

cc: DOH.sm.DCAppeals@health.ny.gov by scan
SAPA File
BOA by scan



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

September 29, 2025

CERTIFIED MAIL/RETURN RECEIPT

[REDACTED]
c/o Sullivan County Adult Care Center
256 Sunset Lake Road
PO Box 671
Liberty, New York 12754

Khalid Bashjawish, Esq.
Sullivan County Attorney Office
100 North Street
PO Box 5012
Monticello, New York 12701

Kayshawn Macharie, NHA
Sullivan County Adult Care Center
256 Sunset Lake Road
PO Box 671
Liberty, New York 12754

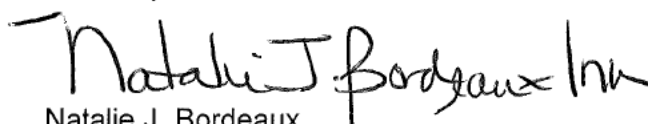
RE: In the Matter of [REDACTED] – Discharge Appeal

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: nm
Enclosure

STATE OF NEW YORK: DEPARTMENT OF HEALTH

In the Matter of an Appeal, pursuant to
10 NYCRR § 415.3, by

■■■■■

Appellant,

COPY

from a determination by

DECISION

Sullivan County Adult Care Center
Respondent,

to discharge him from a residential health care facility.

Hearing Before: Jean T. Carney
Administrative Law Judge

Held via: Cisco WebEx videoconference

Hearing Date: September 25, 2025

Parties: ■■■■■, Appellant, *Pro se*

■■■■■
Sullivan County Adult Care Center
By: Khalid Bashjawish, Esq.
Khalid.bashjawish@sullivanny.gov

JURISDICTION

Sullivan County Adult Care Center (Facility or Respondent), a residential care facility subject to Article 28 of the New York Public Health Law, determined to discharge [REDACTED] (Appellant or Resident) from the Facility. The Appellant appealed the discharge determination to the New York State Department of Health (Department) pursuant to 10 NYCRR § 415.3(i).

HEARING RECORD

In support of its determination, the Facility presented documents (Exhibits 1, 2, 4 and 6); and the testimony of Deepesh Patel, MD, Medical Director; Carrie Ann Coty, Director of Rehabilitation Services; Robert Bertholf, RN, Director of Nursing (DON); and Kayshawn Macharie, Nursing Home Administrator. The Appellant testified in his own behalf. The Notice of Hearing with Discharge Notice and Physical Therapy (PT) Evaluation dated [REDACTED] 2025, were admitted into evidence as ALJ I and ALJ II respectively. The hearing was digitally recorded and made part of the record.

ISSUES

Has the Facility established that the Appellant's discharge is necessary, and the discharge plan is appropriate?

FINDINGS OF FACTS

Citations in parentheses refer to the testimony of the witness ("T") at the hearing and exhibits ("Exh") found persuasive in arriving at a particular finding. An opportunity to be heard having been afforded the parties, and evidence having been duly considered, it is hereby found:

1. The Appellant is an [REDACTED]-year-old male who was admitted to the Facility on [REDACTED] 2025, from [REDACTED] for short term rehabilitation with relevant diagnoses of [REDACTED] [REDACTED] (Exh 1; T Dr. Patel).

2. By notice dated [REDACTED] 2025, the Facility determined to discharge the Appellant on the grounds that his health has improved sufficiently so he no longer needs the services provided by the facility. The proposed discharge location is to an apartment available for the Appellant to move into. (ALJ I).

3. The Appellant is independent in his activities of daily living (ADLs), such as toileting, ambulating, feeding and dressing himself. He uses a rolling walker while ambulating; and routinely leaves the facility, entering and exiting a passenger vehicle without assistance. The Appellant has no nursing or clinical needs that require the services of a skilled nursing facility. The Appellant is alert, oriented, and capable of making decisions regarding his care. (Exh 2; T Dr. Patel, Ms. Coty, Mr. Bertholf, Mr. Macharie and Appellant).

