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YOUR RIGHTS INVOLVING DISCHARGE FROM SUPPORTIVE HOUSING

You have the discharge planning rights discussed in this fact sheet if you live in one of the following types of Supportive Housing licensed by the New York State Office of Mental Health (OMH):

- Transitional Supported Living Residences (Level II), such as a MICA Community Residence (MICA CR);
- Supervised Community Residence (Super CR);
- Community Residence SRO (CR/SRO) or Apartment Treatment; or
- A permanent residence that is part of a Community-Care Model.

1. WHAT IS DISCHARGE PLANNING?

Generally, discharge planning is the way to plan how you will leave a residential program by figuring out what you will need, including treatment, rehabilitation and support services, to live somewhere else.

2. WHAT DOES DISCHARGE PLANNING INCLUDE?

The discharge planning process should include:

- Involvement of you, program staff, other community service providers, and other appropriate people whom you agree to be involved;
- A clinical assessment of the your psychiatric status and an assessment your rehabilitation, physical, social and residential needs and goals, by clinical staff qualified to make such assessments;
- Options for appropriate residential environments and other necessary services;
- Referrals to appropriate community service and residential providers;
- When you agree, arrangements for appointments with community service and residential providers.

3. **WHEN DOES DISCHARGE PLANNING BEGIN?**

Each provider should start the discharge planning process when you first are admitted to the residential program and continue as long as you are at the residence.

4. **WHAT IS “DISCHARGE READY”?**

You are “discharge-ready” when you can be discharged from the program and when:

- All discharge planning activities have been fully followed
- Appropriate alternative housing has been identified; and
- You are willing to relocate to the identified housing.

5. **WHAT IF MY RESIDENCE TELLS ME I HAVE TO LEAVE BEFORE I FEEL I AM READY OR BEFORE I HAVE FINISHED MY DISCHARGE PLANNING?**

Generally, you must be “discharge-ready” before you can be discharged from a program. However, there are **certain circumstances when you may be asked to leave before fulfilling your treatment goals or completing the process set out in your discharge plan.** These instances include:

- If you have permanently left residence voluntarily (For Rights, go to Question 6);
- If your condition has changed and you now require a level of care – physical or psychiatric – that your supportive housing program cannot provide (For Rights, go to Questions 7 and Question 8);
- If you fail to meet one or more responsibilities for your residency, such as failing to pay rent (For Rights, go to Question 8);
- If you pose an immediate and substantial threat to the health, safety and well-being of other residents or yourself; OR
- If you create a serious and ongoing disruption of the therapeutic environment of the residential program.

6. **WHAT ARE MY DISCHARGE RIGHTS IF I HAVE DECIDED TO LEAVE THE SUPPORTIVE HOUSING OR IF THE PROGRAM THINKS I HAVE LEFT?**

If the program thinks that you have left voluntarily, then the program needs to make a determination that you have left voluntarily with no intent to return. If the program can’t make that determination, the program should treat your absence as incident, for which they should follow the required incident procedures, and hold your bed until the program can make a determination about your location. In that situation, the program should not hold your bed for more than 30 days.

7. WHAT ARE MY DISCHARGE RIGHTS IF THE PROGRAM THINKS I NEED A GREATER LEVEL OF CARE THAN THE PROGRAM CAN PROVIDE?

If the program thinks that you need more care than the program can provide, then the program must make that decision based on a clinical assessment made by qualified clinical staff.

IF the program wants to discharge you because the program made a determination that:

- you are no longer capable of self-preservation (the ability to leave the residence in the event of an emergency, like a fire); or
- you would otherwise be a risk because you need more care than the program can provide;

THEN the program needs to notify you in writing of what you need and the program's intent to find you an appropriate alternative living arrangement.

In addition, the program must follow the procedures that are outlined in Question 8.

8. WHAT DISCHARGE PROCEDURES MUST THE PROGRAM PROVIDER FOLLOW IF THE PROGRAM THINKS THAT I AM NO LONGER APPROPRIATE FOR THE PROGRAM BUT I DO NOT POSE AN IMMEDIATE THREAT?

