

# RIGHTS OF ADULT HOME RESIDENTS



**A HANDBOOK FOR ADULT HOME  
RESIDENTS IN NEW YORK CITY**

**MFY Legal Services, Inc. Adult Home Advocacy Project**

## **RESIDENTS' BILL OF RIGHTS**

1. Your civil and religious rights shall not be infringed. The home must encourage and assist you in the fullest possible exercise of these rights.
2. You have the right to have private, written and verbal communications with anyone of your choice.
3. You have the right to present grievances on your behalf, or the behalf of other residents, to the administration or facility staff, the Department of Health or other government officials or other parties without fear of reprisal.
4. You have the right to join with other residents or individuals to work for improvements in resident care.
5. You have the right to manage your own financial affairs.
6. You have the right to privacy in your own room and in caring for personal needs.
7. You have the right to confidential treatment of personal, social, financial and health records.
8. You have the right to receive courteous, fair and respectful care and treatment at all times and you shall not be physically, mentally or emotionally abused or neglected in any manner.
9. You cannot be restrained or locked in a room at any time.
10. You have the right to receive and send mail or any other correspondence unopened and without interception or interference.
11. You can leave and return to the facility and grounds at reasonable hours.
12. You cannot be obliged to perform work. If you work, you must be paid.
13. You cannot provide an operator or agent of the operator any gratuity for services to which you are entitled.
14. If you are involved in an incident or accident, you have the right to have your version of the events included in the report.

**YOU SHOULD BE GIVEN A COPY OF THE BILL OF RIGHTS  
WHEN YOU MOVE INTO A HOME,  
AND IT MUST BE POSTED IN YOUR HOME  
WHERE EVERYONE CAN SEE IT!**

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**MFY LEGAL SERVICES, INC.  
ADULT HOME ADVOCACY PROJECT**

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## **Know Your Rights as an Adult Home Resident!**

MFY Legal Services wrote this handbook to educate you about your rights so you will be better prepared to stand up for them.

In this handbook, we sometimes refer to the laws and regulations that provide these rights. The main laws setting forth these rights are found in the New York State Social Services Law (SSL) Chapters 460 and 461. The New York State Department of Health (DOH) enforces these laws, and has written regulations explaining in more detail what these rights and responsibilities are. These regulations are in Chapter 18 of the New York Code of Rules and Regulations (NYCRR), Parts 485 through 487. You can get a copy of them on the internet at: [www.health.state.ny.us/nysdoh/phforum/nycrr18.htm](http://www.health.state.ny.us/nysdoh/phforum/nycrr18.htm) or by calling MFY Legal Services at (212) 464-8110.

Some abbreviations you will see in this handbook:

<b>SSL</b>	Social Services Law
<b>DOH</b>	New York State Department of Health
<b>NYCRR</b>	New York Code of Rules and Regulations (DOH regulations)
<b>OMH</b>	New York State Office of Mental Health
<b>CQC</b>	New York State Commission on Quality of Care and Advocacy for Persons with Disabilities
<b>CIAD</b>	Coalition of Institutionalized Aged and Disabled

**TO ASK FOR MORE COPIES OF THIS HANDBOOK,  
TO SET UP A RESIDENT RIGHTS TRAINING AT YOUR HOME,  
OR FOR LEGAL ADVICE, CALL MFY AT (212) 464-8110.**

# CONTENTS

<b>Resident's Bill of Rights</b> .....	inside front cover
<b>Know Your Rights As an Adult Home Resident!</b> .....	i
<b>Coming to an Adult Home</b>	
Admission Agreements .....	2
<b>Living in an Adult Home</b>	
<b>Money and Benefits</b>	
Cash Benefits .....	3
Rent .....	4
Cash Benefits .....	4-6
Other Benefits and Services .....	6
Medical Benefits .....	7-8
<b>Advocacy</b>	
Advocacy .....	8
Resident Councils .....	9
Complaints and Grievances .....	10
<b>Services</b>	
Laundry.....	10-11
Visitors .....	12
Mail & Phones .....	12
Food .....	14
Security .....	15
Heat and Air Conditioning .....	16
Medication .....	17
<b>Leaving an Adult Home</b>	
Evictions.....	18-19
Temporary Hospitalizations .....	18
Involuntary Hospitalizations .....	20
When You're Sent to a Hospital or Nursing Home .....	21
Moving Out .....	22
<b>Benefits for Adult Home Residents</b> .....	23
<b>Organizations that Help Adult Home Residents</b> .....	24

# Coming to an Adult Home



## On Admission Agreements

### What does it mean when the home signs the admission agreement?

By signing it, the home is making legally binding promises to:

- ♦ provide room, board and all of the services listed in the agreement and required by law and the regulations;
- ♦ respect your rights under the law; and
- ♦ let you stay as long as you want, unless it gets a court order terminating the admission agreement.

### What does it mean when I sign it?

By signing it, you agree to pay the rent set forth in the agreement and respect the rules. You may also tell the operator if you want the home to hold your money.

### Can the home make me stay because I signed it?

No! You can leave anytime. See section on Moving Out, page 22.

