

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

██████████ 2023
Signature Confirmation

Client ID ██████████
Case ID ██████████
Request # 206764

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2022, ██████████ (the "Facility") delivered a written Notice of Transfer/Discharge regarding ██████████ (the "Appellant") to ██████████ (the "Appellant's spouse"), informing her of its intention to discharge the Appellant from its care on ██████████, 2022.

On ██████████, 2022, the Appellant's spouse requested an administrative hearing to contest the Facility's decision to refuse to readmit the Appellant to its facility.

On ██████████, 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2022.

On ██████████, 2022, in accordance with sections 19a-535, 19a-537, 17b-61 and 4-176e to 4-189 inclusive of the Connecticut General Statutes, OLCRAH held an administrative hearing via teleconference at the Appellant's request.

The following individuals called in for the hearing:

██████████, Appellant's spouse
██████████, ██████████ Ombudsman
██████████, Administrator, ██████████
██████████, Director of Nursing Services, ██████████
██████████, Director of Social Services, ██████████

■■■■■, Staff Development/Infection Control, ■■■■■ ■■■■■ ■■■■■
 ■■■■■
 Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Facility complied with statutory requirements when it denied the Appellant's spouse's ■■■■■ 2022 request to readmit the Appellant to its facility.

FINDINGS OF FACT

1. On ■■■■■ 2022, the Facility, a skilled nursing facility, admitted the Appellant for a short-term stay. The Appellant's status later changed to long-term care. (Director of Social Services Testimony)
2. The Appellant's admitting diagnosis included TIA/transient ischemic attack, failure to thrive, cardiomyopathy, unsteady gait, Parkinson's disease, and anxiety and depression. The Resident is ■■■■■ years old. (Director of Nursing Testimony)
3. While at the Facility, the Appellant refused care and was generally agitated finding it difficult to adjust. The Appellant refused wound care while blood dripped down his leg. (Director of Nursing Testimony)
4. The Appellant became difficult to redirect when agitated requiring extra time from Facility staff. The Facility psychiatric staff met with the Appellant on ■■■■■ 2022, ■■■■■, 2022, ■■■■■ 2022, ■■■■■ 2022, and ■■■■■ 2022 to address the Appellant's behaviors. (Director of Nursing Testimony and Staff Development Infection Control Testimony)
5. During the Appellant's stay, the Facility psychiatric staff changed the Appellant's medication, monitored his blood work, and switched his room and roommates to manage the Appellant's erratic behaviors. (Director of Nursing Testimony, Director of Social Services Testimony, and Staff Development Infection Control Testimony)
6. On ■■■■■ 2022, the Appellant was transferred to ■■■■■ ■■■■■ ("local hospital") for stabilization after he threatened his roommate at the Facility and Facility staff. Upon stabilization at the hospital, the Appellant returned to the Facility the same day. (Director of Social Services Testimony)

7. On [REDACTED] 2022, the Facility placed the Appellant in a private room after a private room opened up on a rehabilitation unit. (Director of Social Services Testimony)
8. On [REDACTED] 2022, the Appellant's aggressive behaviors escalated at the Facility. The Appellant entered a common area in the facility and began throwing books, knocking over furniture, removing screens from windows, breaking things, threatening residents and hitting staff. The Facility's attempts to de-escalate the situation failed and the Facility called the local police for assistance. The police restrained the Appellant and medical staff transported the Appellant to the hospital emergency room where he remained. The Facility includes the following documents with a resident when transferred: change of condition, transfer and bed hold documents, and medication list. (Staff Development/Infection Control Testimony and Director of Nursing Services Testimony)
9. The Appellant's physician documented the reason for the emergency transfer to the hospital in the Appellant's medical record. (Director of Social Services Testimony)
10. On [REDACTED] 2022, the Facility spoke with the Appellant's spouse to discuss the Appellant's transfer to the hospital. The Facility believed the Appellant would not return to its facility upon his release from the hospital and the Appellant's spouse would locate another skilled nursing facility which could meet the Appellant's medical and psychiatric needs and ensure safety. (Director of Social Services Testimony)
11. The Facility is prohibited by law to use restraints. The Facility does not have a locked facility. The Facility uses the WanderGuard system to protect those residents at risk of elopement. The Appellant was outfitted with WanderGuard; however, he learned if the door is pushed, it will open. Eventually, the Appellant removed his WanderGuard bracelet on his own. (Director of Nursing Testimony)
12. The Facility did not hold the Appellant's bed upon transfer to the hospital because the Appellant was self-pay and it believed the Appellant's spouse would seek alternative placement. (Director of Social Services Testimony)
13. On [REDACTED] 2022, the Appellant's aggressive behaviors continued at the hospital emergency room resulting in the Appellant's transfer to [REDACTED] ("behavioral health facility") for evaluation and stabilization. (Director of Social Services Testimony and Staff Development/Infection Control Testimony)
14. On [REDACTED] 2022, the Appellant's spouse contacted the Facility to request the Appellant return to the Facility upon discharge from the

