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NEW YORK STATE | Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

May 5, 2025

CERTIFIED MAIL/RETURN RECEIPT

[redacted]
c/o Archcare at Providence Rest Nursing Home
and Rehabilitation Center
3304 Waterbury Avenue
Bronx, New York 10465

Enrique Muriel Salvador, Asst. Administrator
Archcare at Providence Rest Nursing Home
and Rehabilitation Center
3304 Waterbury Avenue
Bronx, New York 10465

Nerissa Lawrence, Director of Special Projects
Archcare
1339 York Avenue
New York, New York 10021

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: 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

Archcare at Providence Rest Nursing Home and Rehabilitation Center

Respondent,

to discharge him from a residential health care facility.

DECISION

#DA25-6578

Hearing Before: Natalie J. Bordeaux
Administrative Law Judge

Hearing Location: Cisco Webex videoconference

Hearing Date: May 5, 2025

Parties: Archcare at Providence Rest Nursing Home
and Rehabilitation Center
3304 Waterbury Avenue
Bronx, New York 10465
By: Enrique Muriel Salvador, Assistant Administrator

[redacted]
Pro Se

JURISDICTION

Archcare at Providence Rest Nursing Home and Rehabilitation Center (Facility), a residential health care facility subject to Article 28 of the New York Public Health Law (PHL) located in Bronx, New York, determined to discharge [redacted] (Appellant). The Appellant appealed the discharge determination to the New York State Department of Health (the Department) pursuant to 10 NYCRR § 415.3(i).

HEARING RECORD

Facility witnesses:	Nerissa Lawrence, Regional Director of Special Projects Enrique Muriel Salvador, Assistant Administrator Suzy Awawdeh, Finance Interview
Facility exhibits:	A (Signed admission agreement) B (Room and board coinsurance charges) C ([redacted] 2025 discharge notice and invoices dated [redacted] and [redacted], 2025) D (Notes by business services and social services departments)
Appellant witnesses:	[redacted], Appellant
Appellant exhibits:	None

The Notice of Hearing and accompanying cover letter were entered into evidence as ALJ Exhibit I. A digital recording of the hearing was made. (51:45 in duration.)

ISSUES

Has the Facility established that its determination to discharge the Appellant was permissible pursuant to 10 NYCRR § 415.3(i)(1)(i)(b) and that the discharge plan is appropriate?

FINDINGS OF FACT

1. The Appellant is a [redacted]-year-old man who was admitted to the Facility on [redacted], 2025 for short-term rehabilitation after hospitalization. He has been diagnosed with [redacted] (Exhibit D; Recording @ 14:15, 17:45.)

2. On [redacted], 2025, a member of the Facility's finance department visited the Appellant to inquire whether he was interested in applying for Medicaid and advised that, starting [redacted], he would be responsible for paying $[redacted] per day as a copayment for his Medicare coverage. (Exhibit D.)

3. On [redacted] 2025, the Appellant signed an admissions agreement, in which he agreed to pay for, or arrange to have paid for by Medicaid, Medicare or other insurers, all services provided by the Facility. The Appellant also acknowledged his responsibility to pay any coinsurance, deductible and Medicaid surplus amounts, including a Medicare coinsurance payment of $[redacted] per day starting [redacted], 2025. (Exhibits A, B.)

4. On [redacted], 2025, Suzy Awadeh, the Facility's Financial Interviewer, attempted to discuss the Appellant's responsibility for a daily copayment and ascertain his willingness to complete a Medicaid application, but the Appellant stated he was tired. (Exhibit D.)

5. On [redacted], 2025, Ms. Awawdeh made three attempts to discuss the Appellant's copayment responsibility and a possible Medicaid application. Each time, the Appellant advised her that he was tired and did not respond to questions. (Exhibit D.)

6. On [redacted], 2025, Ms. Awawdeh, along with Assistant Administrator Enrique Muriel Salvador, confirmed the Appellant's awareness of his accruing daily coinsurance and his ability to apply for Medicaid. (Exhibit D.)

7. On [redacted], 2025, the Appellant was handed an invoice with an amount due of $[redacted] resulting from coinsurance of $[redacted] accruing for [redacted] through [redacted], 2025 dates of service (a daily copayment slightly lower than previewed in [redacted] due to the Appellant's disenrollment from a Medicare Managed Care plan). (Exhibit C.)

8. Ms. Awawdeh again attempted to discuss the Appellant's outstanding balance and a Medicaid application with the Appellant on [redacted] and [redacted], 2025, during which the Appellant advised he would follow up with Ms. Awawdeh later in the week. (Exhibit D.)

9. By notice dated [redacted] 2025, the Facility advised the Appellant of its determination to discharge him on [redacted] 2025 because he has failed, after reasonable and appropriate notice, to pay for his stay at the Facility. The notice informed the Appellant that he would be discharged to [redacted], a nursing home in [redacted] New York. (Exhibit C.)

