

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE
HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

██████████ 2021
SIGNATURE CONFIRMATION

CASE # ██████████
CLIENT ID # ██████████
REQUEST# ██████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2021, ██████████ (the "Facility") sent ██████████ (the "Appellant"), a Notice of Discharge indicating its intent to involuntarily discharge the Appellant on ██████████, 2021 because he no longer required the services of the Facility due to improved health.

On ██████████, 2021, the Appellant requested an administrative hearing to contest the Facility's proposed discharge.

On ██████████, 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2021.

On [REDACTED], 2021, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing at the Facility.

The following individuals participated in the hearing on [REDACTED], 2021:

- [REDACTED], Appellant
- [REDACTED] Finance Director, [REDACTED]
- [REDACTED], Registered Nurse, [REDACTED]
- [REDACTED] Social Worker, [REDACTED]
- [REDACTED] OCSW, [REDACTED]
- [REDACTED] Occupational Therapist, [REDACTED]
- [REDACTED] APRN, [REDACTED]
- Joseph Alexander, Administrative Hearing Officer

The hearing record was left open for an additional [REDACTED] days, until [REDACTED] 2021, per the Appellant's request to allow him to submit information pertaining to the issue of the hearing.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Facility acted in accordance with state law when it proposed to involuntarily discharge the Appellant from the facility.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old [DOB [REDACTED]]. (Facility Exhibit 1: Admission Record)
2. On [REDACTED], 2020, the Appellant was admitted to the Facility. (Facility Exhibit 1: Admission Record)
3. The Appellant received both Occupational and Physical Therapy while residing at the Facility for the following period(s):

[REDACTED]
[REDACTED]

(Facility Representative's Testimony)

4. The Appellant received Occupational Therapy only for the following period(s):

[REDACTED]

(Facility Representative's Testimony)

5. On [REDACTED] 2021, a Level of Care (“LOC”) Screen was completed by Maximus and it was determined the Appellant did not require continued nursing facility care as he was independent with his activities of daily living (“ADL”). (Facility Exhibit 7: Notice of Level of Care Determination, Exhibit 8: Maximus, Exhibit 9: Progress Notes)
6. The Appellant is able to perform ADL’s independently. (Appellant Testimony)
7. On [REDACTED] 2021, an “[REDACTED] Discharge Packet (CT) V2” was created displaying a discharge date of [REDACTED], 2021. (Facility Exhibit 3: [REDACTED] Discharge Packet (CT) V2)
8. On [REDACTED], 2021, the Facility issued a Notice of Discharge to the Appellant. The notice stated that the Appellant would be discharged from the Facility on [REDACTED], 2021 as it had been determined that nursing facility care was no longer medically necessary due to the Appellant’s health improvement. The notice listed a shelter the Appellant would be discharged to, as well as information regarding the appeals process. (Facility Exhibit 5: Notice of Discharge)
9. On [REDACTED], 2021, an Addendum to Discharge Plan was issued to the Appellant. The plan was signed off on by the Facility’s Administrator, Medical Director and Director of Nursing Services (Facility Exhibit 6: Addendum to Discharge Plan)
10. An Occupational Therapy evaluation was conducted on [REDACTED]. It was determined the Appellant did not require Occupational Therapy at that time. (Facility Representative’s Testimony)
11. The Discharge Plan contains a written evaluation of the effects of the discharge as well as measures taken to minimize any disruptive effects. The Addendum to Discharge Plan states, “Social Services will involve [REDACTED] in all aspects of the discharge plan. Facility has established care doctor through [REDACTED] [REDACTED] in [REDACTED], CT. Social Services will continue to provide [REDACTED] with support until the date of discharge. [REDACTED] will be provided with an active [REDACTED] bus route and a map of [REDACTED] if needed. [REDACTED] is not home bound and does not meet criteria for home care services”. (Facility Exhibit 6: Addendum to Discharge Plan)
12. The Addendum to Discharge Plan contains an outline of the care and types of services that the Appellant would receive upon discharge. The plan specifies the Appellant, “Can utilize public transportation or Veyo as he did prior to admission for his medical appointments”. (Facility Exhibit 6: Addendum to Discharge Plan)

14. The issuance of this decision is timely under Connecticut General Statutes 19a-535(h)(1) which requires that a decision be issued not later than [REDACTED] days after the termination of the hearing or not later than [REDACTED] days after the date of the hearing request, whichever occurs sooner. The hearing was requested on [REDACTED], 2021 and held on [REDACTED] 2021. [REDACTED] days from [REDACTED], 2021 is [REDACTED], 2021. [REDACTED] from [REDACTED], 2021 is [REDACTED], 2021.

