

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 # 825372

NOTICE OF DECISION
PARTY

██████████
██████████

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

PROCEDURAL BACKGROUND

On ██████████ 2017, Trinity Hill Care Center, (the "Facility"), issued a 30 Day Discharge Notice to ██████████ (the "Appellant") indicating its intent to involuntarily discharge the Appellant on ██████████ 2017 because the Appellant no longer needs the services of a nursing facility due to improved health.

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 Hearings ("OLCRAH") issued a notice 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:

██████████ Appellant
Jasmine Leek, Social Worker and Facility Discharge Planner, Facility's Representative
Sybil, Hearing Officer

The hearing record remained open to allow the submission of additional information from the Facility. No new information was received. [REDACTED] 2017, the record closed.

STATEMENT OF THE ISSUE

The issue is whether the Facility acted in accordance with state law when it proposed to discharge the Appellant from the Facility.

FINDINGS OF FACT

1. The Appellant is a 55 year old (DOB [REDACTED]/62) individual. (Appellant's Testimony, Exhibit 1: Connecticut LTC Level of Care Determination Form)
2. The Appellant is single. (Exhibit 2: Med-Options Neuro-Cognitive Report, [REDACTED]/17)
3. The Appellant has no income. (Appellant's Testimony)
4. On [REDACTED] 2017, the Appellant was admitted to the Facility for short-term care of 180 days after being released from a local Hospital in Hartford, Connecticut. (Appellant's Testimony, Exhibit 1)
5. The Appellant was admitted to the Facility with a diagnosis of alcohol withdrawal, alcohol dependence, lactic acidosis, Insulin-Dependent Diabetes Mellitus ("IDDM") on a sliding scale, acute and chronic renal failure, hypertension ("HTN") and Post-Traumatic Stress Disorder ("PTSD"). (Exhibit 1)
6. The Appellant takes the following medications: Pantoprazole, Tamsulosin, Escitalopram, Folic Acid, Tradjenta, Vitamin B-1, Lantus, Amlodipine Besylate, Humalog, Lisinopril, Acetaminophen, Glucagen, Trazadone, Milk of Magnesia, laxatives. (Exhibit 2, Exhibit 4: Physicians Order Sheet)
7. The Appellant checks his blood sugar levels three times per day. (Facility Representative's Testimony, Exhibit 4)
8. The Appellant receives counseling services for anxiety, mild depression and PTSD. (Exhibit 1, Exhibit 3)
9. The Appellant has ongoing emotional distress but is not a danger to self or others. He will benefit from continued participation in individual psychotherapy. (Exhibit 2, Exhibit 3),
10. The Appellant is independent with all his activities of daily living (ADL's): bathing, dressing, eating, toileting, continence, transferring and mobility. (Facility Representative's Testimony, Exhibit 2)

11. The Appellant is fully oriented to self, place, time and situation. (Exhibit 2)
12. The Appellant's speech is fluent and articulate, with normal rate, tone and volume. (Exhibit 2)
13. The Facility has arranged appropriate support services for the Appellant effective upon his discharge. (Exhibit 5)
14. On [REDACTED] 2017, the Facility issued a Notice of Discharge to the Appellant, indicating that he would be discharged to a homeless shelter after [REDACTED] 2017 because he no longer requires the services of a nursing facility due to improved health. The plan was signed by the administrator, the medical director, the director of nursing and the discharge planner. (Exhibit 5: Notice of Discharge dated [REDACTED]/17)
15. On [REDACTED] 2017, the Appellant requested an administrative hearing to contest the Facility's intent to discharge him to a homeless shelter. (Hearing Record)
16. On [REDACTED] 2017, the Appellant was diagnosed with tuberculosis and started treatment. (Facility Representative's Testimony)
17. The Appellant does not have a family support system in the community. (Appellant's Testimony)
18. The Appellant states he is prepared to live alone in the community if discharged to the proper setting with appropriate support services. (Appellant's testimony)
19. The Appellant is working with Money Follows the Person program ("MFP") and has been approved for services. (Appellant's Testimony)
20. As of the date of the hearing, the Appellant is waiting for a suitable apartment setting. (Appellant's testimony)

CONCLUSIONS OF LAW

1. Connecticut General Statutes ("Conn. Gen. Stat.") Section 19a-535(h)(1) authorizes the Commissioner of Social Services or the commissioner's designee to hold a hearing to determine whether a transfer or discharge is being affected in accordance with this section.
2. Section 19a-535(a)(4) of the Conn. Gen. Stat. provides "discharge" means the movement of a resident from a facility to a non-institutional setting.
3. Section 19a-535 (b) of the Conn. Gen. Stat. 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 each case, a physician shall document the basis for transfer or discharge in the resident's medical record. 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.

4. Section 19a-535(c)(1) of the Conn. Gen. Stat. provides that 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 know, 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. The notice shall also include the name, mailing address, and telephone number 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.

5. The Facility correctly provided the Appellant at least 30 days prior notice, in writing, of the proposed discharge date, which included the effective date of the discharge, the reason for discharge, a location to which he would be discharged and his appeal rights.
6. Section 19a-535(e) 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 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 affects. 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 residents 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.
7. The Facility correctly prepared a discharge plan that was signed by the administrator, the medical director, the director of nursing and the discharge planner.
8. The Facility's proposal to discharge the Appellant complies with state statutes because the discharge plan was developed and approved by the Facility's medical director in conjunction with the director of nursing and the discharge planner.

DECISION

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



Sybil Hardy
Hearing Officer

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

Desiree Pina, LTC Ombudsman Program,
Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105

Barbara Cass, Section Chief, Facility Licensing and Investigations Section,
Connecticut Department of Public Health, 410 Capitol Avenue, Hartford, CT.

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, law, and 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, if 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.