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Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

June 30, 2025

CERTIFIED MAIL/RETURN RECEIPT

██████████
c/o Valley View Manor
40 Park Street
Norwich, New York 13815

Jeremy McClendon, NHA
Valley View Manor
40 Park Street
Norwich, New York 13815

Danielle LaBare, Ombudsman
Action for Older Persons
609 East Main Street, Suite 11
Endicott, New York 13760

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: nm
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

Valley View Manor Nursing and Rehabilitation Center
Respondent,

to discharge her from a residential health care facility.

COPY

DECISION

#DA25-6613

Hearing Before: Natalie J. Bordeaux
Administrative Law Judge

Held via: Webex videoconference

Hearing Dates: June 23 and 30, 2025

Parties: Valley View Manor Nursing and Rehabilitation Center
40 Park Street
Norwich, New York 13815
By: Jeremy McClendon, Administrator

[REDACTED]
By: Danielle LaBare, Omudsman
Action for Older Persons
609 East Main Street, Suite 11
Endicott, New York 13760

JURISDICTION

Valley View Manor Nursing and Rehabilitation Center, a residential health care
facility/nursing home subject to Article 28 of the New York Public Health Law, determined to

discharge (Appellant). The Appellant appealed the discharge determination to the New York State Department of Health (Department) pursuant to 10 NYCRR § 415.3(i).

HEARING RECORD

Facility witnesses: Jeremy McClendon, Administrator
Dr. Jeffrey Amidon, Medical Director
Laura DePalma, Director of Social Services

Facility exhibits: 2 – Refusal of care documentation
3 – Care plans dated , 2024 through , 2025
4 – Interdisciplinary care team progress notes dated 2023 through 2025
5 – evaluation dated 2023
6 – Discharge notice dated , 2025
7 – Resident face sheet

Appellant witnesses: Appellant

Appellant exhibits: A – Medical progress notes through , 2025

ALJ exhibits: I – Hearing notice and accompanying cover letter

A digital recording of each hearing session was made (12:18 minutes in duration on June 23, 2025; and 1:12:10 in duration on June 30, 2025).¹

ISSUES

Has Valley View Manor Nursing and Rehabilitation Center established that the Appellant's discharge is necessary and that its discharge plan is appropriate?

FINDINGS OF FACT

1. The Appellant is a -year-old female who was transferred to Valley View Manor Nursing and Rehabilitation Center (Facility) on 2023 from , another nursing home. She has been diagnosed with

¹ This decision only references the June 30, 2025 recording.

[REDACTED]. (Exhibit

7.)

2. By notice dated [REDACTED] 2025, the Facility advised the Appellant that she would be discharged on [REDACTED], 2025 because her needs cannot be met after reasonable attempts at accommodation in the facility. The notice informed the Appellant that she would be discharged to [REDACTED], another nursing home, in [REDACTED]. (Exhibit 6.)

3. The Appellant remains at the Facility pending the outcome of the hearing.

APPLICABLE LAW

A residential health 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. Public Health Law §§ 2801(2)-(3); 10 NYCRR § 415.2(k).

Transfer and discharge rights of residential health care facility residents have been codified in Public Health Law § 2803-z and are set forth in Department regulations at 10 NYCRR § 415.3(i). The regulation states, 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:

(a) the resident may be transferred only when the interdisciplinary care team, in consultation with the resident or the resident's designated representative, determines that:

(1) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met after reasonable attempts at accommodation in the facility;

When the facility transfers or discharges a resident because the resident's needs cannot be met after reasonable attempts at accommodation in the facility, the facility shall ensure that the resident's clinical record contains complete documentation made by the resident's physician and, as appropriate, the resident's interdisciplinary care team. 10 NYCRR § 415.3(i)(1)(ii)(a). The documentation made by the resident's physician must include: the specific resident needs the facility could not meet; the facility efforts to meet those needs; and the specific services the receiving facility will provide to meet the needs of the resident which cannot be met at the current facility. 42 CFR § 483.15(c)(2)(i)-(ii); *see also* New York State Department of Health "Dear Administrator" Letter (DAL) NH 25-01, "Transfer or Discharge Notice Expectations", issued January 7, 2025, available at:

https://www.health.ny.gov/professionals/nursing_home_administrator/dal/docs/dal_nh_25-01.pdf; DAL-NH 19-07, "Notice of Transfer or Discharge and Permitting Residents to Return", issued August 19, 2019 and October 11, 2022, and available at: https://www.health.ny.gov/professionals/nursing_home_administrator/dal/docs/dal_nh_19-07.pdf.

