

cc: [DOH.sm.DCAppeals@health.ny.gov](mailto:DOH.sm.DCAppeals@health.ny.gov) by scan  
SAPA File  
BOA by scan



**Department  
of Health**

**KATHY HOCHUL**  
Governor

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

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

June 27, 2024

**CERTIFIED MAIL/RETURN RECEIPT**

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

Daisey Lope-Sheppard, DSW  
Mary Manning Walsh Nursing Home  
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

██████████

Appellant,

DECISION  
DA24-6394

COPY

from a determination by

**MARY MANNING WALSH NURSING HOME**

to discharge him from a residential health care facility.

---

Before: Kendra Vergason  
Administrative Law Judge

Held at: WebEx video conference

Date: June 25, 2024

Parties: ██████████ Appellant  
c/o Mary Manning Walsh Nursing Home  
1339 York Ave.

New York, New York 10021  
By: ██████████ Appellant's ██████████

Mary Manning Walsh Nursing Home  
1339 York Ave.  
New York, New York 10021  
By: Daisy Lope-Sheppard, Director of Social Work

Mary Manning Walsh Nursing Home (Respondent), a residential health care facility (RHCF) subject to Article 28 of the Public Health Law, through Notice of Discharge dated ██████████, 2024, determined to discharge ██████████ (Appellant) from care and treatment in its nursing home. The Appellant appealed the discharge determination to the New York State Department of Health pursuant to 10 NYCRR 415.3(i). The Respondent has the burden of proving the discharge or transfer is necessary and the discharge plan is

appropriate. 18 NYCRR 415.3(i)(2)(iii)(b).


The hearing was scheduled for June 25, 2024. Written notice of the scheduled hearing was sent to the parties via email correspondence and certified U.S. mail. Electronic invitations to the videoconference hearing were also sent to the designated representatives of the Appellant and the Respondent.

The hearing was held on June 25 at the scheduled time by WebEx videoconference and a digital recording was made. The Appellant's ██████ and designated representative, ██████ ██████ appeared on behalf of the Appellant. The Respondent did not appear at the hearing and failed to request an adjournment or present any evidence to prove the discharge of Appellant is necessary and the discharge plan is appropriate. On the Respondent's default, the Appellant's discharge appeal is granted. NY SAPA § 301(5) (2014).

ORDER

The Respondent is not authorized to discharge the Appellant pursuant to its Notice of Discharge dated ██████, 2024; and the Appellant remains a resident of Mary Manning Walsh Nursing Home. Any further attempt by the Respondent to discharge the Appellant will require a new notice.

DATED: Rochester, New York  
June 26, 2024

  
Kendra Vergason  
Administrative Law Judge

██████ Mary Manning Walsh #DA24-6394

TO: ██████ ██████  
c/o Mary Manning Walsh Nursing Home  
1339 York Ave.  
New York, New York 10021

Daisy Lope-Sheppard, DSW  
Mary Manning Walsh Nursing Home  
1339 York Ave.  
New York, New York 10021

██████ ██████  
████████████████████  
████████████████████