

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2401669
Decision Date:	02/08/2024	Hearing Date:	02/06/2024
Hearing Officer:	Thomas J. Goode		

Appellant Representative:




Nursing Facility Representatives:

Christopher Gillissen, Administrator
Sonya Dupuis, Social Worker



*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:	Approved	Issue:	130 CMR 456.429
Decision Date:	02/08/2024	Hearing Date:	02/06/2024
Nursing Facility Reps.:		Appellant's Reps.:	Pro se, with Amanda Wilson, Social Worker Caryn Cote, RN, Nurse Manager
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

On January 31, 2024, Fitchburg Rehabilitation and Nursing Center ("the nursing facility") issued a "Notice of Intent Not to Readmit Resident Following Hospitalization or Other Medical Leave of Absence from the Facility with Less than 30 Days' Notice (Expedited Appeal)" because "[y]ou endangered yourself by overdosing twice in three days. You have brought illicit drug (sic) in facility (sic) providing to another resident. The health of individuals in the nursing facility would be otherwise endangered and this move is necessary for your own welfare and your needs cannot be met within the nursing facility" (130 CMR 610.028, 610.029, 456.429, 456.701, 456.702 and Exhibit 1). Appellant filed a timely appeal at the Board of Hearings on February 2, 2024 (130 CMR 610.029(C), 456.703(B)(4), and Exhibit 2).¹ A Notice of Intent Not to Readmit Resident Following Hospitalization or Other Medical Leave of Absence from the Facility with Less than 30 Days' Notice

¹ See also 130 CMR 610.015(B)(6): the Board of Hearings must receive a request for a fair hearing within the following time limits: 14 days after a resident receives written notice of a transfer or discharge that is the result of a nursing facility's failure to readmit the resident following hospitalization or other medical leave of absence; and 130 CMR 456.705(B) allowing a resident to request an expedited appeal under 130 CMR 610.029(B) or (C) when a nursing facility notifies a resident of a discharge or transfer under the time frames in 130 CMR 456.702(B) or (C).

is valid grounds for appeal (130 CMR 610.015(F))².

Action Taken by the Nursing Facility

On [REDACTED] issued a “Notice of Intent Not to Readmit Resident Following Hospitalization or Other Medical Leave of Absence from the Facility with Less than 30 Days’ Notice (Expedited Appeal)” because “[y]ou endangered yourself by overdosing twice in three days. You have brought illicit drug (sic) in facility (sic) providing to another resident. The health of individuals in the nursing facility would be otherwise endangered and this move is necessary for your own welfare and your needs cannot be met within the nursing facility.”

Issue

The appeal issue is whether on [REDACTED], [REDACTED] correctly issued a “Notice of Intent Not to Readmit Resident Following Hospitalization or Other Medical Leave of Absence from the Facility with Less than 30 Days’ Notice (Expedited Appeal)” because “[y]ou endangered yourself by overdosing twice in three days. You have brought illicit drug (sic) in facility (sic) providing to another resident. The health of individuals in the nursing facility would be otherwise endangered and this move is necessary for your own welfare and your needs cannot be met within the nursing facility.”

Summary of Evidence

The nursing facility administrator testified that [REDACTED] [REDACTED] (“the nursing facility”) issued a “Notice of Intent Not to Readmit Resident Following Hospitalization or Other Medical Leave of Absence from the Facility with Less than 30 Days’ Notice (Expedited Appeal)” because “[y]ou endangered yourself by overdosing twice in three days. You have brought illicit drug (sic) in facility (sic) providing to another resident. The health of individuals in the nursing facility would be otherwise endangered and this move is necessary for your own welfare and your needs cannot be met within the nursing facility” (Exhibit 1). Appellant is [REDACTED]

² (F) Expedited Appeals for Discharges and Transfers from a Nursing Facility Under 130 CMR 610.029(B) or (C). A resident may request an expedited appeal when a nursing facility notifies a resident of a discharge or transfer under the time frames of 130 CMR 610.029(B) or (C). When such a request is made, BOH will schedule a hearing as soon as possible, but no later than seven days from the date BOH receives the request. The hearing officer must render a final decision as soon as possible, but no later than seven days from the date of the hearing. These time limits may be extended pursuant to 130 CMR 610.015(D). Appeal requests made under 130 CMR 610.015(F) automatically waive the requirement for ten-day advance notice of the scheduled hearing date under 130 CMR 610.046(A).

