

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATION AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CONNECTICUT 06105

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

CL ID # ██████████  
Request ID #818814

NOTICE OF DECISION

PARTY

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

Danielle Albert, Director of Social Services  
Trinity Hill Care Center  
151 Hillside Avenue  
Hartford, CT 06106

PROCEDURAL BACKGROUND

On ██████████ 2017, Trinity Hill Care Center (the "Facility") issued a Notice of Intent to discharge ██████████ (the "Appellant") from care on or after ██████████ 2017 to the McKinney Shelter in Hartford, Connecticut.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the facility's proposed action to discharge him from the facility.

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

On ██████████ 2017, in accordance with Connecticut General Statutes § 19a-535 and § 4-176e to § 4-189, inclusive, OLCRAH held an administrative hearing at Trinity Hill Care Center located at 151 Hillside Avenue, Hartford, Connecticut.

The following individuals were present at the hearing:

██████████ Appellant  
Danielle Albert, Director, Trinity Hill Care Center  
Jasmine Leek, Social Worker, Trinity Hill Care Center  
Shelley Starr, Hearing Officer

The hearing record was held open for the submission of additional evidence. No additional evidence was provided. On ██████████ 2017, the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the facility acted in accordance with the statutory requirements when it proposed to involuntarily discharge the Appellant from the facility due to not requiring the skilled nursing services provided by the facility.

### **FINDING OF FACTS**

1. The Appellant is 59 years old (D.O.B. ██████████/1957) and is a widower. (Appellant's Testimony; Exhibit 3: LTC Determination Form)
2. On ██████████ 2016, the Appellant entered Trinity Hill Care Center of Hartford, a skilled nursing facility, from Saint Francis Hospital. (Facility Testimony; Exhibit 6; Saint Francis Physician Discharge Summary)
3. The Appellant's primary diagnosis at the time of admission to the facility includes: COPD, polysubstance abuse and delirium. (Exhibit 6: Saint Francis Discharge Summary)
4. Ascend is the Department of Social Service's contractor for reviewing nursing home level of care requests for authorization of Medicaid payment. (Hearing Record)
5. The Appellant's most recent level of care approval through Ascend will expire on ██████████ 2017. (Exhibit 3: Ascend Approval dated ██████████ 2017)
6. Since the Appellant's admission, all aspects of his primary diagnosis has improved. (Facility Testimony)
7. In ██████████ of 2016, the Appellant's physical therapy and occupational therapy sessions at Trinity Hill ended. (Facility Testimony)
8. The Appellant is currently attending a group recovery program three times a week and individual counseling once a week at Trinity Hill. All other therapy has ended due to his improved health. (Facility Testimony.)

9. The Appellant completes activities of daily living (“ADL’s”) independently. He needs assistance with medication management and uses a walker and wheel chair to assist with mobility. (Facility Testimony)
10. On [REDACTED] 2017, the facility issued a Notice of Intent to Discharge signed by the Administrator. The notice states the reason for discharge is that you no longer need nursing home services due to improved health. The notice informed the Appellant of the facility’s intent to discharge him from the facility on [REDACTED] 2017 to the McKinney shelter, when his Ascend facility approval ends. (Exhibit 1: Notice of Intent to Discharge dated [REDACTED] 2017; Facility’s Testimony)
11. On [REDACTED] 2017, the facility prepared a Discharge Plan and presented the plan to the Appellant. It noted that the facility’s social worker can provide assistance to the Appellant with referrals to obtain community based services. (Exhibit 1: Discharge Plan dated [REDACTED] 2017)
12. The Facility’s plan is to help the Appellant with referrals for follow up services including housing/shelter, meals, alcohol abuse recovery services; mental health services, financial assistance and follow up medical care. The Appellant was provided with a Greater Hartford Reentry Services catalog and a Connecticut Health Care Resource Guide from INFOLINE to assist with his services. (Facility’s Testimony; Exhibit 1: Notice of Intent to Discharge with Plan dated [REDACTED] 2017)
13. The Appellant’s physician assessment is that the Appellant is ready and capable to be living in the community. (Facility’s Testimony and Exhibit 1: Discharge Plan signed and dated [REDACTED] 2017)
14. The Appellant’s primary concern with his intended discharge is his medication management and having to leave the shelter during the day. (Appellant’s Testimony)
15. The Appellant recently became involved with the Money Follows the Person (“MFP”) program. (Facility Testimony)
16. The Facility is applying for another Level of Care extension through Ascend. (Facility’s Testimony)

