



ADMINISTRATIVE RULES OF MONTANA

37.5.116 INTERMEDIATE CARE FACILITY FOR THE DEVELOPMENTALLY DISABLED (ICF/DD): APPLICABLE HEARING PROCEDURES

- (1) Hearings relating to involuntary transfers and discharge from an intermediate care facility for the developmentally disabled are available, subject to the following extent:
 - (a) Involuntary transfer or discharge is defined in ARM 37.106.2805.
 - (b) A resident may exercise his or her right to appeal an involuntary transfer or discharge by submitting a written request for fair hearing to the Department of Public Health and Human Services, Office of Fair Hearings, P.O. Box 202953, Helena, MT 59620-2953, within 30 days of notice of transfer or discharge.
 - (c) The parties to a hearing regarding a contested transfer or discharge are the facility and the resident contesting the transfer or discharge. The department is not a party to such a proceeding and relief may not be granted to either party against the department in a hearing regarding a contested transfer or discharge.
 - (d) Hearings regarding a contested transfer or discharge shall be conducted in accordance with ARM 37.5.304, 37.5.305, 37.5.307, 37.5.313, 37.5.322, 37.5.325, 37.5.334 and a resident shall be considered a claimant for purposes of these rules.
 - (e) The request for appeal of a transfer or discharge does not automatically stay the decision of the facility to transfer or discharge the resident. The hearing officer may, for good cause shown, grant a resident's request to stay the facility's decision pending a hearing.
 - (f) The hearing officer's decision following a hearing shall be the final decision for the purposes of judicial review under ARM 37.5.334.

Authorizing statute(s): 50-5-103, 50-5-238, MCA

Implementing statute(s): 53-5-103, 50-5-201, 50-5-238, MCA

History: NEW, 2003 MAR p. 1322, Eff. 7/1/03.