

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2510061
<b>Decision Date:</b>	07/25/2025	<b>Hearing Date:</b>	07/24/2025
<b>Hearing Officer:</b>	Marc Tonaszuck	<b>Record Open to:</b>	07/25/2025

**Appearance for Appellant:**

Pro se

**Appearances for Pioneer Valley Health and Rehab Skilled Nursing Facility:**

[REDACTED] Administrator; [REDACTED],  
Business Office Manager; [REDACTED], Case  
Manager; and [REDACTED], 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Nursing Facility Discharge – Failure to Pay
<b>Decision Date:</b>	07/25/2025	<b>Hearing Date:</b>	07/24/2025
<b>Pioneer Valley Health and Rehab Skilled Nursing Facility’s Reps.:</b>	[REDACTED] Administrator; [REDACTED] Office Manager; [REDACTED] Case Manager; and [REDACTED] Worker	<b>Appellant’s Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center	<b>Aid Pending:</b>	No

### Authority

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

### Jurisdiction

The appellant received a 30-Day Notice of Intent to Discharge Resident (Discharge Notice) dated 06/13/2025. The notice stated that [REDACTED] (“the skilled nursing facility” or “the facility”) seeks to discharge the appellant to [REDACTED] on [REDACTED]. The notice indicates the reason for the discharge is that “you have failed, after reasonable and appropriate notice, to pay for ... your stay in the nursing facility” (Exhibit 1). The appellant filed this timely appeal on 06/17/2025 (130 CMR 610.015(B); and Exhibit 2). A patient’s discharge from a skilled nursing facility is valid grounds for appeal (130 CMR 610.028; 42 CFR Ch IV §483.200 et seq.).

### Action Taken by the Nursing Facility

The skilled nursing facility intends to discharge the appellant from the facility.

## Issue

Is the planned discharge correct pursuant to 130 CMR 610.028 and other relevant statutes and regulations?

## Summary of Evidence

The facility representatives appeared telephonically at the fair hearing, as did the appellant. Exhibits 1-4 were admitted to the hearing record.

The nursing facility clinical director testified that the appellant was admitted to the skilled nursing facility in [REDACTED], from an acute hospital setting with a primary diagnosis of alcohol dependence and arterial fibrillation. He was provided with physical therapy and occupational therapy. Since then, he has been discharged from therapy. He is now independent with all activities of daily living and no longer requires nursing home level of care. He can receive all necessary medical services in the community.

Since the appellant's admission, he has accrued a balance of \$43,680.00 in unpaid nursing home care for the months of April, May and June 2025. The facility representatives cited to the appellant's clinical record that shows that staff has discussed his debt and his discharge plan with him. The appellant has made no arrangement to pay for his stay. Also, the appellant once applied for MassHealth benefits; however, after his application was denied, he did not appeal the denial.

On 06/13/2025, the skilled nursing facility issued a 30-Day Notice of Intent to Discharge Resident (Discharge Notice). The notice stated that the facility seeks to discharge the appellant to [REDACTED] on [REDACTED]. The notice indicates the reason for the discharge is that "you have failed, after reasonable and appropriate notice, to pay for ... your stay in the nursing facility." The discharge plan is for the facility to provide the appellant with information he may need to obtain his care while living in the community.

The appellant appeared at the fair hearing, and he testified that he has proof that the nursing facility has been paid. He stated that Commonwealth Care Alliance has paid for his care. He requested an opportunity to submit additional documentation to support his argument. His request was granted and the appellant's submission was due on 07/24/2025. The appellant made his submission during the record open period and the facility representatives submitted their response (Exhibits 5, 6, and 7).

The appellant submitted approval notices from Commonwealth Care Alliance, which show that his

nursing facility care was approved for payment until 05/01/2026 (Exhibit 6). The facility responded with a MassHealth notice dated 05/13/2025, by which MassHealth denied the appellant's application for Long Term Care benefits. The facility representative wrote that the CCA approval notices "do show payment authorization, however, MassHealth had an active conversion in place at the time the authorizations were sent. Also attached is the MassHealth denial letter stating he is not eligible making those authorizations invalid" (Exhibit 7).

