

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2411702

Decision Date: 8/12/2024

Hearing Date: August 1, 2024

Hearing Officer: Stanley M. Kallianidis

Appellant Representative:

Pro se

Facility Representative:

Holly Fullmore



***Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th Floor
Quincy, MA 02171***

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Nursing Facility Discharge Improved Health
Decision Date:	8/12/2024	Hearing Date:	August 1, 2024
Facility Rep.:	Holly Fullmore	Appellant Rep.:	Pro se

Authority

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

Jurisdiction

In a notice dated July 29, 2024, the respondent nursing home ("the facility") planned on discharging the appellant because "the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility." The intent to discharge notice was with less than 30 days and scheduled as an expedited discharge (Exhibit 1). The appellant filed this appeal in a timely manner on July 29, 2024 (see 130 CMR 610.015 and Exhibit 2). A nursing facility initiated discharge is grounds for appeal (see 130 CMR 610.032).

On July 29, 2024, notice of the hearing was sent to the parties (Exhibit 3).

Action Taken by the Facility

The facility planned the expedited discharge of the appellant because "the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility."

Issue

The appeal issue is whether “the resident’s health has improved sufficiently so the resident no longer needs the services provided by the facility,” and if so, is discharge authorized pursuant to 130 CMR 610.028?

Summary of Evidence

A representative from CareOne Northampton testified that it is planning the appellant’s discharge because she no longer needs the services of a skilled nursing home. The place of discharge referenced in the discharge notice is the appellant’s apartment in the community (Exhibit 1).

The facility submitted the appellant’s resident record into evidence (Exhibit 4).

The appellant was admitted to the facility from the hospital as a short-term admission on [REDACTED] with unspecified leg and foot pain. The appellant has a history of anxiety, diverticulitis, hyperlipidemia, sciatica, diabetes mellitus and asthma. The facility is planning her discharge because she has no skilled nursing needs. The representative explained that the appellant met the goals of and completed her physical therapy. She ambulates independently with a walker and wheelchair. Also, the appellant is independent with all activities of daily living (Exhibit 4, pp. 1-26).

In a recent medical note, her physician documented that she may be discharged because she no longer needs the services of a skilled nursing facility and is “safe to discharge home.” Her discharge planning includes a prescription for pain medication, transportation, purchase of a cell phone and commode, a scheduled medical appointment with her primary care physician, and delivery of a semi-electric bed to her home (*Id.*).

The appellant testified that she has difficulty ambulating and would like more physical therapy. However, she stated that she is ready to go home to her apartment because she no longer wants to stay in the facility for various reasons. Her only concern is that Medicare cover her semi-electric bed because she cannot afford to pay for it on her own.

The facility representative further stated that the semi-electric bed has been approved for payment and that the provider only needs a date of discharge to complete delivery. In the event that Medicare does not pay for the bed, the facility representative stated that the facility would pay for it.

The appellant stated in response to the facility testimony that she wanted a written guarantee from the facility that it would pay for the bed in case insurance does not cover it because she doesn’t trust the facility’s employees. Without this guarantee, she would not agree to the discharge.

Findings of Fact

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

1. The appellant was admitted to the facility from the hospital as a short-term admission on [REDACTED] with unspecified leg and foot pain (Exhibit 4).
2. On [REDACTED] the facility planned on discharging the appellant because “the resident’s health has improved sufficiently so the resident no longer needs the services provided by the facility” (Exhibit 1).
3. The appellant has a history of anxiety, diverticulitis, hyperlipidemia, sciatica, diabetes mellitus and asthma (Exhibit 4).
4. The appellant has no skilled nursing needs following the completion of her physical therapy (Exhibit 4).
5. The appellant is independent with all activities of daily living. She ambulates independently with a walker and wheelchair (Exhibit 4).
6. The place of discharge referenced in the discharge notice is the appellant’s apartment in the community (Exhibit 1).
7. In a recent medical note, her physician documented that she may be discharged because she no longer needs the services of a skilled nursing facility and is “safe to discharge home” (Exhibit 4).
8. The appellant’s discharge planning includes a prescription for pain medication, transportation, purchase of a cell phone and commode, a scheduled medical appointment with her primary care physician, and delivery of a semi-electric bed to her home (Exhibit 4).

Analysis and Conclusions of Law

With regard to discharges initiated by a nursing facility, a resident may be discharged because the resident's health has improved sufficiently so that the resident no longer needs the services provided by the nursing facility (130 CMR 610.028(A)(2)).

130 CMR 610.028((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 a physician when the transfer or discharge is necessary under 130 CMR 610.028(A)(4).

The nursing facility must meet the requirements of all other applicable federal and state regulatory requirements in addition to the MassHealth-related regulations discussed above, including MGL c.111, §70E, which states in pertinent part that

A resident, who requests a hearing pursuant to section 48 of chapter 118E, shall not be discharged or transferred from a nursing facility licensed under section 71 of this chapter, unless a referee determines that the nursing facility has provided sufficient preparation and orientation to the resident to ensure safe and orderly transfer or discharge from the facility to another safe and appropriate place.

In the instant case, I have found that the appellant was admitted to her facility from the hospital as a short-term admission on [REDACTED] with unspecified leg and foot pain. The appellant has a history of anxiety, diverticulitis, hyperlipidemia, sciatica, diabetes mellitus and asthma.

On [REDACTED] the facility planned on discharging the appellant because "the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility." The place of discharge referenced in the discharge notice is the appellant's apartment in the community.

I have found further that the appellant currently has no skilled nursing needs following the completion of her physical therapy. The appellant is independent with all activities of daily living. She ambulates independently with a walker and wheelchair. In a recent medical note, her physician documented that she may be discharged because she no longer needs the services of a skilled nursing facility and is "safe to discharge home."

Finally, I have found that the appellant's discharge planning includes a prescription for pain medication, transportation, purchase of a cell phone and commode, a scheduled medical appointment with her primary care physician, and delivery of a semi-electric bed to her home.

Given the appellant's completion of physical therapy, her lack of a skilled nursing need, her independence in activities of daily living, the documentation by her physician that she may be safely discharged to the community and the discharge planning, her discharge home to her apartment is authorized.

The appeal is therefore denied.

Order for the Facility

Discharging the appellant to the address on the discharge notice is authorized within five days of this decision date.

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.

Stanley M. Kallianidis
Hearing Officer
Board of Hearings

cc: Administrator
c/o CareOne Northampton
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