

STATEMENT OF THE ISSUE

The issue to be decided is whether [REDACTED] complied with the law when it proposed to involuntarily discharge the Appellant.

FINDINGS OF FACT

1. On [REDACTED] 2016, the Appellant was admitted to the facility for short term care for a chronic medical condition. (Facility's testimony and Appellant's testimony)
2. On [REDACTED] 2016, the facility submitted a proposed discharge plan and reviewed it with the Appellant. (Exhibit 3: Addendum to discharge plan and Facility's testimony)
3. The Appellant is actively working with the Money Follows The Person program ("MFP") to obtain permanent housing and has a signed Rental Assistance Program ("RAP") certificate approved for housing assistance. (Specialized Care Manager's testimony)
4. The Appellant is seeking treatment for hypertension, unspecified abdominal pain, anxiety, kidney disease, and a digestive disorder. (Exhibit 5: MFP Assessment and risk assessment and Appellant's testimony)
5. The Appellant anticipates that he will transition into a permanent housing situation outside of the facility. (Appellant's testimony)
6. The Appellant states that he is prepared to live in the community if discharged to the right setting. (Appellant's testimony)
7. The Appellant is independent in all Activities of Daily Living ("ADL's") and Instrumental Activities of Daily Living ("IADL's"). (Exhibit 5, Appellant's testimony and Facility's testimony)
8. On [REDACTED] 2016, the Appellant's attending physician, [REDACTED] declared that he was ready to be discharged. (Exhibit 3 and Facility's testimony)
9. On [REDACTED] 2016, a Long-Term Care Level of Care Determination by Ascend Management Innovations ("Ascend") concluded that nursing facility services were not medically necessary for the Appellant and that he is independent with his activities of daily living ("ADL's"). (Hearing record)
10. The proposed discharge plan provided that when the Appellant became physically independent an appointment will be made for him to see his primary care physician and a referral will be made to follow up with psych support services in the community. He would be transitioned into a residential setting, a

hotel or a homeless shelter with an available bed if an apartment was not immediately available for him. (Exhibit 3 and Social worker's testimony)

11. On [REDACTED] 2016, the facility issued a discharge notice to the Appellant proposing that he be discharged in 30 days from the facility to a residential home, hotel or homeless shelter because he no longer requires the facility's level of services. (Exhibit 1: Notice of discharge dated [REDACTED]/2016)

CONCLUSIONS OF LAW

1. Connecticut General Statute Section (CGS) 19a-535(b) provides in part: 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 section 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.
2. In documenting the basis for the discharge in the Appellant's medical record the facility complied with the requirement in section 19a-535(b) of the Connecticut General Statutes.
3. CGS Section 19a-535(c) provides in part: Before effecting any transfer or discharge of a resident from the facility, the facility shall notify, in writing, the resident and the resident's guardian or conservator, if any, or legally liable relative or other responsible party if known, of the proposed transfer or discharge, the reasons therefore, the effective date of the proposed transfer or discharge, the location to which the resident is to be transferred or discharged, the right to appeal the proposed transfer or discharge and the procedures for initiating such an appeal as determined by the Department of Social Services, the date by which an appeal must be initiated in order to preserve the resident's right to an appeal hearing and the date by which an appeal must be initiated in order to stay the proposed transfer or discharge and the possibility of an exception to the date by which an appeal must be initiated in order to stay the proposed transfer or discharge for good cause, that the resident may represent himself or herself or be represented by legal counsel, a relative, a friend or other spokesperson, and information as to bed hold and nursing home readmission policy when required in accordance with section 19a-537, as amended by this act. The notice shall also include the name, mailing address and telephone number of the State Long-Term Care Ombudsman. The notice shall be given at least thirty days and no more than sixty days prior to the resident's proposed transfer or discharge, except where the health or safety of

individuals in the facility are endangered, or where the resident's health improves sufficiently to allow a more immediate transfer or discharge

4. The facility properly issued a notice of discharge to the Appellant pursuant to the requirements of section 19a-535(c) of the Connecticut General Statutes.
5. CGS, Section 19a-535e provides that: 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 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 relative's, 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 which 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 which 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 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, in known.
6. The facility correctly provided a written discharge plan to the Appellant and recommended resources and support for the discharge.
7. The facility's proposal to discharge the Appellant complies with state statutes.

DECISION

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

Roberta Gould

Roberta Gould
Hearing Officer

PC: Barbara Cass, CT Department of Public Health
Brenda Foreman, LTC Ombudsman Program
Beth Schmeizel, Administrator, [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 06105-3725.

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, 55 Elm Street, 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.