### **DID YOU KNOW?**

**You don't have to move to an adult home if you don't want to. If you do, you and the home operator will sign an admission agreement, which is a contract between the home and you. If you don't want to move to the adult home, don't sign it. SSL 461-c.**

# Living in an Adult Home

## Money and Other Benefits

Money benefits can be hard to understand at an adult home. You may need to call MFY or someone else to give you advice. Before you call, ask yourself:

1. **What kind of benefits do I get?** Many cash benefits adult home residents get are listed in the box below. Do you know what you get or what you should get?
2. **Am I my own payee or do I have a representative payee?** If Social Security thinks you need help handling your own money, it may appoint a representative payee to receive your check and help you manage your money. The adult home may be your payee, but a relative or friend can also be your payee. If you sign your own checks, you are your own payee.
3. **Do I have an account with the home?** Adult homes must offer banking services to anyone who gets SSI, and often offer these services to others as well. Does the home hold some of your money for you?

NOTE: If you don't know the answers to these questions, you should still call! We can figure it out together.

### CASH BENEFITS

This list shows some cash benefits low-income and disabled adult home residents can get. These cover rent at the adult home, and provide an allowance for personal needs. Meals are included in rent, so adult home residents can't get food stamps.

#### SSI or PA

**Supplemental Security Income (SSI) or Public Assistance (PA):** for people with no work history or whose benefits from working are not high enough to pay adult home rent. Law-makers set SSI and PA rates for adult home residents every year.

#### SSD

**Social Security Disability:** for people who used to work but are too disabled to work now. Your benefit level depends on your work history. If it's not enough to pay rent at the adult home and provide you a personal needs allowance, you should also get SSI.

#### SS

**Social Security Retirement:** for people who used to work but have reached retirement age. Your benefit level depends on your work history. If it's not enough to pay rent at the adult home and provide you a personal needs allowance, you should also get SSI.

#### VA

**Veteran's Benefits:** for people who have served in the military and their beneficiaries. Your benefit level depends on service history. If it's not enough to pay rent at the adult home and provide you a personal needs allowance, you should also get SSI.



## On Rent

### **How much do I have to pay?**

The amount of your rent is in your admission agreement. The law limits the amount of rent adult homes can charge people on SSI. If your income is higher than the SSI rate for adult homes, the home may ask for more, but can't charge more than the amount you agreed to in your admission agreement.

### **Can the home raise my rent?**

Each year the New York State legislature approves increases to the adult home rate. If you get SSI, the home may not raise your rent above the amount set by the legislature. If you get other benefits or have a private source of income, the home may ask for more. You should try to negotiate a fair rental amount. In either case, the home must give you 30 days' written notice of the proposed rent increase.

### **When I pay my rent, can I get a receipt?**

Yes. You have the right to a rent receipt.

### **Many residents sign their checks over to the home. Is this OK?**

It's up to you. You may find it more convenient to sign the check over. If you do, you're entitled to get your personal allowance within two business days. However, you may also open your own bank account, have your benefits directly deposited and pay your rent from that account.



## On Cash Benefits

### **What is a personal needs allowance (PNA)?**

People who get SSI or PA are entitled to a cash allowance every month to cover personal needs.

### **Can the home owner legally withhold my PNA from me?**

No! The PNA is yours. Even if Social Security is recovering an overpayment from your check, you are absolutely entitled to your full allowance.

### **What can I use my PNA for?**

Whatever personal needs you have or items you want. You can buy newspapers, clothes, books, stamps or a meal in a restaurant. The home may not make you use your personal allowance for things that the home must provide, like soap or toilet paper. Also, you can save your money. But be careful: if you save a lot, you can lose SSI, PA and Medicaid. Find out the resource limits for each benefit if you decide to save.

## **Does the amount of the PNA ever change?**

Yes, there is usually a small increase at the beginning of each year.

## **Can the home put me on a budget if I don't want to be budgeted?**

Only if the home is your representative. If the home is your payee, it may help you budget so that your money lasts through the month, but you still have the right to receive your full allowance. If the home is not your payee, it cannot force you to be on a budget.

## **Can home staff keep my money from me if I refuse to do something they want me to do?**

No! Your PNA is yours. Whether the home is your payee or you are your own payee, the home may not use your money to control your behavior.

## **Are the rules about money different if I have a rep payee for my benefits?**

When you have a rep payee, your check is written to someone else, often the home itself. You can't cash it yourself. Your payee receives the check and cashes it, and must pay your rent and give you your PNA. Your payee may put you on a budget if necessary, but must give you all of your PNA, and can't withhold your PNA to control what you do.

## **What if I don't want the home to be my payee?**

If you don't want a representative payee, contact your Social Security office. If you can show that you can manage your money, the payee will be removed. You can also ask for someone else to be your payee instead of the home.

## **What if I don't have a payee?**

Your checks will be mailed to you directly. You have the right to open the envelope and to cash the check yourself, or, if you have a bank account, you can ask Social Security to deposit it directly in your account. Remember: whether you have a payee or not, you owe the home rent each month. If you don't pay, you can be taken to court and evicted.

## **How can I keep my PNA safe?**

The home is required to hold your PNA in an account maintained by the home if you choose, or you can open your own bank account.

