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Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

JOHANNE E. MORNE, M.S.
Acting Executive Deputy Commissioner

January 26, 2024

CERTIFIED MAIL/RETURN RECEIPT

██████████
c/o St. John's Episcopal Hospital
327 Beach 19th Street
Far Rockaway, New York 11691

Bob Kelly, Risk Manager
Haven Manor Health Care Center
1441 Gateway Blvd.
Far Rockaway, New York 11691

Robert Elliot, Esq.
Bartlett LLP
119 North Park Avenue
4th Floor
Rockville Centre, New York 11570

Jacqueline Lutchmidat, DSS
St. John's Episcopal Hospital
327 Beach 19th Street
Far Rockaway, New York 11691

Barbara Phair, Esq.
Abrams Fensterman, LLP
3 Dakota Drive, Suite 300
Lake Success, New York 11042

RE: In the Matter of ██████████ – Discharge Appeal

Dear Parties:

Enclosed please find the Decision After Hearing in the above referenced matter. This Decision is final and binding.

The party who did not prevail in this hearing may appeal to the courts pursuant to the provisions of Article 78 of the Civil Practice Law and Rules. If the party wishes to appeal this decision it may seek advice from the legal resources available (e.g. their attorney, the County Bar Association, Legal Aid, etc.). Such an appeal must be commenced within four (4) months from the date of this Decision.

Sincerely,



Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB: cmg
Enclosure

STATE OF NEW YORK
DEPARTMENT OF HEALTH

In the Matter of an Appeal, pursuant to
10 NYCRR 415.3, by

[REDACTED]

Appellant,

from a determination by

Haven Manor Health Care Center,

Respondent,

to discharge him from a residential
health care facility.

COPY

DECISION
AFTER
HEARING

Hearing before: Kathleen Dix
Administrative Law Judge
January 26, 2024
By WebEx Videoconference

Parties: Haven Manor Health Care Center
By: Barbara Stegun Phair, Esq.
Abrams Fensterman, LLP
3 Dakota Drive
Suite 300
Lake Success, New York 11042

[REDACTED]
c/o St. John's Episcopal Hospital
327 Beach 19th Street
Far Rockaway, New York 11691

JURISDICTION

On [REDACTED], 2024, Haven Manor Health Care Center, (Facility), a residential health care facility subject to Article 28 of the Public Health Law (PHL), transferred [REDACTED] (Appellant) to St. John's Episcopal Hospital (Hospital) and thereafter refused to accept him back to its Facility. The Appellant appealed the discharge to the New York State Department of Health (the Department) pursuant to 10 New York Codes, Rules, and Regulations (NYCRR) Section 415.3(i).

The hearing was held on January 26, 2024, in accordance with the PHL; Part 415 of 10 NYCRR; Part 483 of the United States Code of Federal Regulations (CFR); and the New York State Administrative Procedure Act (SAPA); via Webex videoconference. (2h 39m.) Evidence was received and witnesses were examined. A digital recording of the hearing was made.

HEARING RECORD

ALJ Exhibits:

- I. Notice of Hearing

Facility's Exhibits:

1. Facility's Nursing notes [REDACTED], 2023
2. Patient Review Instrument and Discharge Summary dated [REDACTED] 2024
3. [REDACTED] Progress Note [REDACTED]/2024
4. Hospital Nursing Notes [REDACTED] 2024
5. Facility Summary Notes

Appellant's Exhibit:

None.

Facility's Witnesses:

1. Mohammad Saif, M.D., Attending Physician
2. Kettlyne Pierre, R.N., Director of Nursing Services
3. Robert Kelly, Director of Physical Therapy and Risk Manager

Appellant's Witnesses:

None.

SUMMARY

Respondent, Haven Manor Health Care Center, is a residential health care facility, specifically a nursing home within the meaning of PHL § 2801.2 and 10 NYCRR 415.2(k), located in Far Rockaway, New York. The Appellant is a [REDACTED]-year-old male who was admitted to the Facility on [REDACTED], 2023, and has a primary diagnosis of [REDACTED] and additional diagnoses that include [REDACTED] [REDACTED] (Exhibit 2).

The Facility transferred the Appellant to the Hospital for medical and [REDACTED] treatment. (T. Saif, Pierre, Kelly.) The Hospital deemed the Appellant medically and [REDACTED] stabled and cleared him for return to the Facility as of [REDACTED] 2024. (Exhibit 2.) The Facility refused to readmit the Appellant stating that the Appellant was a danger to himself and to others. (T. Saif, Pierre.)

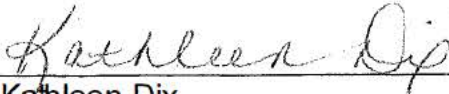
At the hearing, the Hospital became aware that the Appellant needed further care and withdrew its appeal and medical clearance for the Appellant's return to the Facility. The Facility acknowledged that once the Appellant is stable, they will readmit the Appellant.

This Decision serves as a memorialization of the verbal agreement reached at the hearing.

DECISION

1. The Hospital's appeal of the Facility's refusal to readmit the Appellant is withdrawn.
2. This decision may be appealed to a court of competent jurisdiction pursuant to Article 78 of the New York Civil Practice Law and Rules.

Dated: Menands, New York
January 26, 2024



Kathleen Dix
Administrative Law Judge

To: Haven Manor Health Care Center
1441 Gateway Blvd.
Far Rockaway, NY 11691
[REDACTED]

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