## Findings of Fact

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

1. Appellant was admitted to the skilled nursing facility in [REDACTED] from an acute care hospital setting for the purposes of short-term occupational therapy and physical therapy following diagnoses of alcohol dependence and atrial fibrillation.
2. The appellant received skilled nursing care, occupational therapy and physical therapy while a resident of the skilled nursing facility.
3. The appellant no longer requires or receives physical therapy or skilled nursing level of care.
4. The appellant no longer requires skilled nursing services.
5. The appellant no longer requires assistance with activities of daily living.
6. As of the date of the fair hearing, the appellant owes the skilled nursing facility \$43,680.00 for the care he has been provided.
7. The appellant has not paid the skilled nursing facility for his care, nor has he entered into a payment agreement or made other arrangements.
8. The appellant testified he applied for MassHealth benefits, and his application was denied on 05/13/2025. He did not appeal the denial within the 60-day time frame.
9. The appellant received a 30-Day Notice of Intent to Discharge Resident ("discharge notice") dated [REDACTED].
10. The discharge notice states that the facility seeks to discharge the appellant to [REDACTED]. The notice indicates the reason for the discharge is that "you have failed, after reasonable and appropriate notice, to pay for ... your stay in the nursing facility."
11. In support of its decision to discharge the appellant, the nursing facility submitted a copy of

the appellant's clinical record that documents his failure to pay for the care he receives at the skilled nursing facility.

12. The skilled nursing facility's discharge plan is to provide community resources for the appellant's continued care.

## **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 initiated by a nursing facility. MassHealth has enacted regulations that follow and implement the federal requirements concerning a resident's right to appeal a transfer or discharge, and the relevant MassHealth regulations may be found in both (1) the Nursing Facility Manual regulations at 130 CMR 456.000 et seq., and (2) the Fair Hearing Rules at 130 CMR 610.000 et seq.

Regulations at 130 CMR 610.028 address notice requirements regarding actions initiated by a nursing facility, as follows:

- (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)(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 MassHealth agency 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 610.029; and
  - (c) the effect of requesting a hearing as provided for under 130 CMR 610.030;
- (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. § 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. § 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.

Also relevant to this appeal, an amendment to G.L. c. 111, §70E, which went into effect in November of 2008, states as follows:

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.

The clinical record in this case, as submitted by the facility representatives at the time of hearing, documents that the appellant has failed to pay his nursing facility bill and owes \$43,680.00 to the facility for the care he receives. At hearing, the appellant did dispute the unpaid balance; however, the facility responded credibly that because the appellant's application for MassHealth long term

care benefits was denied and not appealed, CCA's approvals are now void. I credit the facility representative's testimony, since the facility has no apparent reason to misrepresent that it was unpaid for the care provided to the appellant. Thus, the underlying reason for the proposed discharge is supported by the evidence in the hearing record.

The facility has identified a hotel address in the community. Additionally, the discharge plan is to provide community resources for the appellant's continued care. Because the appellant has no skilled nursing needs, no occupational or physical therapy needs, the discharge location and discharge plan meet the above requirements as "safe and appropriate place." The nursing facility has provided sufficient preparation and orientation to the appellant to ensure safe and orderly discharge. The skilled nursing facility has shown that care can be provided to the appellant in the community. For the foregoing reasons, this appeal is denied. The facility may discharge the appellant pursuant to the [REDACTED] discharge notice and the discharge plan, as submitted to the hearing record. The facility representative is encouraged to address any of the appellant's concerns prior to his discharge.

## **Order for the Nursing Facility**

Proceed with discharge pursuant to 06/03/2025 discharge notice and the MassHealth regulations. Provide appellant with appropriate community care contacts.

## **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.

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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc: Respondent: [REDACTED]  
[REDACTED]

