

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2500347
Decision Date:	02/14/2025	Hearing Date:	01/21/2025
Hearing Officer:	Thomas Doyle	Record Open to:	N/A

Appearance for Appellant:

Pro se

Appearance for Respondent:

Donald Christie, Administrator
Tammy Goodrich, Director Social Services
Nick Garrett, Social Worker
Rachel Tillman, Director of Nursing



*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:	Denied	Issue:	Nursing Home Discharge; Failure to Pay
Decision Date:	02/14/2025	Hearing Date:	01/21/2025
Respondent Rep.:	Donald Christie Tammy Goodrich Nick Garrett Rachel Tillman	Appellant's Rep.:	Pro se
Hearing Location:	Remote (phone)	Aid Pending:	No

Authority

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

Jurisdiction

Through a Notice of Intent to Discharge with Less Than 30 Days' Notice, dated January 2, 2025, Pioneer Valley Health and Rehab, (Pioneer or facility), notified appellant of its plan to discharge him to [REDACTED] on February 1, 2025 because it determined that he failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. (Ex. 1). Appellant filed this appeal in a timely manner on January 2, 2022. (Ex. 2). The discharge of a nursing home resident is valid grounds for appeal (130 CMR 610.028(A)).

Action Taken by Respondent

The facility notified appellant of its intent to discharge him because it determined that he had failed to pay for his stay at the facility.

Issue

The issue is whether the facility is justified in seeking to discharge appellant, and whether it followed proper procedures during the discharge process.

Summary of Evidence

The facility was represented telephonically at the hearing by its Administrator, Director of Social Services, a Social Worker and its Director of Nursing. Appellant, pro se, also appeared by phone. All were sworn. Appellant is a male in his [REDACTED] and was admitted to the facility in [REDACTED] (Ex. 4, p. 21). On January 2, 2025, the facility issued appellant a Notice of Intent to Discharge with Less Than 30 Days' Notice because appellant has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. (Ex. 1). A Pioneer social worker faxed the Ombudsman appellant's 30-day notice and request to appeal. (Ex. 4, p. 41). Appellant timely appealed on January 2, 2025. (Ex. 2).

The Administrator testified that appellant has a patient paid amount (PPA) each month of \$1,675.20. He stated appellant has MassHealth coverage but does not pay the PPA. He stated appellant takes an Uber to a casino and then claims he does not have any money. The Administrator stated appellant is independent with his care and appellant can take care of himself. (Testimony; Ex. 4, p. 24). The Administrator stated the facility has tried numerous times, along with appellant's mother and aunt, to get appellant to pay his PPA. (Testimony). Appellant's mother took him to the Social Security office to change where his Social Security is deposited. (Ex. 4, p. 43). The Administrator further testified that the facility's business officer manager presents bills in hand to the residents of the facility who have a PPA, including appellant, every month. He stated appellant is currently in arrears in the amount of \$7,220.00. (Testimony; Ex. 4, p. 2).

I asked the Administrator for the name of the facility attached to the discharge address on the Notice to Discharge. He stated it was [REDACTED] (Testimony). He stated the motel is on a main drive, it has amenities and that Pioneer would arrange transportation for appellant to the motel and Pioneer would pay for the first week appellant is at the motel. (Testimony). The Administrator described the steps taken to ensure appellant's orderly transfer. He stated he made appellant's mother and aunt aware of the discharge location being [REDACTED]. He testified appellant's mother and aunt have tried to convince appellant to pay for his past due PPA. (Ex. 4, p. 42). The Administrator stated they are discharging appellant to the [REDACTED] because appellant's mother will not take appellant back to her home. (Id.). He stated they consulted with a facility doctor, whose notes are contained in the record. The doctor wrote on January 17, 2025:

"there is a pending dc home on 2/1; reviewed case with therapy; pt is care planned as independent; he takes UBERS to outside shopping and events; independent with self care, turning, reposition, dressing, toileting, self-propelling; given the above metrics and stable

medical condition, pt appears able to do on 2/1;¹ stable.” (Ex. 4, p. 50).