## **Do I have to let the home hold my personal needs allowance?**

No. Unless you have a rep payee and are on a budget, you have the right to receive your full PNA at the beginning of the month and hold onto your own money.

## **If I choose to maintain an account with the home, when can I get my money out of the account?**

The home must provide access to your money at least 4 hours a day, Monday through Friday. A schedule must be posted in the home and may not be changed without five days' advance notice.

## **How do I find out how much is in my account?**

When you ask for it, and at least every three months, the home must give or show you a statement of all deposits, withdrawals and the current balance in your account.

### **Can I close my account if I want?**

Yes. If you are your own payee and decide that you no longer want the home to hold your money, you can withdraw all of it.

### **What if I have other money that I want the home to hold?**

The home is allowed to hold money other than PNA in a separate account kept by the home if you give written permission.

### **Will the home keep my valuables, other than my money, for safekeeping?**

Yes. The home must give you a receipt and must store your valuables safely.

### **What happens to my benefits if I work and earn money?**

It depends on what benefits you receive. If you're working or are considering working, consult your case manager or one of the organizations listed on the back page of this book.

## **OTHER BENEFITS AND SERVICES**

Here are some other services and benefits to which you may be entitled:

**Access-a-Ride:** for people too disabled to use subways and buses. For the cost of a subway or bus ride, Access-a-Ride will pick you up and drop you off at the door and return you to your home.

**Half-Fare Metro Card:** for people with disabilities, including mental health diagnoses. If you qualify, you'll get a picture ID card and can pay half fare on the subway or bus.

**Lifeline Telephone:** for low income people. If you get SSI or Medicaid, or are low-income, you can get basic phone service at a very low monthly cost.

**Independent Case Management:** The Office of Mental Health (OMH) assigns case managers for people with mental illnesses. Some adult homes have OMH case management onsite, and some residents see outside case managers.

**Supportive Housing:** Adult homes are only one type of housing for people with disabilities. If you have a mental health diagnosis but want more independent living, ask for help applying for another type of supportive housing.

Telephone numbers for the agencies providing these services can be found on page 23.

Remember: the home is legally required to help you get benefits! If you are having trouble getting the home to help you, contact one of the agencies listed at the end of this booklet.



## On Medical Benefits

### **Will Medicaid pay the cost of transportation to medical providers?**

Yes. If you are unable to take public transportation, your adult home should arrange transportation to medical providers and Medicaid will pay for it.

### **Can I keep my own Medicaid or Medicare card?**

Yes. The card is yours. You have the right to keep it, or if it is more convenient, you can ask the home to hold it for you.

### **What are Medicaid “co-payments”?**

Some Medicaid recipients may be asked to pay for part of the cost of their medical care when they go to a doctor, a hospital or a pharmacy. This payment is called a "co-payment" or "co-pay." This co-pay may be requested, for example, for a prescription. However, residents of adult homes who are on Medicaid are exempt from paying co-pays. You should request a letter from your adult home stating that you are a resident that you can give to the pharmacist or medical provider to show that you are exempt. If you are denied services, such as a prescription, because you did not pay the co-pay, call the Medicaid Helpline at 1-800-541-2831. Have the name and telephone number of the provider when you call.

### **If I get my prescriptions through Medicare Part D, do I have to make co-payments?**

You are not exempt from paying Medicare Part D co-pays because you live in an adult home. Pharmacies are not required to provide medication to anyone who does not pay Medicare Part D co-pays, so be careful about refusing to pay. You should tell your pharmacy that you cannot afford to pay the co-pay, and your case manager should help you do this. If your pharmacy says you must pay co-pays, you may look for another pharmacy that will not make you pay it.

### **Can the home take co-pays from my monthly allowance?**

No. If you are pressured by the home to make co-pays or to sign a form authorizing co-pays to be taken from your PNA, contact DOH, CIAD or MFY or a lawyer of your choice immediately

## MEDICAL BENEFITS

The list below shows some of the medical benefits adult home residents may get. They pay for outpatient and inpatient treatment and prescription medications.

**Medicaid:** for low-income people to pay for all medical care and medications. If you qualify for SSI or PA, you will automatically receive a Medicaid card. If you don't receive SSI or PA but are low income, your case manager should help you apply. Medicaid recipients in New York City are now required to enroll in a Medicaid Managed Care plan. Your case manager should help you select a plan.

**Medicare Parts A, B and C:** for people who have been on SSD for two years or who are over 65, to pay for all medical treatment besides medications.

**Medicare Part D:** for people who have been on SSD for two years or who are over 65, to cover prescription medications. If you qualify for both Medicaid and Medicare, Medicare will cover your prescriptions and you may be asked to pay co-payments for medications.

**EPIC:** EPIC is a New York State program for people over 65 to help cover the cost of prescription drugs. If you receive full Medicaid benefits, you do not qualify for EPIC, but if your prescriptions are covered by Medicare, EPIC may cover costs not covered by Medicare.

## Advocacy

An advocate is someone who helps you to stand up for your rights. Adult homes cannot punish, harass or evict you for speaking up for your rights or the rights of other residents (SSL 461-d(3)(c,d))

### Who Can Advocate for an Adult Home Resident?

**MFY (MFY Legal Services, Inc.):** We can give you legal advice, help you negotiate with the home when you have a disagreement, and represent you in court if the home is breaking the law or trying to evict you. We also represent residents in cases to address patterns of illegal behavior by adult homes.

