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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 23, 2025

CERTIFIED MAIL/RETURN RECEIPT

Iqra Qaiser, Finance Coordinator
Brooklyn Center for Rehabilitation
and Residential Health
170 Buffalo Avenue
Brooklyn, New York 11213

[redacted]
c/o Brooklyn Center for Rehabilitation
and Residential Health
170 Buffalo Avenue
Brooklyn, New York 11213

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

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

Brooklyn Center for Rehabilitation and Residential Health

Respondent,

to discharge her from a residential health care facility.

COPY

DECISION AFTER HEARING

#DA25-6584

Hearing before: Shelby L. Foster
Administrative Law Judge

Held via: Webex Videoconference

Hearing Date: May 13, 2025

Parties: Brooklyn Center for Rehabilitation and Residential Health
170 Buffalo Ave.
Brooklyn, NY 11213
By: Iqra Qaiser, Finance Coordinator

[redacted]
c/o Brooklyn Center for Rehabilitation and Residential Health
170 Buffalo Ave.
Brooklyn, NY 11213
By: pro se

JURISDICTION

By notice dated [redacted], 2025, Brooklyn Center for Rehabilitation and Residential Health (Facility), a residential health care facility subject to Article 28 of the New York Public Health Law (PHL), determined to discharge [redacted] (Appellant) from care and treatment in its facility. The Appellant appealed the determination to the New York State Department of Health (Department) pursuant to 10 New York Codes, Rules, and Regulations (NYCRR) § 415.3(i).

The hearing was conducted pursuant to 10 NYCRR 415.3(i). Evidence was received and witnesses were examined.

HEARING RECORD

ALJ Exhibits:	I – Notice of Hearing and Notice of Discharge or Transfer
Facility's Witnesses:	Iqra Qaiser, Finance Coordinator David Singer, Administrator Joy Ambrose, Social Worker Fernando Villamar, Director of Social Services
Facility's Exhibits:	1 – Patient Invoice Dated [redacted]-25 2 – Budget Explanation – Net Available Monthly Income (NAMI) Dated [redacted]-23 3 – Budget Explanation – NAMI Dated [redacted]-24 4 – Brooklyn Center Resident Agreement 5 – Direct Deposit Forms 6 – Patient Financial Responsibility Statements 7 – Admission Record for [redacted] 8 – Cognitive Assessment signed [redacted]-25 9 – Social Work Notes [redacted]-25 to [redacted]-25 10 – Notes prepared by Iqra Kaiser (Timeline [redacted]-22 to [redacted]-25)
Appellant's Witnesses:	[redacted] Appellant

Appellant's Exhibits: None.

A digital recording of the hearing was made. (1:42:53 in duration.)

ISSUES

Has the Facility 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?

FINDINGS OF FACT

1. The Appellant is a [redacted]-year-old female who was admitted to the Facility on [redacted], 2022, with a primary diagnosis of [redacted]. (Exhibit [Ex.] 7; Testimony [T.] Qaiser.)

2. The Appellant receives Social Security benefits and was responsible for paying a net allowable monthly income (NAMI) amount of $[redacted] per month from [redacted] 2023, through [redacted], 2024. Effective [redacted] 2024, the Appellant is responsible for paying a NAMI of $[redacted] per month. (Exs. 2, 3; T. Qaiser.)

3. The Appellant was made aware that she would owe a NAMI after her first 100 days and was enrolled in the Facility's direct deposit banking system. (Ex. 10; T. Qaiser.)

4. On [redacted] 2024, Iqra Qaiser, the Facility's Finance Coordinator, tried to meet with the Appellant because her NAMI payments had stopped being paid to the Facility, and she had an overdue balance of $[redacted] The Appellant indicated she did not want to

discuss it and asked Ms. Qaiser to come back another day. Ms. Qaiser returned on [redacted] and [redacted] 2024, and both times the Appellant asked her to come back. (Ex. 10; T. Qaiser.)

5. On [redacted], 2024, the Facility submitted a representative payee application to Social Security Administration (SSA). They began receiving payments in [redacted] 2024 and applied the $[redacted] monthly personal needs allowance to the Appellant's balance due. (Exs. 1, 10; T. Qaiser.)

6. In [redacted] 2025, the Facility stopped receiving payments. SSA advised the Facility that the Appellant became her own representative payee. (Ex. 10; T. Qaiser.)

7. In [redacted] 2025, Ms. Qaiser met with the Appellant and presented her with her budget explanation, bill, and payment options. The Appellant did not want to set up payments. Appellant was advised that Facility administration would be issuing a 30-day discharge notice. (Ex. 10; T. Qaiser.)

8. By notice dated [redacted], 2025, the Facility advised the Appellant of its determination to discharge her on [redacted] 2025, on the grounds that she 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, charges are not in dispute, no appeal of a denial of benefits is pending, or funds for payment are available and the resident refuses to cooperate with the facility in obtaining funds. (ALJ Exhibit I.)

9. The discharge notice advised the Appellant that she would be discharged to [redacted], a nursing home located at [redacted] (ALJ Exhibit I.)

10. On [redacted], and [redacted] 2025, Ms. Qaiser and Joy Ambrose, a Facility Social Worker, met with the Appellant. Each time, they presented her with the bill and payment options, and each time, the Appellant acknowledged and accepted the bill, but refused all payment options. (Ex. 10; T. Qaiser.)