old and was admitted to the nursing facility on [REDACTED] for post-covid recovery and was admitted with a known history of substance use. Prior to admission, Appellant was homeless. Appellant's stay at the facility was initially paid for by Medicare, and is now paid for by MassHealth. The administrator testified that Appellant was sent from the nursing facility to the hospital on [REDACTED], and on [REDACTED]. The administrator referenced two incidents which occurred on [REDACTED] involving the alleged use of illicit substances resulting in Appellant overdosing. The nursing facility administrator testified that on January 29, 2024, Appellant was observed handing a small package-like object to another resident, which Appellant and the other resident denied (Exhibit 4, p. 8). [REDACTED], Appellant overdosed in his room. Nursing staff intervened with [REDACTED] administrations. Appellant was sent by ambulance to the emergency department at the hospital (Exhibit 4, pp. 7, 92). On [REDACTED] Appellant returned to the nursing facility at 1:45 a.m. Also on January 30, 2024, the administrator and a social worker went to Appellant's room and found pens missing ink with both ends looking to be used to inhale substances, in addition to a pipe that had residue present (Exhibit 4, p. 7). On [REDACTED] Appellant went to the methadone clinic and was later found outside slumped over from a suspected drug overdose. Appellant was sent to the emergency department for evaluation and treatment (Exhibit 4, p. 3). The administrator testified that Appellant is in violation of a "No Harm Agreement" signed on December 5, 2023 which required Appellant to attend substance use groups offered by a clinical social worker, none of which Appellant attended. The administrator added that Appellant does not presently have skilled needs and leaves the facility whenever he wants to leave. The administrator testified that the nursing facility's location is in proximity to a known drug dealer, and he feels that if Appellant is readmitted to the nursing facility, he will overdose again. The administrator testified that there are no police reports, and that Appellant refused a toxicology screening. The administrator testified that Appellant's physician has not documented in the clinical record the decision to not readmit Appellant to the nursing facility. The nursing facility representatives also testified that minimal discharge planning has been initiated because all potential discharge placements have waiting lists.

Appellant appeared by telephone from his hospital room. A hospital social worker and nurse manager appeared with Appellant. Appellant's representatives stated that Appellant may have had a reaction to his first dose of methadone while at the nursing facility, and he has since been switched to suboxone (Exhibit 7, p. 8). Appellant had a stroke in [REDACTED] speaks with delayed response times and has left-sided weakness with sequencing tasks. Appellant's representatives testified to a toxicology report that showed cocaine use on [REDACTED] with other opioids found on the report that are prescribed and would be expected on the report (Exhibit 7, p. 4). Appellant's representatives added that Appellant does not have another place to live, and could be safely discharged to a rest home environment as he does not have skilled needs. Appellant denied some aspects of the drug overdose report, circumstances of the overdose, and stated that he never fell as depicted in the report. He added that he would prefer to not return to the facility but needs another placement.

Findings of Fact

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

1. On [REDACTED] ("the nursing facility") issued a "Notice of Intent Not to Readmit Resident Following Hospitalization or Other Medical Leave of Absence from the Facility with Less than 30 Days' Notice (Expedited Appeal)" because "[y]ou endangered yourself by overdosing twice in three days. You have brought illicit drug (sic) in facility (sic) providing to another resident. The health of individuals in the nursing facility would be otherwise endangered and this move is necessary for your own welfare and your needs cannot be met within the nursing facility."
2. Appellant is [REDACTED] years old and was admitted to the nursing facility on [REDACTED] for post-covid recovery. Appellant had a known history of substance use.
3. Appellant was homeless prior to admission.
4. Appellant's stay at the facility was initially paid for by Medicare, and is now paid for by MassHealth.
5. Appellant was sent from the nursing facility to the hospital on [REDACTED], and after returning to the nursing facility on [REDACTED], he was again sent to the hospital on [REDACTED].
6. On [REDACTED] Appellant was observed handing a small package-like object to another resident, which Appellant and the other resident denied. Also on [REDACTED], Appellant overdosed in his room. Nursing staff intervened with [REDACTED].
7. On [REDACTED] Appellant returned to the nursing facility at 1:45 a.m.
8. On January 30, 2024, the nursing facility administrator and a social worker went to Appellant's room and found pens missing ink and both ends which looked to be used to inhale substances, in addition to a pipe that had residue present.
9. On [REDACTED] Appellant went to the methadone clinic and was later found outside slumped over from a suspected drug overdose. Appellant was sent to the emergency department for evaluation and treatment.
10. There are no police reports in the clinical record.
11. Appellant signed a "No Harm Agreement" on December 5, 2023 which required Appellant

