and not hearsay, rumor, or personal opinion of patients with another facility in the process of seeking placement for patients being involuntarily discharged.

Resources

The Network recommends that facilities utilize the *Decreasing Dialysis Patient-Provider Conflict (DPC)* tools, which provide proactive techniques to resolve concerns before progression to involuntary discharge. Each dialysis facility has received a copy of this interactive program, containing tracking tools for grievances, and can be utilized for Quality Assessment and Performance Improvement.

While it is acknowledged that each patient situation is unique, there are proactive steps that facilities can take. Contact Network 7 to review patient / facility concerns before they escalate to crisis, discuss the issues and interventions, and explore options other than discharge.

For assistance with challenging patient situations, contact Lisa Hall at 813-383-1530, ext. 3883.