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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

██████████
c/o Northeast Center for Rehabilitation
and Brain Injury
300 Grant Avenue
Lake Katrine, New York 12449

Paula Carberry, DSW
Northeast Center for Rehabilitation
and Brain Injury
300 Grant Avenue
Lake Katrine, New York 12449

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

COPY

DECISION

██████████,
Appellant,

from a determination by
Northeast Center for Rehabilitation and Brain Injury
to discharge them from a residential health care facility.

Before: Kimberly A. O'Brien
Administrative Law Judge (ALJ)

Held at: Videoconference via Webex

Dates: May 21, 2025

Parties: ██████████
C/o Northeast Center for Rehabilitation and Brain Injury
300 Grant Avenue
Lake Katrine, New York 12449

Paula Carberry, DSW
Northeast Center for Rehabilitation and Brain Injury
300 Grant Avenue
Lake Katrine, New York 12449
pcarberry@northeastcenter.com

INTRODUCTION

On [REDACTED], 2025, Northeast Center for Rehabilitation and Brain Injury (Facility) a residential care facility subject to Article 28 of the New York Public Health Law (PHL), issued a Discharge Notice. The Facility determined to discharge [REDACTED] (Appellant) to his home in the community. The Appellant appealed the discharge 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 held in accordance with the PHL; Part 415 of 10 NYCRR; Part 483 of the United States Code of Federal Regulations (CFR); the New York State Administrative Procedure Act (SAPA); and Part 51 of 10 NYCRR. The ALJ admitted two exhibits: ALJ Exhibit 1-*Notice of Hearing with Discharge Notice*, and ALJ Exhibit 2 - *Admission Face Sheet, Progress Note by Steven Ritter MD & Letter from Paula Carberry dated [REDACTED] 2025*. The Facility presented one witness: Paula Carberry, DSW. The Appellant appeared and testified on his own behalf. A digital recording was made of the proceeding.

FINDINGS OF FACT

1. The Appellant is a [REDACTED]-year-old male who was admitted to the Facility on [REDACTED] 2020, from the hospital. ALJ Exhibit (Ex.) 1.
2. The Appellant is independent with all activities of daily living (ADLs) including dressing, grooming, bathing, toileting, transfers and ambulates without an assistive device. He is independent with decision making and makes his own appointments in the community. Testimony (T.) Carberry; ALJ Ex. 2.
3. The Discharge Notice states that the Appellant's health has improved sufficiently such that the Appellant no longer requires the services of the Facility. The proposed discharge is to his home at [REDACTED] New York (home). ALJ Ex. 1.
4. The Appellant timely appealed the Facility's discharge determination. The Appellant has remained at the Facility during the pendency of the appeal.

ISSUES

Has the Facility established that its determination to discharge the Appellant is correct and that its discharge plan is appropriate?

APPLICABLE LAW

A residential health care facility, also referred to in the Department of Health Rules and 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]).

A resident may only be discharged pursuant to specific provisions of the Department of Health Rules and Regulations (10 NYCRR 415.3[i][1]). The Facility alleged that the Appellant's discharge is permissible pursuant to 10 NYCRR 415(i)(1)(i)(a)(2), which states the "transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the Facility." Under the hearing procedures at 10 NYCRR 415.3(i)(2)(iii)(b), the Facility bears the burden to prove a discharge is necessary and the discharge plan is appropriate.

DISCUSSION

Ms. Carberry testified that the Appellant's physician and care team have determined that he has no skilled needs and his chronic conditions can be managed in the community. The Appellant is independent with his ADLs and makes his own appointments in the community. Ms. Carberry has visited the Appellant's home on five occasions. It is a single level home with two bedrooms, kitchen, bath, dishwasher, and washer & dryer. The home has been cleaned and furniture has been set up and a grab bar has been installed in the bathroom. The Facility will discharge the Appellant with a 30-day supply of his medications and an appointment will be made with an [REDACTED] primary care physician. [REDACTED] is large medical practice which is located in [REDACTED] near the Appellant's home. The Appellant is Medicaid eligible and Medicab will provide transportation to his medical appointments.

The Appellant appealed the discharge and went forward with the hearing to have the final determination in writing. The Appellant testified that he wants to leave the Facility and go home. But he would like to stay at the Facility through the month of [REDACTED] to attend his scheduled medical appointments because he does not have transportation. He would also like to have additional work done on his home before his return.

CONCLUSIONS

The Facility has shown that the Appellant's health has improved sufficiently such that he no longer needs the services it provides and that the discharge is necessary. The Facility has also shown that the Appellant has transportation available to him in the community and no additional work on the home is necessary for a safe discharge. The home is available and appropriate to meet his needs.

DECISION

The Facility has established that its determination to discharge the Appellant was correct, and that its discharge/transfer location is appropriate.

1. The appeal is DENIED; the Facility is authorized to discharge the Appellant pursuant to the Discharge Notice 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: Albany, New York
May 22, 2025


Kimberly A. O'Brien
Administrative Law Judge