



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Aging and Long-Term Support Administration
PO Box 45600, Olympia, Washington 98504-5600

September 15, 2017

AL TSA: ALF #2017-012
NOTICE REQUIREMENTS FOR NEW CHARGES

Dear Assisted Living Facility Administrator:

RCS has received questions from providers about their obligations to provide notice to ALF residents before increasing the resident charges. The purpose of this letter is to clarify the various laws and rules about changes to resident charges and services.

Before admission and at least once every twenty-four months, the facility is required to inform each resident of the services, items, and activities, customarily available through the facility. At the same time, the facility is required to notify the resident of the charges for those services. RCW 70.129.030(4).

If the facility changes the services it offers to *all* residents or the charges for those services, it must inform each resident and his or her representative in writing. According to RCW 70.129.030(4), the notice must be provided 'thirty days' before the change "except in emergencies".

The department has concluded that the law indicates that the notice requirement is not limited to facility-wide changes. Unless the Negotiated Service Agreement (NSA) has been amended, the notice requirement applies to changes that are necessary due to changes in a resident's condition.

In order to respond to provider questions about facility notice requirements, we have considered RCW 18.20.370 in conjunction with other ALF laws and regulations, particularly the requirements for negotiated service agreements. We determined the following:

- In addition to the notice requirements in RCW 70.129.030(4), ALFs are required to complete or update an NSA:
 - within thirty days of admission;
 - when necessary following the resident's annual assessment; and
 - whenever the resident's NSA no longer addresses the resident's current needs and preferences. RCW 18.20.370; WAC 388-78A-2100.
- When the assisted living facility takes "appropriate action in response to each resident's changing needs" as required by WAC 388-78A-2120, the facility must also review and update each resident's NSA as required by WAC 388-78A-2130.
- The following individuals are involved in changes to the NSA; the resident, the resident representative (if applicable); the DSHS case manager (if applicable); and ALF staff. Changes to care and services provided to the resident must be negotiated and agreed upon by the resident or resident representative. ALF staff must document the new plan in the resident's record as required by WAC 388-78A-2130.

Dear ALF Administrator
September 15, 2017
Page 2

- The assisted living facility must provide the care and services in the NSA “unless a deviation from the negotiated service agreement is mutually agreed upon between the assisted living facility and the resident or the resident's representative at the time the care or services are scheduled.” WAC 388-78A-2160.
- In order to be consistent with the resident rights requirements under Chapter 70.129 RCW, before executing the negotiated service agreement, the resident should be informed of charges resulting from a change in services.
- Resident charges may not be increased until the revised negotiated service agreement has been completed or updated in accordance with Chapter 388-78A.
- When residents or representative and the assisted living facility mutually agree to changes or updates to the negotiated service agreement, those changes and accompanying charges may be implemented immediately.
- If the resident's admission agreement allows the facility to do so, and if an amended or updated negotiated service agreement is in place, the facility may retroactively charge for the provision of the new services in accordance with the terms of the admission agreement.

If you have any questions about the proposed rules, please contact Jeanette Childress, ALF Policy Program Manager, at 360-725-2591 or jeanette.childress@dshs.wa.gov.

Sincerely,



Candace Goehring, Director
Residential Care Services

“Transforming Lives”