**CIAD (Coalition of Institutionalized Aged and Disabled):** CIAD works with resident councils to make changes in their homes and on policy issues related to adult homes. CIAD can also help people with individual problems at their homes.

**Service Providers:** Case managers and other service providers can help and support you in standing up for your rights.

**You:** You can work together with the other residents of your home to make changes and stand up for your rights.

**Family, friends and anyone else** who will help you and other residents obtain the rights to which you are entitled by law.



## On Residents' Councils

### What is a Residents' Council?

A residents' council is a group of residents, run by residents, which meets to address problems and concerns of the residents. All residents in the home can participate.

### Do all homes have residents' councils?

All homes are required by law to have a residents' council which is run by residents.

### What is the relationship between the residents' council and the home owner?

The home must make sure that the residents' council is run by the residents – not by staff. The home owner must appoint a staff person to receive complaints from the residents' council, and must make a written reply concerning complaints raised by the council.

### Can adult home staff come to residents' council meetings?

Many residents' councils choose not to invite staff, so that all residents feel comfortable discussing their problems. However, if the council requests it, a representative of the home must attend the residents' council meetings.

### How often can a residents' council meet?

As often as the residents wish.

### What if I want help organizing a council in my home?

Call CIAD at the number listed in the back of this book.

### **DID YOU KNOW?**

**Adult homes are legally required to encourage residents to form residents' councils?**

*18 NYCRR 487.5(b).*

## COMPLAINTS AND GRIEVANCES

If your rights are being violated, you can call the state agencies that oversee adult homes, and you can call advocates. Adult homes cannot punish, harass or evict you for complaining. SSL 461-d(3)(c), 18 NYCRR 487.5(a).

### Who Can I Call if I Have a Complaint?

**DOH:** The New York State Department of Health is responsible for enforcing the law and regulations. They investigate complaints and make unannounced inspections of homes. You can complain to DOH by calling their hotline or writing to them. You can also tell DOH inspectors about problems when you see them in your home.

**CQC:** The New York State Commission on Quality of Care and Advocacy for Persons with Disabilities investigates complaints about care and treatment in adult homes.

**The Ombudservice Program:** The Long Term Care Ombudservice Program works with residents, and the family and friends of residents, to improve the lives of adult home and nursing home residents.

Try to keep a record of what happened and when, whom you spoke to at the home about your complaint, how the home responded and the names of anyone who can give more information about the problem. Ask the home for copies of any documents you are given or asked to sign, and keep them in a safe place.

The phone numbers and addresses for all of these agencies are in the back of this book.

## Services

When you pay rent at an adult home, you're not just paying for a bed. Here are some of the things the home is required to provide under the regulations (18 NYCRR § 487) and your admission agreement:

### Furnished Room

The home must provide a single bed, a pillow, a chair, a table, a lamp with a shade, a dresser and closet space, curtains, blinds or shades on the windows, and lockable storage.

### Linen Service

The home must provide two sheets and one pillowcase, at least one blanket and one bedspread, towels and washcloths. The home must also provide soap and toilet paper as needed, and your linens should be changed weekly, or more often if needed.

### Housekeeping

The home must maintain a clean and comfortable environment in the home.

### Laundry

The home must offer free laundry service.

## Food

The home must serve three nutritious meals a day, plus an evening snack.

## Security

The home owner is responsible for supervising the home to protect you and to protect your property.

## Temperature Control

The home must provide heat when it's cold, and a cool common area when it's hot. Bedrooms and common areas must be at 68 degrees when the temperature outside is 65 degrees or less. The legislature passed a law in 2007 that requires DOH to issue regulations related to temperature standards. DOH has advised adult homes that they must provide a common area that is air-conditioned when the outside temperature exceeds 85 degrees and must turn on air conditioners in resident rooms if they have them without cost to the resident.

## Personal Care

The home must provide assistance, if you need it, with dressing, bathing, using the toilet, brushing or combing your hair, shaving, caring for your nails, brushing your teeth and eating in the dining room.

## Medication Management

The home must assist you in taking your medications, if you need help. If you're able to administer your own medications, the home must offer to help you store them.

## Activities

The home must offer an organized and varied program of individual and group activities that help develop your potential as a person.

## Case Management

The home must provide case management to help you arrange for medical and other services and help you apply for and maintain public benefits.

## Can the home's case manager make me go to the home's doctors?

No. You are free to choose your own doctors. The doctors provided by the home may be more convenient because they come to the home and accept Medicaid, but the choice is yours. The case manager should help you find another doctor if you need help. To find out what doctors in your area accept Medicaid, call the Medicaid Telephone Inquiry Number at (518) 486-9057.

### **DID YOU KNOW?**

**The home must allow you privacy in regard to visitors, mail, phones, and personal information.**



## On Visitors

### **Can the home limit when I can have visitors?**

Yes, but you have a right to visits during a period of at least ten hours between 9:00 a.m. and 8:00 p.m. daily. The visiting hours may be made longer by the home.

