

may voice grievances with respect to treatment received and not received; and

(2) Prompt efforts by facility management to resolve grievances the participant may have, including those with respect to the behavior of other participants.

(f) *Examination of survey results.* A participant has the right to—

(1) Examine the results of the most recent VA survey with respect to the program. The program management must make the results available for examination in a place readily accessible to participants, and must post a notice of their availability; and

(2) Receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies.

(g) *Work.* The participant has the right to—

(1) Refuse to perform services for the facility;

(2) Perform services for the facility, if he or she chooses, when—

(i) The facility has documented the need or desire for work therapy in the plan of care;

(ii) The plan specifies the nature of the services performed and whether the services are voluntary or paid;

(iii) Compensation for (work therapy) paid services is at or above prevailing rates; and

(iv) The participant agrees to the work therapy arrangement described in the plan of care.

(h) *Access and visitation rights.* (1) The program management must provide immediate access to any participant by the following:

(i) Any representative of the Under Secretary for Health;

(ii) Any representative of the State;

(iii) The State long-term care ombudsman;

(iv) Immediate family or other relatives of the participant subject to the participant's right to deny or withdraw consent at any time; and

(v) Others who are visiting subject to reasonable restrictions and the participant's right to deny or withdraw consent at any time.

(2) The program management must provide reasonable access to any participant by any entity or individual

that provides health, social, legal, or other services to the participant, subject to the participant's right to deny or withdraw consent at any time.

(3) The program management must allow representatives of the State Ombudsman Program to examine a participant's clinical records with the permission of the participant or the participant's legal representative, subject to State law.

(i) *Telephone.* The participant has the right to reasonable access to use a telephone where calls can be made without being overheard.

(j) *Personal property.* The participant has the right to have at least one change of personal clothing.

(k) *Self-administration of drugs.* An individual participant may self-administer drugs if the interdisciplinary team has determined that this practice is safe for the individual and is a part of the care plan.

(Authority: 38 U.S.C. 101, 501, 1741-1743)

(The Office of Management and Budget has approved the information collection requirements in this paragraph under control number 2900-0160.)

§52.71 Participant and family caregiver responsibilities.

The program management has a written statement of participant and family caregiver responsibilities that are posted in the facility and provided to the participant and caregiver at the time of the intake screening. The Statement of responsibilities must include the following:

(a) Treat personnel with respect and courtesy;

(b) Communicate with staff to develop a relationship of trust;

(c) Make appropriate choices and seek appropriate care;

(d) Ask questions and confirm understanding of instructions;

(e) Share opinions, concerns, and complaints with the program director;

(f) Communicate any changes in the participant's condition;

(g) Communicate to the program director about medications and remedies used by the participant;

(h) Let the program director know if the participant decides not to follow any instructions or treatment; and

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(i) Communicate with the adult day health care staff if the participant is unable to attend the adult day health care program.

(The Office of Management and Budget has approved the information collection requirements in this paragraph under control number 2900-0160.)

§ 52.80 Enrollment, transfer and discharge rights.

(a) Participants in the adult day health care program must meet the provisions of this part that apply to participants and—

(1) Must meet at least two of the following indicators:

(i) Dependence in two or more activities of daily living (ADLs).

(ii) Dependence in three or more instrumental activities of daily living (IADLs).

(iii) Advanced age, i.e., 75 years old or over.

(iv) High use of medical services, i.e., three or more hospitalizations in past 12 months; or 12 or more hospitalizations, outpatient clinic visits; or emergency evaluation unit visits, in the past 12 months.

(v) Diagnosis of clinical depression.

(vi) Recent discharge from nursing home or hospital.

(vii) Significant cognitive impairment, particularly when characterized by multiple behavior problems;

(2) Must have a supportive living arrangement sufficient to meet their health care needs when not participating in the adult day health care program; and

(3) Must be able to benefit from the adult day health care program.

(b) *Transfer and discharge.* (1) *Definition.* Transfer and discharge includes movement of a participant to a program outside of the adult day health care program whether or not that program or facility is in the same physical plant.

(2) *Transfer and discharge requirements.* All participants' preparedness for discharge from adult day health care must be a part of a comprehensive care plan. The possible reasons for discharge must be discussed with the participant and family members at the time of intake screening. Program management must permit each partici-

pant to remain in the program, and not transfer or discharge the participant from the program unless—

(i) The transfer or discharge is necessary for the participant's welfare and the participant's needs cannot be met in the adult day health care setting;

(ii) The transfer or discharge is appropriate because the participant's health has improved sufficiently so the participant no longer needs the services provided in the adult day health care setting;

(iii) The safety of individuals in the program is endangered;

(iv) The health of individuals in the program would otherwise be endangered;

(v) The participant has failed, after reasonable and appropriate notice, to pay for participation in the adult day health care program; or

(vi) The adult day health care program ceases to operate.

(3) *Documentation.* When the facility transfers or discharges a participant under any of the circumstances specified in paragraphs (b)(2)(i) through (vi) of this section, the primary physician must document the reason for such action in the participant's clinical record.

(4) *Notice before transfer.* Before a facility transfers or discharges a participant, the program management must—

(i) Notify the participant and a family member or legal representative of the participant of the transfer or discharge and the reasons for the move in writing and in a language and manner they can understand;

(ii) Record the reasons in the participant's clinical record; and

(iii) Include in the notice the items described in paragraph (a)(6) of this section.

(5) *Timing of the notice.* (i) The notice of transfer or discharge required under paragraph (b)(4) of this section must be made by program management at least 30 days before the participant is transferred or discharged, except when specified in paragraph (b)(5)(ii) of this section.

(ii) Notice may be made as soon as practicable before transfer or discharge when—

(A) The safety of individuals in the program would be endangered;