**Section 140.700 Discharge of Long Term Care Residents**

a) A nursing facility participating in the Medical Assistance Program is prohibited from failing or refusing to retain as a resident any person because he or she is a recipient or an applicant for the Medical Assistance Program. A recipient or applicant shall be considered a resident in the nursing facility during any hospital stay totaling ten days or less following a hospital admission .

b) If a nursing facility should refuse to accept a resident back in the facility after a stay in the hospital of less than ten days, the result may be that the resident will thereafter incur hospital bills of a greater amount than the nursing facility care would have cost. If the Department were to become liable to pay such hospital bills as a result of the nursing facility's refusal to take the recipient back into the facility, the Department shall recoup its costs for that unnecessary hospitalization from the nursing facility. The provider will be required to pay the Department the portion of the hospital bill that is in excess of the amount that would otherwise have been paid for care in the nursing facility from the date on which the nursing facility refused to accept the resident's return. The Department will notify the provider of its intent to recoup and opportunity for a hearing shall be given pursuant to 89 Ill. Adm. Code 104, Subpart C.

c) A nursing facility must establish and follow a written policy under which a resident, whose hospitalization exceeds ten days or therapeutic leave exceeds the bed reserve period specified in Section 140.523, is readmitted to the nursing facility immediately upon the first availability of a bed in a semi-private, same sex room if the resident requires the services provided by the nursing facility and is eligible for Medicaid certified facility services.

d) The nursing facility must permit each resident to remain in the nursing facility and not transfer or discharge the resident except in specific instances as stated at 77 Ill. Adm. Code 300.3300(c)(1)(A) through (C).

e) For all Medicaid certified nursing facilities, notice of transfer or discharge must be made to any resident 30 days before the resident is transferred or discharged as mandated by 42 CFR 483.12 (a)(4)(B). In addition to requirements stated at 77 Ill. Adm. Code 300.3300(e), the contents of the notice shall also include requirements under 42 CFR 483.12(a)(5).

f) Pursuant to Section 1919(c)(2)(F) of the Social Security Act and Section 140.506, a nursing facility that voluntarily withdraws from participation in the Medical Assistance Program, but continues to provide nursing facility services, is prohibited from using the facility's voluntary withdrawal from participation as an acceptable basis for the transfer or discharge of residents of the facility who were residing in the facility on the day before the effective date of the withdrawal, including those residents who were not entitled to coverage under the Medical Assistance Program as of that day.

(Source: Amended at 27 Ill. Reg. 18629, effective November 26, 2003)