to attend substance use groups offered by clinical social worker, none of which Appellant attended.

12. Appellant does not have skilled needs.
13. Appellant's physician has not documented in Appellant's clinical record the circumstances relating to the decision to not readmit Appellant to the nursing facility.
14. A physician has not documented in Appellant's clinical record the circumstances relating to the decision to not readmit Appellant to the nursing facility.
15. Minimal discharge planning has been initiated by the nursing facility because all potential discharge placements have waiting lists.
16. Appellant has a history of stroke in [REDACTED] speaks with delayed response times and has left-sided weakness with sequencing tasks.
17. A toxicology report shows cocaine use on [REDACTED] and other opioids.

Analysis and Conclusions of Law

The federal Nursing Home Reform Act (NHRA) of 1987 guarantees all residents the right to advance notice of, and the right to appeal, any transfer or discharge action initiated by a nursing facility. The Commonwealth of Massachusetts has enacted regulations that follow and implement the federal requirements concerning a resident's right to appeal a transfer or discharge, and the relevant regulations may be found in both (1) the MassHealth Nursing Facility Manual regulations at 130 CMR 456.000 et seq., and (2) the Fair Hearing Rules at 130 CMR 610.000 et seq. The following regulations, below with relevant emphasis added, govern when a nursing facility issues a notice of its intent to not readmit a resident after a medical leave of absence:

130 CMR 456.429: Medical Leave of Absence: Failure to Readmit:

(A) When a nursing facility is notified that the member is ready to return to the facility, the nursing facility must readmit the member following a medical leave of absence. If the nursing facility does not allow the member to be readmitted following hospitalization or other medical leave of absence, the nursing facility's failure to readmit the member is deemed a transfer or discharge. If the nursing facility does not readmit, it must provide the member and the member's authorized or legal representative with a notice explaining its decision not to readmit the member at the time such determination is made. The notice must comply with the requirements set forth in 130 CMR 456.701.

(B) A nursing facility that fails to readmit a member who requires nursing facility services or otherwise violates these provisions may be subject to overpayment or sanction action under 130 CMR 450.000: *Administrative and Billing Regulations*.

Regulation 130 CMR 456.701: Notice Requirements for Transfers and Discharges Initiated by a Nursing Facility:

(A) A resident may be transferred or discharged from a nursing facility **only when**:

- (1) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the nursing facility;
- (2) the transfer or discharge is appropriate because the resident's health has improved sufficiently so that the resident no longer needs the services provided by the nursing facility;
- (3) the safety of individuals in the nursing facility is endangered;
- (4) the health of individuals in the nursing facility would otherwise be endangered;
- (5) the resident has failed, after reasonable and appropriate notice, to pay for (or failed to have the Division or Medicare pay for) a stay at the nursing facility; or
- (6) the nursing facility ceases to operate.

