

Lease Protections

According to 42 C.F.R. § 441.301 (c)(4)(vi)(A):

The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

Georgia Law

The lease agreements reviewed do not have termination dates. Therefore, according to Georgia Law, they would most likely be considered tenancies at will (O.C.G.A. § 44-7-6). A tenancy at will can be terminated with notice of 60 days from the landlord or 30 days from the tenant (O.C.G.A. § 44-7-7). However, current Georgia regulations of Personal Care Homes allow for a landlord to give a notice of 30 days prior to terminating a residential agreement (Ga. Comp. R. & Regs. r. 111-8-62-.29(1)). These regulations also allow a patient to be immediately discharged if their condition necessitates nursing home care or if their behavior or condition threatens other patients so long as certain procedures are followed (Ga. Comp. R. & Regs. r. 111-8-62-.28). A different law, the "Remedies for Residents of Personal Care Homes Act", grants tenants of personal care homes the right to file a grievance against or request a hearing regarding their treatment by a Personal Care Home (O.C.G.A. § 31-8-130 et seq.).

Relevant Current Contract Language

Under "Financial Details" Section:

Both the management and the resident understand that this agreement may be terminated by either party with thirty days' written notice.

REFUND POLICY: if, after notice as agreed upon, the resident is transferred or discharged, prepaid fees will be prorated and refunded to the resident. No refund will be granted in the absence of thirty days' written notice unless subject to the exception above.

Management further agrees to provide sixty-day written notice prior to a change in fees. This agreement has been read by and /or fully explained to the resident/surrogate. By signing below, all parties to this agreement acknowledge that they understand and will abide by the conditions outlined in this document.

Residents who believe their rights have been violated by a lease termination may file a grievance or request a hearing in accordance with the Remedies for Residents of Personal Care Homes Act (O.C.G.A. § 31-8-130 et seq.).

Additionally, if state landlord tenant law applies to Personal Care Homes, DCH may add the following sentence:

Additionally, residents have the same responsibilities and protections from eviction that tenants have under Georgia landlord/tenant law (O.C.G.A. Title 44, Chapter 7).

No other changes are recommended at this time.