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 that the Appellant's discharge is necessary because her needs cannot be met after reasonable attempts at accommodation in the facility. Its [REDACTED] 2025 discharge notice specifies that its decision was based on the Appellant's

express[ion] on multiple documented occasions, that the facility is unable to meet her needs. The interdisciplinary team has made numerous documented efforts to accommodate the resident's clinical and psychosocial needs; however, despite these interventions, the facility has determined that her needs exceed what can be

safely and effectively provided at this level of care. The receiving facility has confirmed, in writing, that they are both willing and capable of meeting the resident's needs in accordance with an appropriate plan of care.

(Exhibit 6.)

The documentation referenced in the discharge notice was not made available for this hearing. Nor was any documentation made by the Appellant's physician submitted at all, let alone containing the information required for this discharge basis, i.e.: the Appellant's specific needs that cannot be met; the Facility's attempts to meet those needs; and the service available at [REDACTED], the receiving facility, to meet those needs. 42 CFR §§ 483.15(c)(2)(i)-(ii); *see also* DAL NH 25-01.

Consistent with the [REDACTED], 2025 discharge notice, Jeremy McClendon, the Facility's Administrator, cited the Appellant's repeated complaints and refusals of care offered as evidence that the Facility is unable to meet her needs. (Recording @ 6:08, 8:02, 21:03; Exhibit 2.) Laura DePalma, the Facility's Director of Social Services, testified that the Appellant has the potential for [REDACTED]. She explained that the Facility has attempted to honor the Appellant's preferences, including showers, bedtime and care at specific times, eating meals in her room, keeping the door to her room shut, and not getting out of bed, but the Appellant continues to voice her dissatisfaction with aspects of care she receives. (Recording @ 25:12.) Dr. Jeffrey Amidon, the Facility's Medical Director, confirmed that the Facility would be able to meet the Appellant's needs but for the Appellant's refusal of medication and [REDACTED] towards staff. (Recording @ 32:24.)

Complaints (even those communicated inappropriately) and one documented refusal of care occurring after the discharge notice was issued are insufficient to effectuate discharge without the documentation immediately described above. If the Facility's determination was made in compliance with the Appellant's request, or at the request of her legal representative or

health care agent, that request must be evidenced by a signed and dated written statement. 10 NYCRR § 415.3(i). However, in this case, the Appellant has objected to the discharge determination, of which she was informed by a standard transfer/discharge notice, by requesting a hearing.

The Facility has failed to establish that it is unable to meet the Appellant's needs after reasonable accommodation. Nor has it submitted documentation from a physician explaining what services [REDACTED] would be able to provide for the Appellant's needs and which the Facility cannot. Given its failure to do so, the Facility's determination is not sustained.

As discussed at the hearing, the Appellant is encouraged to work with Facility staff and the Ombudsman Program to address any care-related issues and to discuss discharge planning, if she, as represented at the hearing, she seeks to pursue other discharge plans.

DECISION

Valley View Manor Nursing and Rehabilitation Center has failed to establish that the Appellant's discharge is necessary and that its discharge plan is appropriate.

Valley View Manor Nursing and Rehabilitation Center is not authorized to discharge the Appellant pursuant to the [REDACTED], 2025 discharge notice.

Dated: June 30, 2025
Menands, New York



Natalie J. Bordeaux
Administrative Law Judge

To:

Jeremy McClendon, Administrator
Valley View Manor Nursing and Rehabilitation Center
40 Park Street
Norwich, New York 13815

c/o Valley View Manor Nursing and Rehabilitation Center
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