(B) When the facility transfers or discharges a resident under any of the circumstances specified in 130 CMR 456.701(A)(1) through (5), the resident's clinical record must contain documentation to explain the transfer or discharge. The documentation must be made by:

- (1) the resident's physician when a transfer or discharge is necessary under 130 CMR 456.701(A)(1) or (2); and**
- (2) a physician when the transfer or discharge is necessary under 130 CMR 456.701(A)(3) or (4).**

(C) Before a nursing facility discharges or transfers any resident, the nursing facility must hand deliver to the resident and mail to a designated family member or legal representative a notice written in 12-point or larger type that contains, in a language the member understands, the following:

- (1) the action to be taken by the nursing facility;
- (2) the specific reason or reasons for the discharge or transfer;
- (3) the effective date of the discharge or transfer;
- (4) the location to which the resident is to be discharged or transferred;**
- (5) a statement informing the resident of his or her right to request a hearing before the Division's Board of Hearings including:
 - (a) the address to send a request for a hearing;
 - (b) the time frame for requesting a hearing as provided for under 130 CMR 456.702; and

- (c) the effect of requesting a hearing as provided for under 130 CMR 456.704;
- (6) the name, address, and telephone number of the local long-term-care ombudsman office;
- (7) for nursing-facility residents with developmental disabilities, the address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. s. 6041 et seq.);
- (8) for nursing-facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. s. 10801 et seq.);
- (9) a statement that all residents may seek legal assistance and that free legal assistance may be available through their local legal-services office. The notice should contain the address of the nearest legal-services office; and
- (10) the name of a person at the nursing facility who can answer any questions the resident has about the notice and who will be available to assist the resident in filing an appeal. (emphasis added)

(D) A nursing facility's failure to readmit a resident following a medical leave of absence shall be deemed a transfer or discharge (depending on the resident's circumstances). The nursing facility must issue notice to the resident and an immediate family member or legal representative in accordance with 130 CMR 456.701(A) through (C), 456.702(C), 610.028, and 610.029.

Regulation 130 CMR 456.702: Time Frames for Notices Issued by Nursing Facilities:

(A) The notice of discharge or transfer required under 130 CMR 456.701(C) must be made by the nursing facility at least 30 days prior to the date the resident is to be discharged or transferred, except as provided for under 130 CMR 456.702(B).

(B) In lieu of the 30-day notice requirement set forth in 130 CMR 456.702(A), the notice of discharge or transfer required under 130 CMR 456.701(C) must be made as soon as practicable before the discharge or transfer in any of the following circumstances.

- (1) The health or safety of individuals in the nursing facility would be endangered and this is documented in the resident's record by a physician or PCP.**
- (2) The resident's health improves sufficiently to allow a more immediate transfer or discharge and the resident's attending physician or PCP documents this in the resident's record.**
- (3) An immediate transfer or discharge is required by the resident's urgent**

medical needs and this is documented in the medical record by the resident's attending physician or PCP.

(4) The resident has not resided in the nursing facility for 30 days immediately prior to receipt of the notice.

(C) When the transfer or discharge is the result of a nursing facility's failure to readmit a resident following hospitalization or other medical leave of absence, the notice of transfer or discharge, including that which is required under 130 CMR 456.429, must comply with the requirements set forth in 130 CMR 456.701 and must be provided to the resident and an authorized or legal representative at the time the nursing facility determines that it will not readmit the resident.

The regulations above must be read in conjunction with the MassHealth Fair Hearing Rules at Section 610.028, 610.029, and 610.030.³

³ Relevant emphasis is added below:

130 CMR 610.028: Notice Requirements Regarding Actions Initiated by a Nursing Facility

(A) A resident may be transferred or discharged from a nursing facility only when:

- (1) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the nursing facility;
- (2) the transfer or discharge is appropriate because the resident's health has improved sufficiently so that the resident no longer needs the services provided by the nursing facility;
- (3) the safety of individuals in the nursing facility is endangered;
- (4) the health of individuals in the nursing facility would otherwise be endangered;
- (5) the resident has failed, after reasonable and appropriate notice, to pay for (or failed to have the MassHealth agency or Medicare pay for) a stay at the nursing facility; or
- (6) the nursing facility ceases to operate.

(B) When the facility transfers or discharges a resident under any of the circumstances specified in 130 CMR 610.028(A)(1) through (5), the resident's clinical record must be documented. The documentation must be made by

- (1) the resident's physician when a transfer or discharge is necessary under 130 CMR 610.028(A)(1) or (2); and
- (2) a physician when the transfer or discharge is necessary under 130 CMR 610.028(A)(3) or (4).