When a program wants to discharge you because they have made a determination that you need a higher level of care than the program can provide or you have not met your important responsibilities for residency, a discharge requires:

- (1) First, the provider must make every reasonable effort to help you meet the responsibilities of residency agreement or to help with your ability for self-preservation (the ability to leave the residence in the event of an emergency, like a fire).
- (2) If their reasonable efforts to help you don't work the provider must do a clinical assessment and make every reasonable effort to make a discharge plan to which you and the provider agree. If it is needed, you and the provider should consult the local government agency or other appropriate people to mediate any disagreements and to get help in getting you appropriate residential and service alternatives, including referral to a single point of access (SPOA) program.

- (3) If the provider's efforts under paragraph (1) and (2) don't work, the provider must give you a written 30-day preliminary notice of intent to terminate residency that tells you:
- the reasons for termination;
 - any process for fixing the problems; and
 - alternative housing and service choices.

If the reason is because the provider feels you are no longer have the ability for self-preservation (the ability to leave the residence in the event of an emergency, like a fire), then the notice needs to include the reason, the grievance procedure, and let you know about the availability of legal services from Mental Hygiene Legal Services.

- (4) If the 30-day preliminary written notice doesn't work, then the provider needs to give you a written final notice of the intent to terminate residency in 30 days that tells you:
- the reason(s) for termination;
 - alternative housing and service choices, including a referral to a Single Point of Access (SPOA) program;
 - your right to submit a written objection to the Office of Mental Health within 5 days of the date of the written final notice.
- (5) If you object to the written final notice of the intent to terminate residency, then you must mail a written objection to the Office of Mental Health (OMH) contact person identified in your final notice within five days of getting the written notice. Within 10 days of receiving the objection, if possible, the OMH contact person must offer a meeting involving all the people that are important to the discharge. At the meeting:
- An audiotape record that follows the Federal and State laws about health information privacy must be made;
 - You can have a mental hygiene legal service advocate or another person of your choice help you with your presentation.

The OMH contact person should give you a decision within five days of the meeting.

- (6) If you or the provider disagree with the decision, you or the provider can ask for an administrative review by the OMH Commissioner or someone chosen by the Commissioner.
- The request for administrative review needs to be made within five days of getting the written decision of the OMH person.

- The Mental Hygiene Legal Services advocate or another person can help you with the administrative review request or make it on your behalf, if you sign a form allowing the advocate or person to have access to the information important to the review.
- The Commissioner should issue a final written decision within 10 days of receipt for administrative review. The Commissioner can send the matter back to the OMH contact person for further review, which must take place within 10 days of the Commissioner's decision.
- The decision of the Commissioner is final and cannot be sent for further administrative review.

While the administrative review is happening, you can participate in all the programs in your residency agreement and the provider should make every effort to keep you at your currently level of programming.

NOTE: If you have been admitted to the residence as part of crisis residential services or under an agreement with a managed care organization, the provider does not have to follow the above procedures.

9. WHAT DISCHARGE PROCEDURES MUST THE PROGRAM FOLLOW IF THE PROVIDER THINKS THAT I POSE AN IMMEDIATE THREAT?

If the provider determines that your behavior poses an immediate and substantial threat to the health and well-being of yourself or others or that you create a serious and ongoing disruption to the therapeutic environment of the residential program, then the provider can arrange for you to immediately remove to another place that has been judged to be appropriate for your needs. The new location should be a place that is reasonably safe for you.

10. WHAT ARE MY RIGHTS IF I AM HOSPITALIZED WHILE I AM A RESIDENT OF SUPPORTIVE HOUSING?

If you are hospitalized while you are a resident of supportive housing, the provider must consult with you, the hospital staff, and other appropriate service providers and significant people to plan for your return when you are discharged from the hospital.

The provider must keep your bed for at least 45 days of your hospitalization unless you and provider both agree that you will not return to the program. The provider must keep your bed for up to 90 days if the provider determines, after

consulting with you, the inpatient staff, other service providers and significant others, that you will return within 90 days.

Providers must give priority for readmission to an appropriate residence operated by the provider to former residents of a program that do not meet the requirements for the 45-day bed hold or 90-day bed hold.

DUE TO THE GENERAL NATURE OF THE DISCUSSION, THIS FACT SHEET SHOULD
NOT BE REGARDED AS LEGAL ADVICE.