**Section 146.255 Discharge**

a) If a resident does not meet the terms for occupancy as stated in the resident contract, the SLF shall not commence involuntary discharge until the SLF has discussed the reasons for involuntary discharge with the resident and his or her designated representative. Documentation of the discussion shall be placed in the resident's record.

b) The SLF shall provide a resident with a 30-day written notice of proposed involuntary discharge unless such a delay might jeopardize the health, safety, and well-being of the resident or others. A copy of the notice required by this subsection (b) shall be placed in the resident's record and a copy shall be transmitted to the resident and the resident's designated representative. The notice shall be on a form prescribed by the Department and shall contain all of the following:

 1) The stated reason for the proposed discharge;

 2) The effective date of the proposed discharge;

3) A statement in not less than 14-point type that reads: "You have a right to appeal the SLF's decision to discharge you. You may file a request for a hearing with the Department within ten days after receiving this notice. If you request a hearing, you will not be discharged during that time unless you are unsafe to yourself or others and the SLF has given you a notice for an emergency discharge. If the SLF has not given you a notice for an emergency discharge, and if the decision following the hearing is not in your favor, you will not be discharged prior to the tenth day after receipt of the Department's hearing decision unless you are unsafe to yourself or others. If the SLF provided you with a notice of emergency discharge, and the decision following the hearing is in your favor, you will be entitled to readmission to the SLF upon the first available apartment. A form to appeal the SLF's decision and to request a hearing is attached. If you have any questions, call the Department at the telephone number listed below.";

4) A hearing request form, together with a postage paid, preaddressed envelope to the Department; and

5) The name, address, and telephone number of the person charged with the responsibility of supervising the discharge.

c) The SLF shall prepare plans to ensure safe and orderly involuntary discharge and protect resident health, safety, welfare and rights.

d) A resident may be involuntarily discharged only if one or more of the following occurs:

1) He or she poses an immediate threat to self or others.

2) He or she needs mental health services to prevent harm to self or others.

3) He or she has breached the conditions of the resident contract.

4) The SLF has had its certification terminated, suspended, not renewed, or has voluntarily surrendered its certification.

5) The SLF cannot meet the resident's needs with available support services.

6) The resident has received proper notice of failure to pay from the SLF. The resident shall have the right to make full payment up to the date that the discharge is to be made and then shall have the right to remain in the SLF. This subsection (d)(6) does not apply to Medicaid-eligible residents when the failure to pay relates to the Medicaid payment.

7) The resident exceeds the SLF's policy for what constitutes a temporary absence from the SLF. A temporary absence shall not be considered a basis for an involuntary discharge of a Medicaid-eligible resident until the Department has stopped payment pursuant to Section 146.225(f).

e) The 30-day notice required under subsection (b) of this Section shall not apply in either of the following instances; however, a notice and right to appeal information must still be provided when an immediate discharge is required:

1) When an emergency discharge is mandated by the resident's health care or mental health needs as documented in the resident record. The SLF may consult with the attending physician for additional support on the emergency discharge.

2) When the discharge is mandated to ensure the physical safety of the resident and other residents as documented in the resident record.

f) If the resident submits a request for hearing under subsection (b) of this Section, the involuntary discharge shall be stayed pending a hearing or appeal of the decision, unless the discharge is a result of a condition allowing a discharge in less than 30 days as described under subsections (e)(1) and (2) of this Section.

g) In determining whether an involuntary discharge is justified, the burden of proof in the hearing rests with the entity requesting the discharge.

h) If the Department determines that an involuntary discharge is justified under subsection (d) of this Section, the resident shall not be required to leave the SLF before the tenth day after receipt of the Department's hearing decision unless a condition which would have allowed discharge as described under subsections (e)(1) and (2) of this Section develops in the interim.

i) The SLF shall offer relocation assistance to residents involuntarily discharged under this Section, including information on available alternative placements. A resident or his or her designated representative shall be involved in planning the discharge and shall choose among the available alternative placements. Where an emergency makes prior resident involvement impossible, the SLF may arrange for a temporary placement until a final placement can be arranged. The SLF may offer assistance in relocating from a temporary to a final placement.

j) When a resident discharges on a voluntary basis, he or she shall provide the SLF with 30 days written notice of intent to discharge, except where a delay would jeopardize the health, safety, and well-being of the resident or others.

k) The Department may discharge any resident from an SLF when any of the following conditions exist:

1) The Department has terminated or suspended the SLF certification.

2) The SLF is closing or surrendering its certification and arrangement for relocation of the resident has not been made at least 30 days prior to closure or surrender.

3) The Department determines that an emergency exists which requires immediate discharge of the resident.

l) In cases of discharge under subsection (d) or (k) of this Section, the resident is no longer bound by the resident contract.

(Source: Amended at 33 Ill. Reg. 11803, effective August 1, 2009)