

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: DISMISSED
(by agreement of parties)

Appeal Number: 2201846

Decision Date: 4/11/2022

Hearing Date: 04/06/2022

Hearing Officer: Christopher Taffe

Appearance for Appellant:
Appellant, pro se (by phone)

Appearances for Nursing Facility:
Paul Fuanyi, Administrator;
Lauren McNasby, Social Worker; and
Gary Otabbu, Rehabilitation Manager, all
from Twin Oaks Care & Rehab Center
(all by phone)



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	DISMISSED (by agreement of parties)	Issue:	Nursing Facility Discharge Notice – Health and Safety
Decision Date:	4/11/2022	Hearing Date:	04/06/2022
Nursing Facility Reps.:	P. Fuyani, L. McNasby, & G. Otabbu	Appellant's Rep.:	Appellant, pro se
Hearing Location:	Remote		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction and Resolution

Through a notice titled “*30-Day Notice of Intent to Discharge/Transfer Resident*” dated February 18, 2022, the Respondent, a Skilled Nursing Facility (“SNF”) named Twin Oaks Care & Rehabilitation Center (hereafter “Twin Oaks” or “the SNF”) informed Appellant (the nursing facility resident) that Twin Oaks sought to discharge Appellant to the Lifebridge Northshore shelter at 50 Margin Street in Salem, Mass. on March 18, 2022 because “*the safety and health of the individuals in the nursing facility would otherwise be endangered **due to the clinical or behavioral status of the resident.***” See Exhibit 1 (**Bolded** emphasis in original). Appellant filed a timely request with the Board of Hearings for a Fair Hearing on March 11, 2022. See Exhibit 1; 130 CMR 610.015(B). The Board of Hearings has jurisdiction over appeals involving expedited nursing facility discharges per 130 CMR 610.032.

At hearing, the record suggested that the Nursing Facility would not be successful in its current discharge attempt.¹ At the conclusion of the hearing, the parties agreed that a full decision would not be needed and agreed that the Hearing Officer could issue a writing including a brief statement

¹ Among other issues, some minor but technical, the 30-day notice did not properly list a proposed discharge date that was 30 days or more after the date of the notice, thus failing the advance notice requirements of state law. See 130 CMR 610.029(A). This, and other issues, could likely be cured and then revisited in a future action if necessary.

summary decision reflecting an agreement of certain minor terms agreed to by the parties per 130 CMR 610.051 and 130 CMR 610.083(C). Those terms are reflected in the “ORDERS” below.

Order for Appellant

Appellant agrees to actively participate, cooperate, and engage in good faith with Twin Oaks (including but not limited to its Social Worker staff) in talks regarding possible future transfer or discharge planning. The Appellant should also cooperate fully in providing all members of the nursing facility staff with medical information including letters, records, and orders from medical providers she sees who are outside the nursing facility.

Order for Nursing Facility

Twin Oaks agrees to participate, cooperate, and engage in good faith with the Appellant in talks regarding possible future transfer or discharge planning of the Appellant. Twin Oaks also agrees that it will not issue a new transfer or discharge notice on or before Monday, May 23, 2022, and that such a future notice will only be issued if it is appropriately supported.²

Notification of Your Right to Appeal to Court

If either side disagrees with this decision, the parties have the right to appeal this Fair Hearing decision to Massachusetts State Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Christopher Taffe
Hearing Officer
Board of Hearings

cc: Paul Fuanyi, Administrator
Twin Oaks Care & Rehab Center
63 Locust Street
Danvers, MA 01923

² If and when a future discharge or transfer action is initiated by Twin Oaks, the Appellant will retain the usual appeal rights on such notice under 130 CMR 610.032.