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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

August 9, 2024

CERTIFIED MAIL/RETURN RECEIPT

██████████
c/o Mary Manning Walsh
1339 York Avenue
New York, New York 10021

Nerissa Lawrence, Director
Mary Manning Walsh
1339 York Avenue
New York, New York 10021



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] :
[REDACTED] :
Appellant, :
from a determination by :
Archcare at :
Mary Manning Walsh Home :
Respondent, :
to discharge him from a :
residential health care facility. :

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DECISION AND
ORDER ON CONSENT

DA#24-6376

Hearing Before: Kendra Vergason
Administrative Law Judge

Held at: New York State Department of Health
by WebEx videoconference

Hearing Date: July 11, 2024

Parties: Archcare at Mary Manning Walsh Home, Respondent
By: Nerissa Lawrence, Regional Director Special Projects
nlawrence@archcare.org

[REDACTED] Appellant
By: [REDACTED] Complainant
88. [REDACTED]

By notice dated ██████████, 2024, Mary Manning Walsh Home (Respondent), a residential health care facility subject to Article 28 of the New York Public Health Law, determined to discharge ██████████ ██████████ (Appellant) from care and treatment in its facility to ██████████ ██████████. The Respondent determined to discharge the Appellant on the grounds that Appellant, after reasonable and appropriate notice, had failed to pay his net available monthly income (NAMI) for the months ██████████ 2023 through ██████████ 2024. The Appellant's representative, ██████████ ██████████ appealed the discharge to the New York State Department of Health (Department) pursuant to 10 NYCRR 415.3(i).

The hearing was scheduled for May 29, 2024, but was adjourned several times, on consent, due to Ms. ██████████ hospitalization. The hearing was held on ██████████ 2024. Evidence was received and witnesses were examined. A recording of the proceedings was made.

At the hearing, the parties acknowledged that the charges owed for ██████████ and ██████████ 2023 are in dispute and are not at issue in this proceeding as Ms. ██████████ is appealing the Medicare claim denial for those months. The charges for ██████████ and ██████████ 2024 are not in dispute and Ms. ██████████ agreed that Respondent is entitled to the Appellant's NAMI for those months.

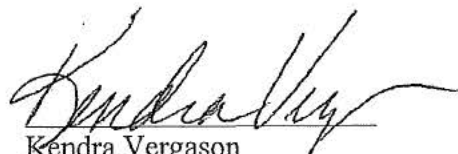
On ██████████, at the conclusion of the hearing, the parties reached a settlement agreement on the record. Ms. ██████████ agreed to pay the Respondent the two months undisputed charges pursuant to a signed repayment plan agreement, with the initial payment due at signing; the Respondent agreed to withdraw the notice dated ██████████, 2024 upon receipt of the signed repayment agreement and initial payment.

On consent of the parties, the record remained open until August 8, 2024, on which date the parties confirmed that the Appellant has signed the repayment plan and made the initial payment, and the Respondent has withdrawn the ██████, 2024 notice of discharge.

ORDER

The notice of discharge dated ██████ 2024 is withdrawn. Any further determination by the Respondent to discharge the Appellant will require a new notice be issued.

Dated: Rochester, New York
August 9, 2024


Kendra Vergason
Administrative Law Judge