11. As of [redacted] 2025, the Appellant owed the Facility NAMI payments totaling $[redacted] (Ex. 1.)

12. The Appellant timely appealed the Facility's discharge determination and proposed discharge location.

13. The Appellant remains at the Facility pending the outcome of this hearing.

APPLICABLE LAW

A residential health care facility, or nursing home, is a residential facility providing nursing care to sick, invalid, infirm, disabled, or convalescent persons who need regular nursing services or other professional services but who do not need the services of a general hospital. PHL §§ 2801(2), (3); 10 NYCRR 415.2(k).

Transfer and discharge rights of nursing home residents are set forth at 10 NYCRR 415.3(i), which provides, 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. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid. 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 Facility has the burden of proving that the discharge or transfer is necessary and that the discharge plan is appropriate. 18 NYCRR 415.3(i)(2)(iii)(b).

DISCUSSION

Grounds for Discharge

The Facility has determined to discharge the Appellant, effective [redacted] 2025, on the grounds that she "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." (ALJ Exhibit I.)

The Facility discussed the Appellant's financial obligations with her on [redacted] 2022. She was provided the Facility Resident Agreement (Ex. 4.) and she was advised that she would be responsible for her monthly NAMI after 100 days. The Facility enrolled the Appellant in its direct deposit banking system in [redacted] 2023. (Ex. 5.) The Facility received payments from [redacted] 2023 through [redacted] 2024. In [redacted] 2024, the payments to the Facility stopped. In [redacted] 2024, the Facility submitted a representative payee application to SSA, which allowed the Facility to receive payments from [redacted] through [redacted] 2024. However, at the Appellant's request to the SSA, no further payments were made. The Facility has made multiple attempts to discuss payment options with and collect payment from the Appellant since that time. (Exs. 5, 6, 10.)

The Appellant confirmed that she is receiving her social security payments directly and acknowledged that she has a financial responsibility to the Facility. She testified that she has not paid her balance because she's been paying other bills, i.e., storage costs and her [redacted] school fees.

The Facility has established that the Appellant has failed, after reasonable and appropriate notice, to pay for the cost of her stay.

Discharge Location

The Appellant testified that she is not against a discharge, but the [redacted] "is just a no way, no go." She expressed concerns about safety, i.e., her mental health (lack of visitors), her ability to get to her doctors' appointments, and her ability to get [redacted] David Singer, the Facility Administrator, testified that the [redacted] is a skilled nursing facility,

and it can provide access to doctors' appointments and [redacted] Fernando Villamar, the Facility's Director of Social Services, testified that social services will coordinate all necessary referrals for the Appellant to continue her treatment in the community, any medical equipment needs, and [redacted] treatment, including transportation.

Mr. Singer testified that beginning in [redacted] 2025, the Appellant was offered several possible discharge locations that would provide more flexibility with her finances. She denied them because of their locations. Ms. Ambrose testified that they applied to local Assisted Living Facilities in [redacted] and [redacted] per the Appellant's request. They received five denials and four acceptances, of which the Appellant denied because of the financial obligation. The Facility has also explored moving the Appellant into her [redacted] home, but the [redacted] apartment is too much for the Appellant physically. Ms. Ambrose testified that they also suggested a long-term nursing home, but the Appellant was not interested because of the population, and she wanted more independence.

Mr. Singer testified that due to the Appellant's unwillingness to pay, it has been a challenge to find a local long-term care facility that will accept her. The Facility has an agreement with [redacted] long-term care that would provide placement for the Appellant, even on a forced discharge for non-payment. It is the only long-term care facility they applied to that would accept the Appellant at this time.

The Appellant acknowledged that the issue with trying to find a discharge location in her preferred location has been her lack of payment. She has been told that age may also be an issue. The Appellant wants to leave the Facility but would prefer to go to an apartment. She is working with a rapid transitional housing program and believes the Facility should

allow her to stay until she gets an apartment because they know that once she leaves the Facility, she is no longer eligible for that program.

The Facility attempted to find a location within the Appellant's preferred geographic location but was unable to do so because of the Appellant's forced discharge for non-payment. While staying near her [redacted] in [redacted] is important to the Appellant, and she would prefer to wait to be discharged to an apartment, she cannot remain at the Facility without paying for the cost of her stay.

The proposed discharge plan addresses the Appellant's medical needs and how those needs will be met after discharge. The Facility has established that the [redacted] is a safe and appropriate discharge location for the Appellant.

DECISION

The Brooklyn Center for Rehabilitation and Residential Health has established that the discharge of the Appellant is permissible pursuant to 10 NYCRR 415.3(i)(1)(i)(b) and that its discharge plan is appropriate.

1. The Brooklyn Center for Rehabilitation and Residential Health is authorized to discharge the Appellant pursuant to the Notice of Discharge dated [redacted], 2025.
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

May 23, 2025

Shelby L. Foster
Administrative Law Judge

To: Iqra Qaiser, Finance Coordinator
Brooklyn Center for Rehabilitation and Residential Health
170 Buffalo Ave.
Brooklyn, NY 11213
IQaiser@BrooklynRehab.net

[redacted]
c/o Brooklyn Center for Rehabilitation and Residential Health
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[redacted]