(C) Before a nursing facility discharges or transfers any resident, the nursing facility must hand deliver to the resident and mail to the authorized or legal representative a notice written in 12-point or larger type that contains, in a language the member understands, the following:

- (1) the action to be taken by the nursing facility;
- (2) the specific reason or reasons for the discharge or transfer;
- (3) the effective date of the discharge or transfer;
- (4) the location to which the resident is to be discharged or transferred;**
- (5) a statement informing the resident of their right to request a hearing before MassHealth's Board of Hearings, including
 - (a) the address to send a request for a hearing;
 - (b) the time frame for requesting a hearing as provided for under 130 CMR 456.702; and
 - (c) the effect of requesting a hearing as provided for under 130 CMR 456.704;

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- (6) the name, address, and telephone number of the local long-term-care ombudsman office;
 - (7) for nursing facility residents with developmental disabilities, the address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. s. 6041 *et seq.*);
 - (8) for nursing facility residents who are mentally ill, the mailing address, and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. s. 10801 *et seq.*);
 - (9) a statement that all residents may seek legal assistance and that free legal assistance may be available through their local legal services office. The notice should contain the address of the nearest legal services office; and
 - (10) the name of a person at the nursing facility who can answer any questions the resident has about the notice and who will be available to assist the resident in filing an appeal.

(D) As provided in 130 CMR 456.429: *Medical Leave of Absence: Failure to Readmit*, a nursing facility's failure to readmit a resident following a medical leave of absence will be deemed a transfer or discharge (depending on the resident's circumstances). Upon determining that it will not readmit the resident, the nursing facility must issue notice to the resident and an immediate family member or legal representative, if the resident has made such a person known to the facility, in accordance with 130 CMR 456.701(A) through (C), 456.702: *Time Frames for Notices Issued by Nursing Facilities*, and 130 CMR 610.028 through 610.030.

130 CMR 610.029: Time Frames for Notices Issued by Nursing Facilities

(A) The notice of discharge or transfer required under 130 CMR 610.028 must be made by the nursing facility at least 30 days before the date the resident is to be discharged or transferred, except as provided for under 130 CMR 610.029(B) and (C).

(B) In lieu of the 30-day-notice requirement set forth in 130 CMR 610.029(A), the notice of discharge or transfer required under 130 CMR 610.028 must be made as soon as practicable before the discharge or transfer in any of the following circumstances, which are considered to be emergency discharges or emergency transfers.

- (1) The health or safety of individuals in the nursing facility would be endangered and this is documented in the resident's record by a physician.
- (2) The resident's health improves sufficiently to allow a more immediate transfer or discharge and the resident's attending physician documents this in the resident's record.
- (3) An immediate transfer or discharge is required by the resident's urgent medical needs and this is documented in the medical record by the resident's attending physician.
- (4) The resident has not lived in the nursing facility for 30 days immediately before receipt of the notice.

(C) When the transfer or discharge is the result of a nursing facility's failure to readmit a resident following hospitalization or other medical leave of absence, the notice of transfer or discharge, including that which is required under 130 CMR 456.429: *Medical Leave of Absence: Failure to Readmit*, must comply with the requirements set forth in 130 CMR 456.701: *Notice Requirements for Transfers and Discharges Initiated by a Nursing Facility*, and must be provided to the resident and an immediate family member or legal representative, if such person is known to the nursing facility, at the time the nursing facility determines that it will not readmit the resident.

