

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

[REDACTED] 2017
SIGNATURE CONFIRMATION

REQUEST #818844

CLIENT ID # [REDACTED]

NOTICE OF DECISION

PARTIES

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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

PROCEDURAL BACKGROUND

On [REDACTED] 2017, the **Trinity Hill Care Center** (the "Facility") issued a Notice of Intent to Discharge to [REDACTED] (the "Appellant") stating its intent to involuntarily discharge the Appellant from the Facility after [REDACTED] 2017, because he no longer needs the services of a nursing facility ("NF") due to improved health.

On [REDACTED] 2017, the Appellant requested an administrative hearing to contest the Facility's Notice of Intent to involuntarily discharge him due to improved health.

On [REDACTED] 2017, the Office of Legal Counsel, Regulations, and Administrative ("OLCRAH") issued a Notice of Administrative Hearing scheduling a hearing at the Facility for [REDACTED] 2017, @ 10:30 AM.

On [REDACTED] 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 involuntarily discharge the Appellant due to improved health.

The following individuals were present at the hearing:

[REDACTED] Appellant
Danielle Albert, Director of Social Services for the Facility
Nalyz Paernina, Social Worker for the Facility
Hernold C. Linton, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the issue that led to the Appellant's request for an administrative hearing has been resolved.

FINDINGS OF FACT

1. On [REDACTED] 2016, the Appellant was admitted to Trinity Hill Care Center for short-term rehabilitative care. (Hearing Record)
2. On [REDACTED] 2016, Ascend, the Department's subcontractor for reviewing and approving requests for nursing facility ("NF") level of care, approved the Appellant for 120 days of NF level of care, and an additional 60 days on [REDACTED] 2017. (Hearing Record)
3. On [REDACTED] 2017, the Facility issued a Notice of Intent to Discharge to the Appellant stating that he would be discharged after [REDACTED] 2017 to the local shelter for the homeless, located at 34 Huyshope Avenue, Hartford, CT 06106, due to improved health. ([REDACTED]/17 Notice of Discharge)
4. On [REDACTED] 2017, the Appellant requested an administrative hearing to contest the Facility's intent to discharge him after [REDACTED] 2017 to the local shelter for the homeless, due to improved health. ([REDACTED]/17 Notice of Discharge)
5. On [REDACTED] 2017, the Facility submitted a request to Ascend for a 90 day extension of the Appellant's NF level of care. (Hearing Record)
6. Ascend granted the Appellant's request for a 90 day extension of his NF level of care, effective [REDACTED] 2017. (Hearing Record)
7. On [REDACTED] 2017, the Facility rescinded its 30 day involuntary discharge notice as the Appellant was granted a 90 day extension of his NF level of care, effective [REDACTED] 2017. (Hearing Record)

CONCLUSIONS OF LAW

1. 42 § CFR 483.12 Admission, transfer and discharge rights
 - (a) Transfer and discharge (1) Definition: Transfer and discharge includes movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not. Transfer and discharge does not refer to movement of a resident to a bed within the same certified facility. (2) Transfer and discharge requirements. The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless-
 - (v) The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid.

2. Section 19a-535(h)(1) of the Connecticut General Statutes (Conn. Gen. Stat.) authorizes the Commissioner of Social Services to hold a hearing to determine whether the transfer or discharge is being affected in accordance with this section.
3. Conn. Gen. Stats. §19a-535(a) provides that 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 on such application, provided the resident has timely responded to requests by the department for information that is necessary to make such determination;
4. Conn. Gen. Stats. § 4-177(c) provides that unless precluded by law, a contested case may be resolved by stipulation, agreed settlement, or consent order or by the default of a party.
5. Uniform Policy Manual ("UPM") § 1570.05(L)(1) provides that the Department takes prompt, definitive, and final action in resolving the dispute. Final action includes the following:
 - (a) issuance of the Fair Hearing decision; and
 - (b) notifying the requester of the decision; and
 - (c) making any changes in the assistance unit's case as mandated by the Fair Hearing decision; and
 - (d) notifying the requester of the changes.
6. UPM § 1570.15(A) provides that if the Department resolves the requester's dispute prior to the holding of a Fair Hearing, the Department still holds the Fair Hearing unless the request is withdrawn in writing.
7. With Ascend's approval of the Appellant's request for a 90 day extension of his NF level of care, the Facility has rescinded its 30 day involuntary discharge notice, and voided the action that led to the Appellant's request for an administrative hearing.
8. The issue that led to the Appellant's request for this administrative hearing has been resolved as the Facility rescinded its ██████████ 2017 Notice of Intent to Involuntary Discharge the Appellant due to improved health.

9. The Appellant's appeal is hereby dismissed as the Facility voided the action that led to the request for this administrative hearing, and there are no further issues to be adjudicated.

DISCUSSION

The Facility has voided the action that led to the Appellant's request for this administrative hearing hereby resolving the issues to be adjudicated. The Appellant was granted a 90 day extension of his short term stay in a NF, effective [REDACTED] 2017, barring any unforeseen developments.

The Facility has resolved the issue that resulted in the Appellant's request for this hearing. However, the Appellant reserves the right to object and to request another administrative hearing, based on any future adverse action notices that he receives from the Facility. Consequently, the Appellant's appeal is hereby dismissed as the issue that led to the Appellant's request for this administrative hearing has been resolved, and there are no further issues to be adjudicated.

DECISION

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



Hernold C. Linton
Hearing Officer

Pc: **George Kingston**, Administrator, Trinity Hill Care Center,
181 Hillside Avenue, Hartford, CT 06106

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

Desiree Pina, LTC Ombudsman Program

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.