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Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

August 29, 2025

CERTIFIED MAIL/RETURN RECEIPT

[REDACTED]
c/o Northern Metropolitan Residential
Health Care Facility
225 Maple Avenue
Monsey, New York 10952

Leah Joseph, Ombudsman
Tri-County LTC Ombudsman Program
Office of the State LTC Ombudsman
Long Term Care Community Coalition
8 Marion Avenue
Cold Spring, NY 10516

Kristen Kennedy, Director of Social Work
Northern Metropolitan Residential
Health Care Facility
225 Maple Avenue
Monsey, New York 10952

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/dmj

Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB: cmg
Enclosure

STATE OF NEW YORK
DEPARTMENT OF HEALTH

COPY

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

[REDACTED]

DECISION

Appellant,

from a determination by

NORTHERN METROPOLITAN RESIDENTIAL
HEALTH CARE FACILITY,

Respondent,

to discharge him from a residential health care facility.

Before: Tina M. Champion
Administrative Law Judge

Dates: August 28, 2025

Held at: Videoconference via WebEx

Parties: [REDACTED]
c/o Northern Metropolitan Residential Health Care Facility
225 Maple Avenue
Monsey, New York 10952

[REDACTED]
By: Pro.se

Northern Metropolitan Residential Health Care Facility
225 Maple Avenue
Monsey, New York 10952

By: Kristen Kennedy, Director of Social Work
KKennedy@northernmet.com

JURISDICTION

By notice dated [REDACTED] 2025, Northern Metropolitan Residential Health Care Facility (Facility), a residential care facility subject to Article 28 of the New York Public Health Law (PHL), determined to discharge [REDACTED] (Appellant). 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).

HEARING RECORD

ALJ Exhibits: I – Letter with Notice of Hearing and Transfer/Discharge Notice

Facility Exhibits: 1 – Resident Face Sheet
2 – Timeline
3 – Progress Notes
4 – [REDACTED] 2025 Bill
5 – [REDACTED] 2025 Bill
6 – [REDACTED] 2025 Bill
7 – Facility Referrals Summary

Facility Witnesses: Orly Feder, Regional Finance Supervisor at Centers Health Care
Kristen Kennedy, Director of Social Work

Appellant Exhibits: None

Appellant Witnesses: [REDACTED], Appellant
Leah Joseph, Ombudsman

Also Present: Joseph Stein, Nursing Home Administrator
Shelby Foster, ALJ

A digital recording of the hearing was made. (Duration of 1:01:20.)

ISSUES

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

FINDINGS OF FACT

1. The Appellant is a [REDACTED]-year-old male who was admitted to the Facility from [REDACTED] Hospital on [REDACTED] 2025, following surgery on his [REDACTED]. (Facility Exhibit [Ex.] 1; Testimony [T.] [REDACTED])
2. The Appellant requires skilled nursing care. (T. Kennedy; [REDACTED])
3. The Appellant received Medicare coverage for the first 100 days in the Facility. The first 20 days were fully covered, and the subsequent 80 days were partially covered. The Appellant's required co-pay for the 80 days is \$[REDACTED] per day. (Ex. 2; T. Feder.)
4. The rate for the Appellant's stay at the Facility from day 101 to date is \$[REDACTED] per day. (Ex. 6; T. Feder.)
5. The Appellant has not paid any portion of the co-pays for days 21-100 or the daily rate from day 101 to date for his stay at the Facility. (Exs. 2, 4-6; T. Feder, [REDACTED])
6. The total amount owed to the Facility through [REDACTED] 2025, is \$[REDACTED] (Exs. 4-6; T. Feder.)
7. The Facility hand-delivered monthly bills to the Appellant in [REDACTED] [REDACTED] and [REDACTED] 2025. (Exs. 4-6; T. Feder.)
8. The Appellant has not paid for his stay and has not applied for Medicaid to pay for his stay as he wants to preserve his assets for the benefit of his [REDACTED] and himself to use at a later time. (T. [REDACTED])
9. On [REDACTED] 2025, the Facility issued a Transfer/Discharge Notice to the Appellant which proposed discharge to [REDACTED], a skilled nursing facility in [REDACTED] New York. (ALJ Ex. I.)
10. The Transfer/Discharge Notice states that the Appellant will be discharged on [REDACTED] [REDACTED] 2025, because he has failed, after reasonable and appropriate notice, to pay for his stay at the Facility. (ALJ Ex. I.)

11. The Appellant timely appealed the Facility's discharge determination.
12. The Appellant has remained at the Facility during the pendency of the appeal.

APPLICABLE LAW

A residential health care facility, also referred to in the Department's 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's Rules and Regulations. (10 NYCRR 415.3[i][1].)

Pursuant to 10 NYCRR 415.3(i)(1)(i)(b); a resident may be discharged "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."