The Administrator testified that an appointment would be set up for appellant to obtain his own primary care physician after a discharge date was resolved. The Director of Social Services stated all residents see facility doctors, unless the resident declines. (Testimony). Appellant does not need a wheelchair but regularly uses one. (Ex. 4, p. 42).

Appellant testified on his own behalf. He stated he has not been good at handling his money for a long time. He stated he “feels bad about not paying the amount.” (Testimony). I asked appellant if he disputes the amount that the Administrator testified that he owes the facility, \$7,220.00. He said, “no.” (Testimony).

Findings of Fact

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

1. Appellant is a male in his [REDACTED] and was admitted to the facility in [REDACTED]. (Ex. 4, p. 21).
2. On January 2, 2025, the facility issued appellant a Notice of Intent to Discharge with Less Than 30 Days’ Notice because appellant has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. (Ex. 1). A Pioneer social worker faxed the Ombudsman appellant’s 30-day notice and request to appeal. (Ex. 4, p. 41). Appellant timely appealed on January 2, 2025. (Ex. 2).
3. Appellant has MassHealth coverage with a patient paid amount (PPA) each month of \$1,675.20. (Testimony).
4. Appellant is medically stable and independent with his care and can take care of himself. (Testimony; Ex. 4, pp. 24, 50).
5. The facility’s business office manager presents bills in hand to the residents of the facility who have a PPA, including appellant, every month. (Testimony).
6. Appellant is currently in arrears in the amount of \$7,220.00. (Testimony; Ex. 4, p. 2).
7. Appellant’s mother and aunt were involved in the process to discharge appellant and are aware of the discharge location. (Testimony; Ex. 4, p. 42).

¹ I assume this is a scrivener’s error and it should read that appellant is able to go on 2/1.

8. The facility will pay for the first week of appellant's stay at the motel. (Testimony).
8. Appellant does not need a wheelchair but regularly uses one. (Testimony; Ex. 4, p. 42).

Analysis and Conclusions of Law

The requirements for a nursing facility-initiated transfer or discharge are set forth at 130 CMR 456.429, 456.701 through 456.704, and 610.028 through 610.030. The regulation permits transfer or discharge only when one of the following circumstances is met: (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 MassHealth or Medicare pay for) a stay at the nursing facility; or (6) the nursing facility ceases to operate. When the facility seeks to discharge a resident because of nonpayment, the clinical record must be documented (130 CMR 610.028(B)).

In this case, the facility initiated the discharge proceedings because it determined that appellant has failed, after reasonable and appropriate notice, to pay for (or failed to have MassHealth or Medicare pay for) a stay at the nursing facility. The record adequately supports the facility's position. The facility has notified appellant of the debt owed, both verbally and in writing, and these efforts constitute reasonable and appropriate notice of the debt owed to the facility. (Testimony; Ex. 1; Ex. 4, p. 1-2). On this record, appellant has not demonstrated that these discharge proceedings were improperly initiated.

Additionally, the facility has demonstrated that it has met the requirements of M.G.L. c. 111, §70E. Per this statutory provision, before a nursing facility may discharge a resident, it must ensure safe and orderly transfer or discharge from the facility to another safe and appropriate place. The discharge location is a motel, and the facility confirmed that appellant is medically stable and has consulted with appellant's mother and aunt and chose the motel as a discharge location after appellant's mother made known he could not live with her. The record shows the facility has been working for weeks prior to the discharge notice to help appellant choose his next steps. Appellant has not demonstrated that the facility has failed to adhere to the regulatory and statutory requirements for discharge based upon the appellant's non-payment to the facility for several months.

The record clearly supports appellant has been medically cleared, is independent with self-care, turning, reposition, dressing and toileting, and appellant can ambulate. I find the facility has ensured that the appellant's first stop will be a safe and appropriate place. Accordingly, based

upon this record, the appeal is denied.

Order for Respondent

Proceed with planned discharge, to be implemented no less than thirty (30) days after the date of this decision.

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 Doyle
Hearing Officer
Board of Hearings

cc: Respondent: Pioneer Valley Health & Rehab, Attn: Administrator, 573 Granby Road, South Hadley, MA 01075, 413-532-2200