### **CONCLUSION OF LAW**

1. Section 19a-535(h)(1) of the Connecticut General Statutes (Conn. Gen. Stat.) authorizes the Commissioner of the Department of Social Services to hold a hearing to determine whether the transfer or discharge is in accordance with this section.
2. Section 19a-535(a) of the Connecticut General Statutes provides 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 is 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 non-institutional 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 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. Section 19a-535(b) of the Connecticut General Statutes provides that 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 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.**

**The Facility correctly determined the Appellant does not require skilled nursing level of care as determined by Ascend. Needed services can be provided in the community.**

4. Section 19a-535(c)(1) of the Connecticut General Statutes provides that before effecting a transfer or discharge of a resident from the facility, the facility shall notify, in writing, the resident and 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 may represent himself 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. The notice shall also include the name, mailing address and telephone numbers of the State Long-Term Care Ombudsman. If the resident is, or the facility alleges a resident is, mentally ill or developmentally disabled, the notice shall include the name, mailing address and telephone number of the Office of Protection and Advocacy for Persons with Disabilities. 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, or where immediate transfer or discharge is necessitated by urgent medical needs or where a resident has not resided in the facility for thirty days, in which cases notice shall be given as many days before the transfer or discharge as practicable.

**The Facility correctly gave the Appellant at least 30 days notice of the proposed discharge and notified the Appellant in writing of the proposed discharge in accordance with section 19a-535(c) of the Connecticut General Statutes.**

6. Section 19a-535(e) of the Connecticut General Statutes 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 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 affects 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 affects. In addition, the plan shall outline the care and kinds of service which the resident shall receive upon transfer or discharge. Not less than thirty days prior to an involuntary transfer or discharge, a copy of 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.

**The Facility provided the Appellant with a discharge plan that addressed all statutory requirements involved in an involuntary discharge of a resident.**

**The Facility has provided to the Appellant a discharge plan discussing relevant factors affecting the Appellant's transfer, the care he will require and measures to be taken to minimize the effect of an involuntary transfer.**

**The Facility's proposal to discharge the Appellant complies with state statutes.**

### **DISCUSSION**

The Facility has proposed to involuntarily discharge the Appellant from its care because the Appellant's medical condition has improved significantly and he no longer requires the level of care provided by a skilled nursing facility. The Appellant testified that he has improved in all aspects of his primary diagnosis and currently receives group therapy three times a week and individual therapy once a week at Trinity Hill.

The Facility acknowledges concern that the Appellant may relapse in the community, however his health condition does not require the level of care provided by a skilled nursing home. The facility plans to assist the Appellant with referrals for his needed services in the community. The Appellant is intended to discharge to the McKinney Shelter, which has an elevator and is handicapped accessible. The Shelter will provide the Appellant with his meals, assist with his medicine management and may waive the requirement for him to leave the facility during the day due to his health issues.

The Appellant's attending physician approved of the Appellant's discharge and believes he should be able to successfully transition into the community. The Facility has complied with the statutory requirements in this case and the proposal to involuntarily discharge the Appellant is upheld.

### **DECISION**

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

  
**Shelley Starr**  
**Hearing Officer**

cc: Desiree Pina, LTC Ombudsman Program,  
Barbara Cass, Section Chief, Facility Licensing and Investigations Section,  
Connecticut, Department of Public Health  
Danielle Albert, Director, Trinity Hill  
George Kingston, Administrator, Trinity Hill

### **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 Legal Counsel, Regulations and Administrative Hearings, 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. 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 his/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.