

# NEW YORK STATE DEPARTMENT OF HEALTH CERTIFIED MEDICAL RESPITE PROGRAM

## Guidance on Recipient Rights and Responsibilities

The Department of Health (Department) adopted new regulations at **10 New York Codes, Rules and Regulations (NYCRR) Part 1007** that define recipient rights and rules for medical respite programs. This document is intended to clarify medical respite program operators' obligations to honor recipient rights, define recipient responsibilities, and inform recipients regarding their rights and responsibilities.

The rights and responsibilities are consistent with the Standards for Medical Respite Care Programs, developed by the **National Institute for Medical Respite Care (NIMRC)**. Where there is any discrepancy between the standards established by the Department, through regulations, guidance, or other program materials, and the NIMRC standards, the Department standards shall be followed.

### **RECIPIENT RIGHTS**

An operator must ensure the "protection of recipient rights," pursuant to 10 NYCRR §1007.4.

- A recipient shall have the right to leave and return to the facility and grounds at reasonable hours in accordance with the medical respite program's recipient rules;
- A recipient's civil rights shall not be infringed;
- A recipient's religious liberties shall not be infringed;
- A recipient shall have the right to have private written and verbal communications, including the right to meet with legal representatives, legal counsel, medical providers, social workers, and any other service providers; any requirements as to prior notice and hours of access shall be set forth in the recipient rules;
- A recipient shall have the right to receive and send mail or any other correspondence without interception or interference, except that incoming mail may be scanned and x-rayed to ensure that it does not contain contraband that could pose a threat to the security of the program or to the health and safety of recipients or staff;
- A recipient shall have the right to join with other recipients or individuals to work for improvements in recipient services;
- A recipient shall have the right to present grievances or appeal adverse decisions made about their stay in medical respite on their own behalf, or on behalf of other recipients, to the operator or operator's designee, or to the Department, without fear of reprisal;
- A recipient shall have the right to manage their own financial affairs;

- A recipient shall have the right to confidential treatment of personal, social, financial, and medical records;
- A recipient shall have the right to determine which family and friends the medical respite program communicates with about the recipient;
- A recipient shall have the right to receive courteous, fair, and respectful care and services;
- A recipient shall have the right to be free from restraint or confinement and shall not be locked in a room at any time, unless the recipient poses an imminent risk to the safety of others;
- A recipient shall have the right to privacy in caring for personal needs;
- If a recipient is involved in an accident or incident, the recipient shall have the right to have their version of the events leading to the accident or incident included on all accident or incident reports;
- A recipient shall not be obligated to work for the facility;
- A recipient shall not be obligated to provide any operator or agent of the operator any gratuity in any form for services provided or arranged for by the medical respite program but may, if desired, offer tokens of appreciation that do not exceed \$20 in value;
- A recipient shall have the right to receive visitors in designated areas of the facility, where feasible and during reasonable hours, as specified in the recipient rules;
- A recipient shall have the right to request reasonable accommodations for any physical or mental disability that substantially limits one or more major life activities;
- A recipient shall have the right to their designated space in the medical respite program until they are formally discharged, in accordance with the Department's *Guidance on Discharge Planning*;
- A recipient shall have the right to return to their designated bed in the medical respite program for up to 48 hours after an *unknown* absence, in accordance with the Department's *Guidance on Discharge Planning*; and
- A recipient shall have the right to receive information about the medical respite program, their rights, the recipient rules/code of conduct, and the service plan translated into their language or into a format that is accessible to them. Where written translation is not possible, an interpretation of the documents shall be provided, and the interpreter and the recipient will both need to attest to the interpretation of the documents, pursuant to 10 NYCRR §1007.7(b)(5).

## **RECIPIENT RESPONSIBILITIES**

An operator “shall adopt recipient rules governing day-to-day life in the program,” pursuant to 10 NYCRR §1007.11(a). In addition to informing recipients about their rights, as listed above, the recipient rules must inform recipients, in plain language, of the obligations upon which their continued residence in the medical respite program depends, as well as the potential consequences for noncompliance.

At a minimum, the recipient rules must address the following recipient obligations:

- Cooperating with the social services district and facility staff in an assessment of the recipient’s public assistance and care needs regarding clinical recovery, housing, and related issues;
- Assisting with the development, review, and execution of the service plan to promote recovery and achieve permanent housing;
- Making a good faith effort to comply with any responsibilities that the recipient agreed to as part of their service plan, such as attending scheduled clinical appointments and completing any prescribed self-care activities;
- Notifying facility staff of any change in the recipient’s medical condition;
- Notifying facility staff within a reasonable time when the recipient will not return to the medical respite program as expected due to hospitalization, arrest, visits to family/friends, etc. The recipient understands that during an *unknown* (unreported) absence, the recipient’s bed will only be held for 48 hours;
- Applying for public benefits for which the recipient is eligible, which may include Safety Net Assistance, Veteran Assistance, Emergency Assistance for Adults, or Social Security benefits;
- Complying with all public assistance requirements that apply to the recipient;
- Seeking permanent housing, accepting the first housing offer that meets the recipient’s needs, and moving into housing on the designated date;
- Maintaining the recipient’s own sleeping and living areas, including placing trash in the trash receptacles and wiping down sink basins after use, to the extent condition(s) allow;
- Using communal areas appropriately;
- Respecting the personal rights and private property of other recipients;
- Complying with the facility’s policies and procedures regarding secure medication storage, including refraining from sharing prescription and non-prescription medications with any other recipients; and
- Refraining from engaging in acts that endanger the health and safety of themselves or others, or that substantially interfere with the orderly operation of the facility.

## **POSTING AND DISCLOSURE OF RECIPIENT RIGHTS AND RESPONSIBILITIES**

To ensure that recipients are informed about their rights and responsibilities, as required by 10 NYCRR §1007.11, the operator shall:

- Post the recipient rules in a prominent location that is accessible to the facility's recipients and visitors; and
- Prior to the recipient's admission, have the recipient sign a copy of the rules and have the medical respite program advise the recipient, orally and in writing, of the consequences of failing to comply with these rules, potentially including discharge from the facility. A copy of the signed rules should be given to the recipient and a copy maintained by the medical respite program in the recipient's records.