On [REDACTED] (“the nursing facility”) issued a “Notice of Intent Not to Readmit Resident Following Hospitalization or Other Medical Leave of Absence from the Facility with Less than 30 Days’ Notice (Expedited Appeal)” because “[y]ou endangered yourself by overdosing twice in three days. You have brought illicit drug (sic) in facility (sic) providing to another resident. The health of individuals in the nursing facility would be otherwise endangered and this move is necessary for your own welfare and your needs cannot be met within the nursing facility.” A toxicology report shows that Appellant used cocaine on [REDACTED]. Appellant’s clinical record shows that Appellant had a medical event at the facility and was sent to the emergency department at the hospital on [REDACTED], and again on [REDACTED]. There is no dispute that the [REDACTED] transfer to the hospital resulted in a medical leave of absence from the nursing facility. As clearly stated at 130 CMR 456.429(A), when a nursing facility is notified that the member is ready to return to the facility after a medical leave of absence from the facility, the nursing facility must readmit the member. If the nursing facility does not allow the member to be readmitted following hospitalization or other medical leave of absence, the nursing facility’s failure to readmit the member is deemed a transfer or discharge, and the notice must comply with the requirements set forth in 130 CMR 456.701. In the [REDACTED] notice, the nursing facility cites allowable reasons to transfer or discharge a member outlined at 130 CMR 456.701(A). While the reasons cited may be valid and applicable to Appellant’s circumstances, 130 CMR 456.701(B) specifically requires physician documentation to explain the discharge or transfer in the resident’s clinical record for each discharge or transfer reason cited under 130 CMR 456.701(A)(1)-(4). The nursing facility acknowledged that there is no physician documentation explaining the discharge or transfer recorded in Appellant’s clinical record (Exhibit 4). Further, because the [REDACTED] notice

(D) Appeals of discharges and transfers listed in 130 CMR 610.029(B) and (C) will be handled under the expedited appeals process described in 130 CMR 610.015(E) and (F).

130 CMR 610.030: Stay of a Transfer or Discharge from a Nursing Facility Pending Appeal

(A) If a request for a hearing regarding a discharge or transfer from a nursing facility is received by the Board of Hearings during the notice period described in 130 CMR 610.015(B)(3), the nursing facility must stay the planned discharge or transfer until 30 days after the decision is rendered. While this stay is in effect, the resident must not be transferred or discharged from the nursing facility.

(B) If a hearing is requested, in accordance with 130 CMR 610.015(B)(4), and the request is received before the discharge or transfer, then the nursing facility must stay the planned transfer or discharge until five days after the hearing decision.

(C) If the request for a hearing, in accordance with 130 CMR 610.015(B)(4), is received within the applicable time frame but after the transfer, the nursing facility must, upon receipt of the appeal decision favorable to the resident, promptly readmit the resident to the next available bed in the facility.

(D) In the case of a transfer or discharge that is the result of a nursing facility’s failure to readmit a resident following hospitalization or other medical leave of absence, if the request for a hearing is received within the applicable time period, in accordance with 130 CMR 610.015(B)(5), the nursing facility must, upon receipt of the appeal decision favorable to the resident, promptly readmit the resident to the next available bed.

must be treated as a discharge or transfer, the facility is required to inform Appellant of the location to which he will be discharged or transferred under 130 CMR 456.701(C)(4). In addition the nursing facility must meet requirements of MGL Chapter 111, Section 70E in providing sufficient preparation and orientation to Appellant to ensure safe and orderly discharge from the facility to another safe and appropriate place.⁴

The nursing facility's [REDACTED] Notice of Intent Not to Readmit Resident Following Hospitalization or Other Medical Leave of Absence from the Facility with Less than 30 Days' Notice (Expedited Appeal) does not meet the requirements of 130 CMR 456.429, 456.701, 456.702, 610.028, 610.029, and MGL Chapter 111, section 70E, the requirements of which are not superseded by the terms of a No Harm Agreement (Exhibit 6). Therefore, the appeal is APPROVED, and the nursing facility must, upon receipt of this appeal decision that is favorable to Appellant, promptly readmit Appellant to the next available bed (130 CMR 610.030(D)).⁵

Order for the Nursing Facility

Rescind the [REDACTED] Notice of Intent Not to Readmit Resident Following Hospitalization or Other Medical Leave of Absence from the Facility with Less than 30 Days' Notice (Expedited Appeal), and promptly readmit Appellant to the next available bed at the nursing facility.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

⁴ See also 42 USC 1396r(c)(2)(C) which requires that a nursing facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

⁵ After Appellant is readmitted to the nursing facility, the nursing facility can issue notice of discharge or transfer in compliance with the regulations.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: Nursing Facility Administrator: [REDACTED]
[REDACTED]