CONCLUSIONS OF LAW

1. "Transfer or discharge of residents. Notice. Plan Required. Appeal. Hearing. Except in the case of an emergency, as provided in subdivision (4) of this subsection, upon receipt of a request for a hearing to appeal any proposed transfer or discharge, the Commissioner of Social Services or the commissioner's designee shall hold a hearing to determine whether the transfer or discharge is being effected in accordance with this section." Connecticut General Statutes ("Conn. Gen. Stat.") § 19a-535(h)(1)
2. "For the purposes of this section "discharge" means the movement of a resident from a facility to a noninstitutional setting." Conn. Gen. Stat. § 19a-535(a)(4)
3. "A facility shall not transfer or discharge a resident from the facility except to meet the welfare of the resident which cannot be met in the facility, or unless the resident no longer needs the services of the facility due to improved health, the facility is required to transfer the resident pursuant to section 17b-359 or 17b-360, or the health or safety of individuals in the facility is endangered, or in the case of a self-pay resident, for the resident's nonpayment or arrearage of more than fifteen days of the per diem facility room rate, or the facility ceases to operate. In each case the basis for transfer or discharge shall be documented in the resident's medical record by a physician or an advanced practice registered nurse. In each case where the welfare, health or safety of the resident is concerned the documentation shall be by the resident's physician or the resident's advanced practice registered nurse. A facility that is part of a continuing care facility which guarantees life care for its residents may transfer or discharge (1) a self-pay resident who is a member of the continuing care community and who has intentionally transferred assets in a sum that will render the resident unable to pay the costs of facility care in accordance with the contract between the resident and the facility, or (2) a self-pay resident who is not a member of the continuing care community and who has intentionally transferred assets in a sum that will render the resident unable to pay the costs of a total of forty-two months of facility care from the date of initial admission to the facility." Conn. Gen. Stat. §19a-535(c)(1)

The Facility correctly determined that the Appellant no longer needs the services of the Facility due to improved health, based upon the medical review completed by [REDACTED].

4. "Except in an emergency or in the case of transfer to a hospital, no resident shall be transferred or discharged from a facility unless a discharge plan has been developed by the personal physician or advanced practice registered nurse of the resident or the medical director in conjunction with the nursing director, social worker or other health care provider. To minimize the disruptive effects of the transfer or discharge on the resident, the person responsible for developing the plan shall consider the feasibility of placement near the resident's relatives, the acceptability of the placement to the resident and the resident's guardian or conservator, if any, or the resident's legally liable relative or other responsible party, if known, and any other relevant factors that affect the resident's adjustment to the move. The plan shall contain a written evaluation of the effects of the transfer or discharge on the resident and a statement of the action taken to minimize such effects. In addition, the plan shall outline the care and kinds of services that the resident shall receive upon transfer or discharge. Not less than thirty days prior to an involuntary transfer or discharge, a copy of the discharge plan shall be provided to the resident's personal physician or advanced practice registered nurse if the discharge plan was prepared by the medical director, to the resident and the resident's guardian or conservator, if any, or legally liable relative or other responsible party, if known." Conn. Gen. Stat. § 19a-535(e)

The Facility correctly provided the Appellant at least 30 days prior notice, in writing, of the proposed discharge date, which included the effective date of the discharge, the reasons for discharge, a location to which the Appellant would be discharged to and his appeal rights.

5. "Except in an emergency or in the case of transfer to a hospital, no resident shall be transferred or discharged from a facility unless a discharge plan has been developed by the personal physician or advanced practice registered nurse of the resident or the medical director in conjunction with the nursing director, social worker or other health care provider. To minimize the disruptive effects of the transfer or discharge on the resident, the person responsible for developing the plan shall consider the feasibility of placement near the resident's relatives, the acceptability of the placement to the resident and the resident's guardian or conservator, if any, or the resident's legally liable relative or other responsible party, if known, and any other relevant factors that affect the resident's adjustment to the move. The plan shall contain a written evaluation of the effects of the transfer or discharge on the resident and a statement of the action taken to minimize such effects. In addition, the plan shall outline the care and kinds of services that the resident shall receive upon transfer or discharge. Not less than thirty days prior to an involuntary transfer or discharge, a copy of the discharge plan shall be provided to the resident's personal physician or advanced practice registered nurse if the discharge plan was prepared by the medical director, to the resident and the resident's guardian or conservator, if any, or legally liable

relative or other responsible party, if known.” Conn. Gen. Stat. § 19a-535(e)

The Facility correctly developed a Discharge Plan which contained a written evaluation of the effects of the discharge as well as measures taken to minimize any disruptive effects. The plan also indicated the care and kinds of services which the Appellant would receive once discharged.

The Discharge Plan was correctly developed and signed off on by the Facility’s Social Worker, Medical Director and Administrator.

6. “The facility shall be responsible for assisting the resident in finding appropriate placement.” Conn. Gen. Stat. § 19a-535(g)

The Facility correctly assisted the Appellant in appropriate placement upon discharge by identifying a ██████████ County shelter which offers emergency shelter for single adult men and women as well as services which include meals, case management, assistance with securing housing, access to healthcare, crisis intervention, counseling, mental health, and addiction.

DISCUSSION:

During the hearing The Appellant testified he has the following issues which Necessitate him remaining at the Facility: Weight Gain, mobility issues, numbness in right hand/fingers, lack of mobility/pain in right rotator cuff, pain management. The Appellant testified that despite having these issues he is still able to perform ADL’s independently. Based on the evidence and testimony presented at the hearing, the Facility acted in accordance with state law when it proposed to involuntarily discharge the Appellant from ██████████ ██████████.

The Facility issued all the required documentation including the Notice of Discharge and Addendum to Discharge Plan. The Facility also assisted the Appellant with finding appropriate placement once discharged.

DECISION

The Appellant’s appeal is **DENIED**

Joseph Alexander
Administrative Hearing Officer

CC: ██████████ Administrator

RIGHT TO REQUEST RECONSIDERATION

The Appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-1181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court with 45 days of the mailing of this decision, or 45 days after the agency denies petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105-3725. A copy of the petition must also be served on all parties to the hearing.

The 45-day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or her designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.