

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Dismissed
Decision Date: 4/13/2023
Hearing Officer: Paul C. Moore

Appeal Number: 2301662
Hearing Date: 04/10/2023

Appellant Representative:



Nursing Facility Representative:

Shawn Hallisey, administrator (by telephone)



*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	Issue:	Nursing Facility Discharge
Decision Date:	4/13/2023	Hearing Date:	04/10/2023
Nursing Facility Rep.:	Administrator	Appellant Rep.:	Pro se
Hearing Location:	Board of Hearings (remote)		

Authority

This proceeding is governed pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated February 2, 2023, [REDACTED] Manor Health Care (“the facility”) apprised the appellant that it intended to transfer her to a “neuro unit” at the facility on March 6, 2023 because “[the] move is necessary for [her] welfare and [her] needs cannot be met within the unit [she] currently resides on” and because “the health of individuals on the nursing facility unit would otherwise be endangered” (Exh. 1). The appellant filed a timely appeal of this notice (“transfer notice”) with the Board of Hearings (BOH) on March 2, 2023 (Exh. 2). Challenging a notice of transfer or discharge initiated by a nursing facility is a valid ground for appeal to BOH (130 CMR 610.032(C)).

The BOH scheduled a telephonic hearing on this matter for March 23, 2023 (Exh. 3). On March 15, 2023, the appellant requested to reschedule the hearing (Exh. 4). The BOH Director granted the appellant’s request (Exh. 5).

A new hearing date was scheduled for April 10, 2023 at 11 am, by telephone (Exh. 6).

Action Taken by Nursing Facility

The nursing facility notified the appellant that it sought to transfer her to the facility’s neuro unit because move is necessary for her welfare and her needs cannot be met within the unit she currently

resides on and because the health of individuals on the nursing facility unit would otherwise be endangered.

Issue

Did the nursing facility have a valid basis to transfer the appellant to a different unit in the facility, and did it follow correct procedures in apprising the appellant of this transfer?

Summary of Evidence

The hearing officer reached the appellant on her cell phone at the beginning of the hearing. He placed her on hold while he attempted to reach the social worker at the facility, at a different phone number.

The hearing officer called the facility four times, and was unable to reach the social worker. The hearing officer finally reached the facility's administrator, Mr. Hallisey. He informed the hearing officer that the facility has rescinded its notice to transfer the appellant to the neuro unit (Testimony)

The hearing officer asked the administrator if the appellant had been notified of the rescission of the transfer notice. He replied that she had. The hearing officer also asked the administrator if the BOH had been notified of this rescission. He indicated that he had tasked the facility social worker with informing the BOH of the rescission (Testimony).

Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. The appellant is a resident of a nursing facility (Testimony).
2. On February 2, 2023, the facility apprised the appellant that it intended to transfer her to a "neuro unit" at the facility on March 6, 2023 because "[the] move is necessary for [her] welfare and [her] needs cannot be met within the unit [she] currently resides on" and because "the health of individuals on the nursing facility unit would otherwise be endangered" (Exh. 1).
3. The appellant filed a timely appeal of the transfer notice with the BOH (Exh. 2).
4. Prior to hearing, the facility rescinded the transfer notice (Testimony of administrator).

Analysis and Conclusions of Law

Pursuant to the Fair Hearing Rules at 130 CMR 610.035(A)(8) (effective 1/20/23), "Dismissal of a Request for a Fair Hearing:"

BOH will dismiss a request for a hearing when. . . BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties.

Here, the facility has rescinded the transfer notice issued to the appellant on February 2, 2023. The contested issues – whether there is legal grounds to transfer the appellant to a different unit at the facility, and whether the facility following correct procedures in effecting this transfer – are moot.

Therefore, this appeal is DISMISSED.

Order for Nursing Facility

None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to 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.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: Shawn Hallisey, Administator, Braintree Manor Health Care, 1102 Washington Street, Braintree, MA 02184