10. On [redacted], 2025, the Appellant was handed an invoice with an amount due of $[redacted] consisting of outstanding daily coinsurance totaling $[redacted] from [redacted] through [redacted]; daily coinsurance of $[redacted] that accrued from [redacted] through [redacted]; and daily coinsurance of $[redacted] owed for [redacted] through [redacted], 2025 dates of service. (Exhibit C.)

11. As of the date of this hearing, the Appellant has made no payments toward the cost of his stay at the Facility. (Exhibit C; Recording @ 21:36.)

12. The Appellant remains at the Facility pending the outcome of this appeal.

APPLICABLE LAW

A residential heath care facility (also referred to in the regulations as a nursing home) is a facility which provides regular nursing, medical, rehabilitative, and professional services to residents who do not require hospitalization. PHL §§ 2801(2)&(3); 10 NYCRR § 415.2(k).

Regulations at 10 NYCRR § 415.3(i) describe the transfer and discharge rights of residential health care facility residents. They state, in pertinent part:

(1) With regard to the transfer or discharge of residents, the facility shall:

> (i) permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless such transfer or discharge is made in recognition of the resident's rights to receive considerate and respectful care, to receive necessary care and services, and to participate in the development of the comprehensive care plan and in recognition of the rights of other residents in the facility:
>
> ***
>
> (b) transfer and discharge shall also be permissible when the resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare, Medicaid, or third-party insurance) a stay at the facility... Such transfer or discharge shall be permissible only if a charge is not in dispute, no appeal of a denial of benefits is pending, or funds for payment are actually available and the resident refuses to cooperate with the facility in obtaining the funds.

The facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility, in the form of a discharge plan which addresses the medical needs of the resident and how these will be met after discharge. 10 NYCRR 415.3(i)(1)(vi). The facility must also permit residents and their representatives the opportunity to participate in deciding where the resident will reside after discharge. 10 NYCRR 415.3(i)(1)(vii).

The residential health care facility must prove that the discharge was necessary and the discharge plan appropriate. 10 NYCRR § 415.3(i)(2)(iii)(b).

DISCUSSION

The Facility determined to discharge the Appellant, effective [redacted] 2025, on the grounds that he "has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare, Medicaid, or third-party insurance) a stay at the facility." (Exhibit C.)

The Facility explained the Appellant's financial obligations several days after his admission, in writing with an admissions agreement and a detailed breakdown of copayment obligations, and with subsequent verbal explanations of outstanding amounts and the possibility

of obtaining Medicaid coverage. The Appellant has made no payments and has been unwilling to apply for Medicaid. (Exhibits A-D.)

At the hearing, the Appellant confirmed that he does not dispute the amount of his outstanding balance. (Recording @ 35:19.) The Facility has established that the Appellant has failed, after reasonable and appropriate notice, to pay for the cost of his stay.

The Appellant, however, contested the Facility's proposal to discharge him to [redacted] at [redacted], a residential health care facility/nursing home located in [redacted] New York, on the grounds that a nursing home in [redacted] New York was too far from his [redacted] care providers in [redacted] (Recording @ 37:43, 40:51, 43:51.) It is undisputed that the Appellant continues to require nursing home care. (Recording @ 18:19.) The Facility attempted to locate a discharge [redacted] or [redacted] willing to accept the Appellant, who has a documented history of not paying for the cost of his nursing home stay. (Recording @ 30:57.) However, all nursing homes contacted refused to accept the Appellant. (Exhibit D; Recording @ 31:32.)

Although the Appellant contended that he had a list of nursing homes he would be willing to be discharged to, Assistant Administrator Enrique Muriel Salvador explained that the Facility had already contacted the Appellant's preferred nursing homes, and the Facility's sister facilities in [redacted] but all had rejected the Appellant. (Recording @ 44:57, 45:20.)

The proposed discharge plan addresses the Appellant's medical needs and how those needs will be met after discharge. The Facility attempted to abide by the Appellant's preferences regarding discharge locations but was unable to locate an alternate placement for him within his geographic preferences. The Appellant is free to continue to locate alternative discharge outlets

but cannot do so while remaining at the Facility without paying for the cost of his stay. The Facility has established that its discharge plan is appropriate.

DECISION

1. The Facility has established that its determination to discharge the Appellant is permissible pursuant to 10 NYCRR § 415.3(i)(1)(i)(b) and that its discharge plan is appropriate.

2. The Facility is authorized to discharge the Appellant pursuant to its April 7, 2025 notice.

Dated: May 5, 2025
Menands, New York

Natalie J. Bordeaux
Administrative Law Judge

To:

[redacted]
c/o Archcare at Providence Rest Nursing Home
and Rehabilitation Center
3304 Waterbury Avenue
Bronx, New York 10465

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