

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

██████████ 2017
Signature Confirmation

Client ID # ██████████
Request # 815919

NOTICE OF DECISION
PARTY

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

George Kingston, Administrator
Trinity Hill Care Center
151 Hillside Avenue
Hartford, CT 06106

PROCEDURAL BACKGROUND

On ██████████ 2017, the Trinity Hill Care Center (the "Facility") issued a 30 Day Involuntary Transfer/Discharge Notice of Intent to ██████████ (the "Appellant") stating its intent to involuntarily discharge the Appellant on or following 30 days from the date of its notice as his current medical condition did not meet the need for skilled nursing care.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Facility's proposed discharge.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative ("OLCRAH") issued a Notice of Administrative Hearing scheduling an administrative hearing at the Facility for ██████████ 2017.

On ██████████ 2017, in accordance with Connecticut General Statutes, sections 19a-535 and 4-176e to 4-184, inclusive, OLCRAH held an administrative hearing to address the Facility's intent to discharge the Appellant. The following individuals were present at the hearing:

██████████ the Appellant
██████████, Appellant's sister and Representative
██████████ Appellant's brother and Representative
Danielle Albert, Social Worker for the Facility
Veronica King, Hearing Officer

The hearing record remained open for the submission of additional evidence. On [REDACTED] 2017 the record closed.

STATEMENT OF THE ISSUE

The issue is to be decided is whether the Facility's proposal to involuntarily discharge the Appellant for not meeting the need for nursing home facility level of care complies with the statutory requirements.

FINDINGS OF FACT

1. On [REDACTED] 2017, the Appellant was admitted to the Facility, which is a skilled nursing facility from Waterbury Hospital. (Hearing Record)
2. On [REDACTED] 2017, the Facility issued a 30 Day Involuntary Transfer/Discharge Notice (the "discharge notice") to the Appellant stating its intent to involuntarily discharge the Appellant on or following 30 days from the date of its notice as the resident no longer needs the services of the Facility due to improved health. (Exhibit 1: Intent to Discharge Notice dated [REDACTED]/17)
3. On [REDACTED] 2017, the Appellant's representatives requested an administrative hearing to contest the Facility's 30 Day Notice of Discharge stating its intent to discharge him. (Appellant's hearing request)
4. On [REDACTED] 2017, the Department of Social Services contractor, Ascend Management Innovations, authorized the Appellant for Long Term care of nursing facility stay. (Exhibit 4: Letter dated [REDACTED]/17)

CONCLUSIONS OF LAW

1. Section 19a-535(c) (2) of Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to hold a hearing to determine whether the transfer or discharge is being effected in accordance with this section.
2. Section 19a-535 (a) of the Connecticut General Statutes states, " For the purposes of this section: (1) "Facility" means an entity certified as a nursing facility under the Medicaid program or an entity certified as a skilled nursing facility under the Medicare program or with respect to facilities that do not participate in the Medicaid or Medicare programs, a chronic and convalescent nursing home or a rest home with nursing supervision as defined in section 19a-521; (2) "continuing care facility which guarantees life care for its residents" has

the same meaning as provided in section 17b-354; (3) "transfer" means the movement of a resident from one facility to another facility or institution, including, but not limited to, a hospital emergency department, if the resident is admitted to the facility or institution or under the care of the facility or institution for more than twenty-four hours; (4) "discharge" means the movement of a resident from a facility to a noninstitutional setting; (5) "self-pay resident" means a resident who is not receiving state or municipal assistance to pay for the cost of care at a facility, but shall not include a resident who has filed an application with the Department of Social Services for Medicaid coverage for facility care but has not received an eligibility determination from the department on such application, provided the resident has timely responded to requests by the department for information that is necessary to make such determination; and (6) "emergency" means a situation in which a failure to effect an immediate transfer or discharge of the resident that would endanger the health, safety or welfare of the resident or other residents.

3. The Facility is a certified skilled nursing facility under Medicare and a certified nursing facility under Medicaid.
4. 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 non-payment 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. In each case where the welfare, health or safety of the resident is concerned the documentation shall be by the resident's physician. A facility which 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 which 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 which 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 (b).
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 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 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 the resident shall receive upon transfer or discharge. Not less than thirty days prior to the 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, if known. Conn. Gen. Stat. § 19a-535 (e).

6. Because Ascend authorized Medicaid payments for long-term care services for the Appellant, the [REDACTED] 2017 discharge notice is no longer relevant.
7. This appeal of the discharge notice at issue in this appeal is moot. If the Facility intends to discharge the Appellant at a later date, it will need to issue a new discharge notice.

DECISION

The Appellant's appeal is **DISMISSED AS MOOT.**

Veronica King
Veronica King
Hearing Officer

Cc: Desiree, LTC Ombudsman Program, Department of Social Services.
George Kingston, Administrator Trinity Hill Care Center
Barbara Cass, Section Chief, Facility Licensing and Investigations Section,
Connecticut, Department of Public Health, 410 Capitol Avenue, MS#12HSR,
P.O. Box 340308, Hartford, CT 06134-0308

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, 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.