### **Who can visit me?**

Anyone who you want to have as a visitor including relatives, friends, lawyers and other advocates, legal representatives, and case managers. People from community organizations that provide free services or that help you get needed services can also visit.

### **Can the home owner keep anyone out?**

Yes. The home can keep out people who would directly endanger the safety of the residents.

### **What if I don't want to see someone?**

You have the right to refuse visitors. If you want to see someone but you and/or your roommate don't feel comfortable having that person in your room, you can meet elsewhere in the home.

### **What can I do if I have any problems or questions regarding my rights to have visitors?**

You can contact any of the organizations listed at the back of this book.



## On Mail & Phones

### **The home opens my mail. Can they do that?**

No! It's against the law for the home to open your mail.

### **Even my benefits check?**

Yes. You have the right to receive your check unopened. However, if the home is your representative payee, your check and other mail from Social Security will be addressed to the home, not to you, and the home can open the mail and cash your check.

### **Do I have a right to a phone?**

The home must provide one telephone for every 40 residents for outgoing calls. Usually the home provides pay telephones.

### **Do I have a right to a phone in my room?**

The home does not have to provide one. However, you can pay the phone company for a phone in your room, if you choose. If you receive SSI, PA, or Medicaid, you are also eligible for Lifeline phone service. Lifeline customers pay \$5.00 for phone installation, \$1.00 per month for phone service, plus 10¢ per local outgoing call.



# On Laundry

## What if the home loses my clothes in the laundry?

If you can prove that you didn't get all your clothes back, the home owner should reimburse you for the cost of replacing them. You might suggest to the home owner that each resident's clothes should be washed in a separate mesh bag. This will help prevent clothes from getting lost. If an item is not returned, report it to the administrator immediately.

If your clothes are getting lost in the laundry, you may wish to make a list of what clothing you are sending to the laundry. The next page has a sample laundry list that you can use. When your laundry is returned, check that all the items are there.

## What if I want to wash my clothes myself?

The home might provide machines for your use free of charge. You are also free to go to a commercial laundry, but you will have to pay.

### SAMPLE LAUNDRY LIST

Date \_\_\_\_\_

Number of:

\_\_\_\_\_ **Shirts** *Circle colors:* white; black; orange; red; green; yellow; plaid.

*Other colors:* \_\_\_\_\_

\_\_\_\_\_ **Pants** *Circle Colors:* black, brown, tan, blue, gray, red, pink, purple, orange, plaid, striped or checked.

*Other colors:* \_\_\_\_\_

\_\_\_\_\_ **Undershirts**

\_\_\_\_\_ **Underpants**

\_\_\_\_\_ **Pairs of Socks**

\_\_\_\_\_ **Nightclothes**

**Other Items:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Q&A On Food

## **Does the law say anything about the quality of adult home food?**

The State's rules say that the meals must be "balanced, nutritious and adequate in amount and content to meet daily dietary needs." There must be a hot main course either at lunch or at dinner, and at every meal there must be water, milk, coffee, tea and a hot decaffeinated beverage.

## **What about special diets, for example, for persons with diabetes?**

You should let the home know about any special diet before you move in and you should get a letter from your doctor describing the diet. If the home accepts you for residence, it must provide you with this diet.

## **Am I entitled to silverware and cups appropriate for the meal?**

Yes. The home must provide each resident with cutlery, napkins and cups suitable for each meal. The home may not serve you on paper plates, or give you plastic utensils to use.

## **Does the home have to tell residents what it plans to serve at meals?**

Menus must be posted where residents and visitors can see them.

## **Can meals be served at any time?**

No. They must be served at regularly scheduled times. The evening meal can be no earlier than 4:30 p.m. Breakfast must be served within 15 hours of the evening meal. For example, if dinner is served at 5:00 p.m., breakfast can be served no later than 8:00 a.m. the next morning.

## **What can I do if I don't like the food at my home?**

You can form or join a food committee with other residents of the home. Adult homes are required to allow residents to meet and to advise the operator regarding the food served in the facility. Food committees can help residents complain to the home and regulatory agencies about the quality of the food, suggest different foods you would like the home to serve, and work with the home's nutritionist to develop a healthy menu.



## On Security

### **How should the staff keep the home safe?**

There must be staff present and on duty at the home 24 hours a day, every day. Staff should make sure that unauthorized people do not come into the home. This means that residents and their guests can come in, but that people who have no business in the home do not. Also, there must be at least one complete fire drill every year.

### **What about an emergency call system?**

Each room must have some emergency call device, like a bell, buzzer or phone.

### **What about protecting my property?**

Each resident must have lockable storage facilities in his or her room. You may wish to keep your valuables locked up in your room, but you should always be careful where you leave cash. Also the home will usually agree to store a resident's valuables.

### **What can I do if something is stolen from my room?**

Report any stolen property immediately to the home. You may want to file a police report, too.

### **What if I think someone at the home is responsible for stealing?**

You should tell the home owner and your residents' council, and write down what happened. If other residents are having the same problem, the home may be able to figure out who is responsible and take care of the problem.