4. The Appellant was diagnosed with [REDACTED] in [REDACTED] of 2025, completing a course of antibiotics on [REDACTED] 2025. He has a [REDACTED] that does not affect his overall functioning and is medically cleared for discharge. (Exh 4; T Dr. Patel).

5. The Facility explored several discharge options with the Appellant, including assisted living facilities, and an adult home. The Appellant refused those options, and found an apartment in the community. When the Facility learned that the apartment requires using stairs, the Appellant was referred to PT for stair management evaluation. The Appellant was found capable of navigating [REDACTED] steps. (ALJ II; T Ms. Coty).

APPLICABLE LAW

A residential health care facility, also referred to as a nursing home, is a facility that provides regular nursing, medical, rehabilitative, and professional services to residents who do not require hospitalization. (Public Health Law §§ 2801[2] and [3]; 10 NYCRR § 415.2[k]).

Pursuant to 10 NYCRR § 415.3(i)(1)(i)(a), a resident may only be discharged when the interdisciplinary care team 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;
- (2) 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;
- (3) the safety of individuals in the facility is endangered; or
- (4) the health of individuals in the facility is endangered.

Additionally, 10 NYCRR § 415(i)(1)(ii) requires that the facility ensures complete documentation in the resident's clinical record when transferring or discharging a resident under the above circumstances. The documentation shall be made by:

- (a) the resident's physician and, as appropriate, interdisciplinary care team, when transfer or discharge is necessary under subclause (1) or (2) of clause (a) of subparagraph (i) of this paragraph; and
- (b) a physician when transfer or discharge is necessary due to the endangerment of the health of other individuals in the facility under subclause (3) of clause (a) of subparagraph (i) of this paragraph.

The burden is on the Facility to prove by substantial evidence that the discharge is necessary, and the plan is appropriate. (10 NYCRR § 415.3(i)(2)(ii); New York State Administrative Procedure Act [SAPA] § 306[1]). A discharge plan must "[address] the medical needs of the resident and how these will be met after discharge." (10 NYCRR § 415.3[i][1][vi]).

Substantial evidence means such relevant proof as a reasonable mind may accept as adequate to support conclusion or fact; less than preponderance of evidence, but more

than mere surmise, conjecture or speculation and constituting a rational basis for decision. (*Stoker v. Tarantino*, 101 A.D.2d 651, 475 N.Y.S.2d 562 [3rd Dept. 1984], *appeal dismissed* 63 N.Y.2d 649[1984]).

DISCUSSION

The Facility has met its burden of showing that the discharge is necessary, and the discharge plan is appropriate. Dr. Patel confirmed that the Appellant's medical needs can be met in the community. The PT evaluation confirms that the Appellant can navigate the apartment's stairs. The evidence establishes that the Appellant's medical needs can be met in the community, he is fully independent, and he no longer needs the services provided in the Facility.

The Appellant admits that he does not need skilled nursing care; but asks for more time to find a different apartment. The Appellant chose the current discharge location; but claims that he cannot climb the stairs and there is a leak in the ceiling. The Appellant would prefer to remain in the Facility rather than move into the current discharge location, and move again if he is approved for a different apartment that he may like better. These arguments are not persuasive. The Appellant is not entitled to remain in the Facility if he does not need skilled nursing care. The evidence supports the Facility's determination to discharge the Appellant pursuant to the Discharge Notice.

ORDER

Sullivan County Adult Care Center has established that its determination to discharge the Appellant is necessary, and that the discharge location is appropriate.

1. The Facility is authorized to discharge the Appellant as provided in 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: September 29, 2025
Albany, New York


JEAN T. CARNEY
Administrative Law Judge

TO: Khalid Bashjawish, Esq.
Sullivan County Attorney Office
100 North Street
PO Box 5012
Monticello, New York 12701
Khalid.bashjawish@sullivanny.gov

Kayshawn Macharie, Administrator
Sullivan County Adult Care Center
256 Sunset Lake Road
PO Box 671
Liberty, New York 12754
SLAdmin@sunsetlakerehab.com


C/O Sullivan County Adult Care Center
256 Sunset Lake Road
PO Box 671
Liberty, New York 12754
