



# Money Follows the Person Lease Requirements for an Assisted Living Facility

## The Residential Agreement

- Specifies the period of time governed by the agreement.
- Includes resident and provider termination rights.
- Provides for a formal appeal process for resident terminations.
- Provides details of the services the resident will receive.
- Contains a provision indicating the resident's tenancy rights can be terminated only for violations including non-payment of rent, posing a direct threat to others, or property damage.
- Indicates the assisted living facility (ALF) will meet all federal and state fair-housing laws.
- Conveys the resident's right to use and occupy the property.
- Must define a process for resolution of disputes between the ALF and the resident.
- May offer and provide a set of healthcare services and supports in exchange for rent or a fee.
- Allows for a change in apartment assignments based on plan of care with the resident.
  - In such cases, the written agreement should be modified to reflect the new agreement.
  - The ALF may not assign or reassign apartments without resident consent.

## MFP-Qualified Setting Requirements for an Assisted Living Facility

An ALF resident lacking cognitive impairment (as outlined below) must have lockable access and egress to and from their apartment as well as means to leave the facility.

The ALF resident may choose from additional Medicaid service providers beyond those covered in the ALF service rate.

The resident or responsible party must participate in the care-planning process.

The resident or responsible party must have a formal process for the resolution-of-care-plan differences between the ALF and the individual. In the event no process has been implemented, the resident agreement must define a process.

Notice of absences cannot be a condition of the resident agreement **but** can be part of the ALF operating process as long as the expectation is reasonable, noted in the care plan, and related to one of the following criteria:

- Notice of absence may be required based on an individual assessment, risk to the tenant, and the need to assure health and welfare.
- Notification of absence may be required to ensure Medicaid is not billed for days services are not delivered.
- Absences for less than 30 days cannot result in termination/discharge.

To assure health and welfare requirements, the tenant may have to inform the facility when they leave the building. The length of the absence that needs to be communicated to the facility can vary by the predetermined risk as noted in the care plan.

Residents whose service needs cannot be met under the resident agreement or contract may bring in an outside service provider to meet the additional needs if allowed by state regulation; or if able, the facility may provide the additional services. Additional Medicaid payments to an outside provider would only be made for services not included in the rate paid to the ALF.

## **MFP Participants with Cognitive Impairment**

The ALF must include design features that maximize the participant's capacity to live as independently as possible.

Conditions that limit a person's activities must be addressed in the plan of care, be related to risks to the participant's health and welfare, and be agreed to in writing by the individual or caregiver.