### **Do I have to give the home owner a key to my room?**

Yes. A key is necessary so that the home owner can get into your room in case of an emergency. However, the owner and staff cannot enter your room without knocking first or without your permission if it is not an emergency.



## On Heat and Air Conditioning

### **What are the rules on heating in adult homes?**

Whenever the outside temperature is below 65 degrees, the temperature in resident bedrooms and in common areas, like the dining room, must be at least 68 degrees.

### **Is there a different rule for night and day hours?**

No. The rules are the same day and night.

### **Are there any rules about air conditioning and cooling in the summer?**

The rules do not require homes to have air conditioning. However, whenever the temperature in residents' rooms reaches 85 degrees, the home must do the following things:

- ◆ If your room has an air conditioner installed, the home must turn on the air conditioner even if you can't afford to pay for it.
- ◆ If some residents' rooms do not have air conditioning, the home must provide a common area where all residents may go in which the temperature is maintained below 85 degrees.

Also, whenever the outside temperature reaches 80 degrees, the home must do the following things:

- ◆ take measures to maintain a comfortable environment
- ◆ monitor inside temperature, as well as resident exposure and reactions to heat
- ◆ provide plenty of water or juice and encourage residents to drink it
- ◆ arrange for health care, if needed
- ◆ arrange for temporary relocation of residents, if needed

### **What if my medication makes me uncomfortable in hot weather?**

Ask your doctor about your medication. Some medications do have side effects in hot weather. Let the home owner know.



## On Medication

### **What if I don't want the home's help taking my medication. Can I take it myself?**

As long as your doctor states in writing that you are "capable of self administration," and as long as you keep the home informed of all your medications, you can store and take your own medication.

### **Suppose I want to take my medication myself, but my doctor disagrees.**

You should discuss this carefully with your doctor. If you still cannot agree, you may wish to get an opinion from another doctor and perhaps even change doctors.

### **What if I am found to be capable of self-administering my medication but I want the home to store my medication. Can I do this?**

Yes. You can ask the home to store your medication. When it is time to take it, ask for it. You should be sure that the label on the bottle is the same as your prescription.

### **If I am found to be capable of self-administering my medication, how can I get my own medication?**

You do it just like anyone else does. First, your doctor writes you a prescription for your medication. Second, you take the prescription to a pharmacy and you purchase the medication with your Medicaid card or other insurance. Third, you take the medication according to the directions on the prescription. Remember, you must let the home know what medication(s) you are taking. Also you must store your medications in a place where other residents, including roommates, cannot get access them to them.

### **The staff at the home gives me medication. Do I have to take it?**

No. Under the law, you cannot be forced to take medication. However, the home is required to notify your doctor of your refusal, and if there is a danger of harm to you, you may be hospitalized. Also, be careful. Before you decide not to take it, you should first speak with your doctor and with your case manager.

### **What if there are unpleasant side effects to my medication? Should I stop taking it?**

Before you decide not to take it, you should discuss the situation with your doctor and case manager and explain the unpleasant side effects. Ask if your medication can be changed to lessen the unpleasant side effects.

# Leaving an Adult Home

## Evictions

Before you read the following section on evictions, test how much you know about your rights as an adult home resident:

### *True or False?*

**If the home operator tells me to leave, I have to move.**

**False!** Only a judge can make you move out.

**If the home gives me a 30 day notice, I have to leave.**

**False!** If you get a 30 day notice and want to stay, you should tell the operator you object, and call MFY or a lawyer of your choice.

**If the operator takes me to court, I have to leave.**

**False!** The operator has to prove to a judge that there are legal grounds for eviction, and the judge has to order you to leave. If the judge disagrees with the home, you can stay. If you get a notice of petition and petition it means the home has started a court proceeding and you should call MFY or a lawyer of your choice.

**If I go to the hospital, the operator can refuse to take me back when I'm better.**

**False!** That's called an illegal lockout. If your doctors say you're well enough to return home, the home must take you back.

**If I refuse to leave and the home takes me to court, I am more likely to end up in a shelter or in a bad adult home than if I agree to leave when I get a thirty-day notice.**

**False!** Calling a lawyer and going before a judge can help protect your right to get help finding suitable housing. Don't let the home scare you into moving if you don't want to move.

Under the Social Services Law 461-g and 461-h, an adult home operator cannot make you leave without a court order. If the home is trying to make you leave, call MFY or a lawyer of your choice.

### TEMPORARY HOSPITALIZATIONS

The only time an adult home can make you leave without a court order is if you become so sick that you need medical hospitalization or if you become a danger to yourself or to others and need psychiatric hospitalization. In both cases, you have the right to return to the home once your doctors decide you are ready.



## On Evictions

### Can I be evicted from the home?

Yes. You can be evicted if:

- ◆ you do not pay your monthly rent, or
- ◆ you become so sick that you can't get necessary care in the home, or
- ◆ your behavior is dangerous to yourself or others, or
- ◆ your behavior is repeatedly disruptive, or
- ◆ the home is being closed.

You cannot be evicted because:

- ◆ you make a complaint about the home, or
- ◆ your income is reduced due to an overpayment, or
- ◆ you stand up for your rights, or
- ◆ you contact a lawyer, or
- ◆ you are temporarily hospitalized.