Under the hearing procedures at 10 NYCRR 415.3(i)(2)(iii), the Facility bears the burden to prove a discharge is necessary and appropriate.

DISCUSSION

The Appellant has acknowledged receiving bills from the Facility reflecting the amount that he owes for his stay and that he has failed to make any payments. Further, the Appellant has testified that he has not applied for Medicaid because he wants to preserve his assets for another purpose. The Facility has met its burden to show that discharge is permissible pursuant to 10 NYCRR 415.3(i)(1)(i)(b).

The Facility has proposed discharge to another skilled nursing facility located in ██████ New York. The proposed nursing facility, ██████, is ██████ miles (approximately a ██████-hour drive) from the Facility.¹ Kristen Kennedy, Director of Social Work, testified that the Appellant has expressed wanting to stay in ██████ County to be close to his ██████. Ms. Kennedy testified that she sent referrals to all the skilled nursing facilities in ██████ County and that none of them accepted the Appellant. (Facility Exs. 2; 3, 7.) She testified that she did not send referrals to facilities in other counties, except for one in ██████ County which also did not accept the Appellant, because the Appellant was only agreeable to living in ██████ County.

Ms. Kennedy testified that the ██████ is a Centers Heath Care Facility, as is the current Facility, and that she received a verbal acceptance from ██████. Ms. Kennedy indicated that ██████ is able to accept the Appellant because it has a cheaper daily rate for care than the current Facility and other facilities nearby the current Facility.

The Appellant testified at length as to his desire to stay in ██████ County. He testified that his ██████-year-old ██████ lives ten minutes away and typically visits him once a day. He also testified that he had ██████ surgery in ██████ 2025 and that he is still treating with his surgeon, who is located at ██████ Hospital in ██████ County. The Appellant testified that he saw his surgeon last week and that the surgeon ordered a ██████ scan. He testified that the scan has not yet been scheduled. He further testified that the surgeon directed the Appellant to contact him two weeks after the ██████ scan was performed to determine the next steps in treatment.

It is undisputed that the Appellant needs skilled nursing care. It is also undisputed that the Appellant has compelling reasons – the ongoing treatment by the doctor who performed his ██████ surgery and the involvement of his ██████ in his life – to stay in ██████ County. However, the Appellant admittedly has assets available to him and has willfully failed to contribute

¹ Distance obtained via Google Maps.

to his stay at the Facility or cooperate with the Facility to obtain Medicaid. The Appellant cannot continue to stay at the Facility for free simply because he does not want to utilize his assets, regardless of his compelling reasons to remain in [REDACTED] County. The Facility has an obligation to identify an appropriate discharge location for the Appellant. It has made diligent efforts to identify another facility within [REDACTED] County for the Appellant and, by no fault of its own, was unsuccessful.

Immediately after the hearing, a discussion was held off the record with all hearing participants. The Facility indicated that it was willing to send referrals to facilities in the counties adjacent to [REDACTED] County and that the reason it had not done so before, minus one facility in [REDACTED] County, was because the Appellant had verbalized an unwillingness to leave [REDACTED] County. The Appellant, upon direct inquiry by the ALJ, unequivocally stated that he will not leave [REDACTED] County and will not consider an adjacent county despite it affording him the ability to continue to treat with his current doctor. He adamantly declared that he would "[REDACTED]" out of the Facility before leaving [REDACTED] County. The Appellant then inquired as to procedures for leaving the Facility against medical advice. The ALJ strongly encouraged the Appellant not to act in a manner harmful to his health. This conversation was not determinative of the issues on appeal; however, it is relevant and informative as to the Appellant's state of mind and appropriateness of the Facility's discharge planning.

The Facility has attempted to accommodate the Appellant's desire to stay in [REDACTED] County and, after being unsuccessful, identified another location in New York that is willing to accept this non-paying Appellant. While a placement geographically closer to [REDACTED] County would be preferable, it is futile to identify one given the Appellant's obstinance and absolute refusal to consider a facility outside of the already-exhausted area of [REDACTED] County. The

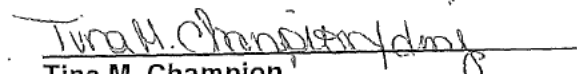
Facility has shown that the proposed discharge location is both safe and appropriate for the Appellant under the circumstances.

DECISION

Northern Metropolitan Residential Health Care Facility has established that its determination to discharge the Appellant is permissible, and that its discharge plan is appropriate.

1. The Appellant may be discharged in accordance with the Transfer/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: August 29, 2025


Tina M. Champion
Administrative Law Judge

TO:

[REDACTED]
c/o Northern Metropolitan Residential Health Care Facility
225 Maple Avenue
Monsey, New York 10952
[REDACTED]

Kristen Kennedy, Director of Social Work
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