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Department of Health

KATHY HOCHUL
Governor

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

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

May 30, 2024

CERTIFIED MAIL/RETURN RECEIPT

[REDACTED]
c/o Briarcliff Manor Center for Rehabilitation and Nursing
620 Sleepy Hollow Road
Briarcliff, New York 10510

Raquel Bennet, Director of Social Work
Briarcliff Manor Center for Rehabilitation and Nursing
620 Sleepy Hollow Road
Briarcliff, New York 10510

RE: In the Matter of [REDACTED] – 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: nm
Enclosure

STATE OF NEW YORK
DEPARTMENT OF HEALTH

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



██████████,
Appellant,

DECISION
DA24-6333

from a determination by

**BRIARCLIFF MANOR CENTER
FOR REHABILITATION AND NURSING**

to discharge him from a residential health care facility.

Before: Kendra Vergason,
Administrative Law Judge

Held at: WebEx video conference

Date: May 24, 2024

Parties: ██████████, Appellant
c/o Briarcliff Manor Center for Rehabilitation and Nursing
620 Sleepy Hollow Road
Briarcliff, New York 10510

Raquel Bennet, Director of Social Work
Briarcliff Manor Center for Rehabilitation and Nursing
620 Sleepy Hollow Road
Briarcliff, New York 10510

Briarcliff Manor Center for Rehab & Nursing (Facility), a nursing home subject to Article 28 of the Public Health Law, through Notice of Discharge dated ██████████ 2024, determined to discharge ██████████ (Appellant) on ██████████ 2024, to an address in the community at ██████████. As grounds for discharge, the Facility alleged that the Appellant's "health has improved sufficiently so that [he] no longer needs the services provided by Briarcliff Manor Center for Rehabilitation and Nursing." The Appellant filed an appeal of the discharge to the New York State

Department of Health pursuant to 10 NYCRR415.3(i). The Facility has the burden of proving the discharge or transfer is necessary and the discharge plan is appropriate. 10 NYCRR 415.3(i)(2)(iii)(b).

The Facility and the Appellant were duly served with a written notice of hearing via email correspondence and certified or regular U.S. mail. (ALJ I.) The hearing was scheduled for April 5, 2024, but adjourned to April 19, 2023, and again to May 24, 2024, at the request of the Appellant's ██████████/representative due to the Appellant's temporary hospitalization.

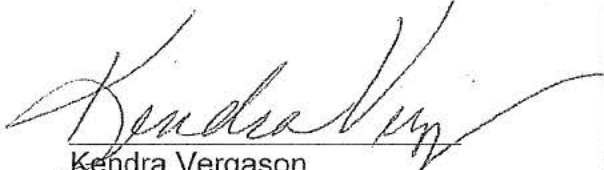
Notice and electronic invitations to the May 24, 2024 videoconference hearing were sent to the designated representatives of the Facility and the Appellant. The Facility confirmed receipt and accepted the videoconference invitation.

The hearing was opened on May 24, 2024, at the scheduled time and remained open for forty-five minutes. Neither the Appellant nor the Facility appeared and no request for an adjournment was received. Notice of Hearing with cover letter dated March 26, 2024, and attached Notice of Discharge dated ██████████, 2024, were marked in evidence as ALJI and a video recording was made (R. 1min 27sec.)

ORDER

The Appellant and the Facility have abandoned this hearing. NY SAPA § 301(5) (2014). There is no issue to be decided.

DATED: Rochester, New York
May 29, 2024


Kendra Vergason
Administrative Law Judge