### What happens if I sign an agreement with the home owner to leave voluntarily?

Call MFY or an attorney of your choice if you signed something agreeing to leave but don't want to leave. You may be able to withdraw the agreement and stay.

### What if I owe the home money, but I don't have it? Won't the judge put me out?

Not necessarily. It may be possible to get funds from welfare to prevent eviction. The judge will usually give you time to get this money, and in fact the home has an obligation to assist in obtaining the money.

#### THE EVICTION PROCESS

SSL 461-g and 461-h

- The home gives you a 30-day notice. The notice must state why the home wants you to leave and when.
- If you don't want to leave, tell the home you plan to stay. If you want to leave, tell the home you want help finding another place to live, but stay at the home until you find another place. Either way, call MFY.
- After 30 days, if the home wants to evict you, it must serve you with eviction papers, called a Notice of Petition and Petition. If you receive such papers and haven't called MFY already, call now!
- The home must prove to the judge that there is a legal reason you should be evicted. If the home cannot prove this, you don't have to leave. Even if the judge agrees to evict you, s/he will probably give you some time to work with the home to find another place to live.



## On Involuntary Hospitalizations

### What should I do if the home wants to send me to a psychiatric hospital and I don't want to go?

The most important thing that you can do is to stay calm: take a deep breath, count to ten or suggest to staff that you go to your room so that you can calm down. Even if staff is doing something you know is wrong, it's in your best interest to remain cool, calm and collected. You should also try to remain calm if the home calls the police or an ambulance to take you to the hospital.

### What are my rights if I'm admitted to a psychiatric hospital against my will?

You can get a lawyer from the Mental Hygiene Legal Service (MHLS) to challenge your hospitalization. MHLS has an office in most psychiatric hospitals and the number for the MHLS attorney for that hospital should be posted in the psychiatric unit. You can also tell a social worker on the unit that you want to speak to an MHLS attorney. If you want to be released, MHLS can help you to get a hearing within 5 days.

#### **DID YOU KNOW?**

**It is illegal for adult homes to use hospitalizations or the threat of hospitalizations as a way to punish people for standing up for their rights and making complaints.**

SSL 461-d(3)(c).

### If I signed myself into the hospital voluntarily, can I change my mind and get out of the hospital immediately?

No, you must notify the hospital staff in writing. The hospital must either release you or apply for a court order within 72 hours. You again have the right to get help from an MHLS lawyer.

### Will I continue to receive SSI while I am in the hospital?

Your SSI can continue for three calendar months while you are hospitalized unless Social Security is notified that your stay is likely to exceed three

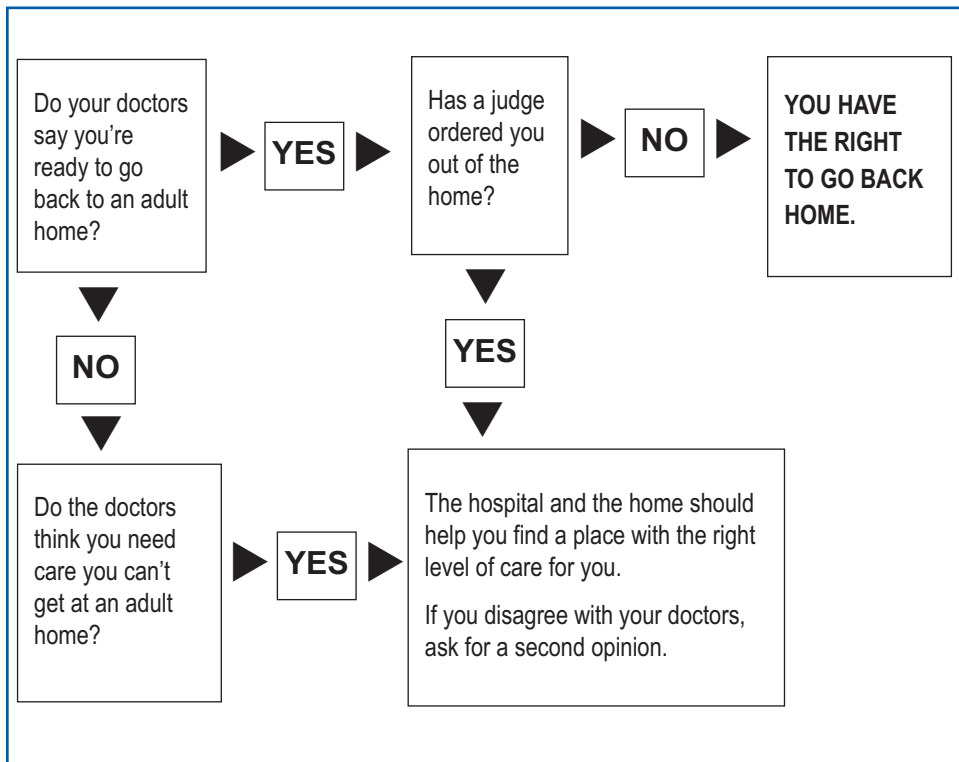
months. Remember, SSI pays to hold your bed while you're away. If you are in the hospital for more than 3 months, you may lose your bed, but you still have the right to return to the next available bed.

