



Posted On: **August 1, 2011** by **Patrick A. Malone**

Your Medicare Rights at Skilled Nursing Facilities

A woman on Medicare who lives in a nursing home is visited by relatives. They are told by facility staff that the resident isn't allowed to leave without her doctor's permission. If she does, she must sign a statement releasing the facility from liability, and that her departure will result in her losing her health-care coverage.

That sounds like a plot from a Kafka novel, but it actually happened to one family. According to the **Los Angeles Times**, most of what they were told was not only fiction, but the worst kind of medical-hostage bullying.

Categorically, nobody -- not a doctor, not any health-care provider -- has authority to strip someone of his or her health insurance benefits, including Medicare. Of course, certain requirements must be met for Medicare to cover some costs at a skilled nursing facility (SNF). But, as The Times' story noted, if someone is receiving care, she has met the requirements, and it's unlikely that Medicare would be denied if she left against doctor's orders.

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Medicare coverage in an SNF is determined by a prior, qualifying three-day hospital stay; by participation in Medicare Part A with days left in the benefit period; and by a doctor's order for the SNF services as part of treatment for a diagnosed condition.

According to Eric Carlson, an attorney with the National Senior Citizens Law Center, nursing home staff has no authority to tell someone he or she can't leave. "The person isn't incarcerated, and doctors are professionals hired to give advice, not to force people to do things against their will," he told The Times.

If someone leaves against a doctor's advice, her choice must be documented, that's all.

And as far as releasing a medical provider from liability for wrongdoing, Carlson says ... don't. "Healthcare people can't [legally] absolve themselves from their own negligence."

Medicare is fraught with complication, so people on both sides of the equation -- patients and providers -- can be forgiven for misunderstanding its terms. The best way to prevent mistakes and misinformation is to be informed of your rights as a Medicare recipient, and to communicate your knowledge to facility staff.

Resources include:

- National Senior Citizens Law Center, www.nslc.org. Review the free consumer guide, "20 Common Nursing Home Problems and How to Resolve Them."
- The Office of the Medicare Ombudsman. Complaints can be filed with a representative in your state. Find yours through its National Long-Term Care Ombudsman Resource Center, www.ltombudsman.org/ombudsman.
- Many states have ombudsmen at their departments of health and/or aging. Concerns about a specific nursing facility generally can be filed through a state's Department of Public Health.
- The National Center on Elder Abuse accepts reports about abuse, www.ncea.aoa.gov. Click on "Nursing Home Abuse," then "Where to Report" to find hotlines in your state.

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- To find a lawyer at the National Academy of Elder Law Attorneys, visit www.naela.org.
- For information about Medicare benefits, visit the Medicare Rights Center at medicareinteractive.org.

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