- behavioral health facility. The Facility verbally informed the Appellant's spouse, the Appellant's needs could not be met by the Facility, and it would not accept him back. (Director of Social Services Testimony)
15. On [REDACTED] 2022, the Appellant fell at the behavioral health facility resulting in his transfer to [REDACTED] ("current hospital"). The Appellant was not cleared as a psychiatric patient by the behavioral health facility prior to his transfer to the current hospital. (Director of Social Services Testimony)
 16. On [REDACTED] 2022, the current hospital admitted the Appellant where he currently remains. While at the current hospital, the Appellant required a Foley catheter bag, which he tried to remove himself requiring hospital staff to place him in restraints. The Appellant no longer requires a Foley bag. Although the Appellant has been stabilized without any psychological incidents for two weeks, does not require restraints and psychologically cleared, he remains medically compromised and not ready for discharge from the current hospital. The current hospital continues to evaluate his low heart rate, dizziness with fall risk, low blood sugar, low hypertension, and the possibility of a pacemaker placement. (Spouse's Testimony, Director of Nursing Testimony, and Director of Social Services Testimony)
 17. On [REDACTED] 2022, the Appellant's spouse received a 30-Day Notice of Intent to Transfer or Discharge Resident letter ("discharge letter") dated [REDACTED], 2022. The Facility informed the Appellant's spouse of its intent to discharge the Appellant from its facility because the "health or safety of individuals in the facilities are endangered and your needs and welfare cannot be met in this facility." The notice included the Appellant's appeal rights and deadlines, State Long Term Care Ombudsman access information and [REDACTED] access information. The letter did not include a transfer or discharge location. (Exhibit A: Notice of Transfer/Discharge)
 18. On [REDACTED] 2022, the Appellant's spouse on behalf of the Appellant submitted a request for an administrative hearing, which OLCRAH granted.
 19. On [REDACTED] 2022, the OLCRAH held an administrative hearing. (Hearing Record)
 20. As of [REDACTED] 2022, the Appellant remains hospitalized at the current hospital and not medically cleared for discharge. The Facility has not received a request from the hospital that the Appellant is medically ready for discharge. (Director of Social Services Testimony, Director of Nursing Services, and Appellant's Testimony)

21. The issuance of this decision is timely under Section 19a-537(h) of the Connecticut General Statutes, which requires that the agency issue a decision regarding the refusal to readmit a resident not later than 30 days after the date on which the hearing record closed. The hearing record closed on [REDACTED] 2022. This hearing decision is due [REDACTED] 2023; therefore, it is timely.

CONCLUSIONS OF LAW

1. Section 19a-537(h) of the Connecticut General Statutes authorized the Commissioner of the Department of Social Services to hold a hearing to determine whether the nursing home has violated the provisions of this section with regard to readmission.
2. State statute provides as follows:

Whenever a nursing home has concerns about the readmission of a resident, as required by subsection (e) of this section, based on whether the nursing home has the ability to meet the resident's care needs or the resident presents a danger to himself or herself or to other persons, not later than twenty-four hours after receipt of notification from a hospital that a resident is medically ready for discharge, a nursing home shall request a consultation with the hospital and the resident or the resident's representative. The purpose of the consultation shall be to develop an appropriate care plan to safely meet the resident's nursing home care needs, including a determination of the date for readmission that best meets such needs. The resident's wishes and the hospital's recommendations shall be considered as part of the consultation process. The nursing home shall reserve the resident's bed until completion of the consultation process. The consultation process shall begin as soon as practicable and shall be completed not later than three business days after the date of the nursing home's request for a consultation. The hospital shall participate in the consultation, grant the nursing home access to the resident in the hospital and permit the nursing home to review the resident's hospital records.

Conn. Gen. Stat. § 19a-537(g)

3. Uniform Policy Manual ("UPM") § 1570.25(C) provides in part that the administrative duties of Fair Hearing Official are to determine the issue of the hearing, consider all relevant issues, and render a Fair Hearing decision in the name of the Department, in accordance with the criteria in this chapter, to resolve the dispute.

As of [REDACTED] 2022, the date of the administrative hearing, the Appellant remains hospitalized and not medically ready for discharge.

Although the Appellant's spouse requested the Facility readmit the Appellant on [REDACTED] 2022, the Facility has not received a request from the current hospital that the Appellant is medically ready for discharge and seeking admission to its facility. Therefore, since the current hospital has not informed the Facility the Appellant is ready for discharge, the Facility has not failed to readmit the Appellant based on state statutes.

There is no action to be adjudicated.

DECISION

The Appellant's appeal is **Dismissed**.

Lisa A. Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: [REDACTED], Administrator, [REDACTED]
[REDACTED], Ombudsman, [REDACTED]

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 § 4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, 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.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within **45** days of the mailing of this decision, or **45** days after the agency denies a 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. 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 the Commissioner's 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.