### When I'm ready for discharge, can the home "screen" me or make me do another admission interview?

No. As long as your doctors at the hospital state that an adult home is appropriate for you, you have the right to return. If the home refuses to take you back or insists on screening you, you can call MFY or a lawyer of your choice.

# When You're Sent to a Hospital or Nursing Home

Sometimes you may need to leave the home for short-term medical or mental health treatment. When you're ready for discharge, you have the right to go back home. If the hospital sends you to a nursing home at first, you can go back to the adult home if the doctors at the nursing home decide you no longer need nursing home care. Use this flow chart to figure out your rights after you've been admitted to a hospital or nursing home.



Social Services Law 461-g and 461-h say that only a judge can order you out of a home. The home can't use hospitalizations as a way to terminate your admission agreement. When your doctors say you're ready to go home, the home can't refuse to take you back.



## On Moving Out

### **Can I move out of my adult home if I want to?**

You are free to leave at any time.

### **How can I find another place to live?**

Finding affordable housing in New York isn't easy. If you are interested in moving out, ask your case manager for help.

### **The adult home case manager won't help me look for another place to live. What should I do?**

You can complain to DOH. If you have a psychiatric diagnosis, you may also be able to get a case manager through OMH; call the Center for Urban Community Services (CUCS) at (212) 801-3300 to find out how to apply for a case manager.

### **What about a refund of rent if I move out?**

To get a rent refund, you may want to give your home advance notice of your decision to leave. Most admission agreements state that the resident should give 30 days' advance notice. However, if you are not able to give 30 days' notice, the home should still refund the balance of your rent for the month. You can call MFY or a lawyer of your choice if they don't.

## **DID YOU KNOW?**

### **Adult homes are legally required to help people who want to move out?**

18 NYCRR 487.5(a)(19), 487.7(g)(xii)

# Benefits for Adult Home Residents

You can call the following numbers for helpful information on benefits and services that may be available to you. Remember that if you are calling with specific questions about your benefits, it helps to have information about yourself ready, like your social security number or benefits ID number.

## **Access-a-Ride**

Call Access-a-Ride at (877) 337-2017

## **Lifeline**

Call Verizon at (800) 974-6006

## **Medicaid**

Call Medicaid at (800) 541-2831

## **Medicare**

Call Medicare at (800)-MEDICARE; (800) 633-4227

## **MTA Half-Fare Card**

Call MTA Mobile Sales Unit (718) 243-4999

## **Access-a-Ride**

Call MTA (718) 596-8585

## **SSI, SSD and SS retirement**

Call the Social Security Administration at (800) 772-1213

## **Supportive Housing or Case Management**

Call the Center for Urban Community Services (CUCS) at (212) 801-3300

## **Veterans' Benefits**

Call the Veterans' Administration at (800) 827-1000

# Organizations that Help Residents

**The Adult Home Advocacy Project of MFY Legal Services, Inc.** provides free legal services in civil matters to adult home residents; 299 Broadway, 4th Floor, New York, NY 10007, (212) 464-8110.

**The Coalition of Institutionalized Aged and Disabled (CIAD)** helps residents of adult homes and nursing homes to organize residents' councils and helps existing councils to address problems related to resident care. Contact CIAD c/o Hunter-Brookdale Center on Aging, 425 E. 25th St., New York, NY 10010, (212) 481-7572.

**The New York State Commission on Quality of Care and Advocacy for People with Disabilities** investigates complaints about care and treatment in adult homes that serve people with mental disabilities. Complaints can be made by residents or by anyone acting on a resident's behalf by calling (800) 624-4143.

**The New York City Long Term Care Ombudservice Program** works with residents, and the family and friends of residents, to improve the lives of adult home and nursing home residents. You can reach the program c/o New York Foundation for Senior Citizens, 11 Park Place, Suite 1111, New York, NY 10007 (212) 962 2720

**The New York State Department of Health, Division of Home and Community Based Care (DOH)**, is the government agency which licenses and regulates adult homes. You can file a complaint by calling (866) 893-6772 or writing to the DOH Adult Home Complaint Intake Unit, 161 Delaware Avenue, Delmar, NY 12054 or by faxing your complaint to (518) 473-9476.

**The New York State Office of Mental Health (OMH)** is the government agency which licenses and regulates mental health providers, including hospitals, outpatient clinics and OMH case managers. You can file a complaint by calling (800) 597-8481 or writing to 44 Holland Avenue, Albany, NY 12229

## Cover Art

Nelia Gibbs, *Green House*.

## About the Artist

Ms. Gibbs was born in 1961. She began exhibiting her art work in high school, studied at the Art Students' League, the School of Visual Arts, and the Jamaica (New York) Art Center. Ms. Gibbs has lived with paranoid schizophrenia for many years. She says that she accepts her illness and the need to take medication for it as part of her reality. She joined Fountain House, a club house for people with mental illness, because of its gallery. She has exhibited her paintings in group shows and in a two-person show at Fountain Gallery and through Club Access, a non-profit group working with artists. She hopes that her work will provide hope and inspiration to adult home residents who are seeking to express themselves by advocating for their rights.



## **MFY Legal Services, Inc.**

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