

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2511112
Decision Date:	9/9/2025	Hearing Date:	08/19/2025
Hearing Officer:	Thomas Doyle	Record Open to:	N/A

Appearance for Appellant:
Pro se

Appearance for Respondent:
Natasha Pieciak, Administrator



*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:	Nursing Home Discharge; Nonpayment
Decision Date:	9/9/2025	Hearing Date:	08/19/2025
Respondent's Rep.:	Natasha Pieciak	Appellant's Rep.:	[REDACTED]
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 dated June 30, 2025, [REDACTED] (hereinafter "the nursing facility" or "facility") issued a 30-Day Notice of Intent to Discharge/Transfer Resident to [REDACTED] for the specific reason: "The resident has failed after reasonable and appropriate notice to pay for a stay at the nursing facility." (130 CMR 456.701; 130 CMR 610.029(B); Ex. 1). Appellant filed this appeal in a timely manner on July 30, 2025. (130 CMR 610.015(F); Ex. 2). Notice of transfer or discharge from a nursing facility is valid grounds for appeal (130 CMR 456.703; 130 CMR 610.032(C)).

Action Taken by Respondent

The facility issued a 30-Day Notice of Intent to Discharge/Transfer Resident for the specific reason: "The resident has failed after reasonable and appropriate notice to pay for a stay at the facility." (130 CMR 456.701; 130 CMR 610.029(B); Ex. 1)

¹ Appellant wrote this person's name on his hearing request as his appeal representative. At hearing, appellant stated this was his advocate, but she did not need to be at the hearing.

² At the hearing, the Administrator testified the facility wrote the address of discharge and appellant testified he wrote by hand the word HOMELESS above the address.

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 nursing facility was represented at hearing by its Administrator. Appellant represented himself. The hearing was conducted via telephone. The Administrator stated appellant was admitted to the facility on [REDACTED] 2025 as a short-term rehabilitation resident with no intention to remain long-term. She stated that appellant was initially screened into the facility under a Medicare Part A benefit but that benefit was exhausted so appellant was transitioned to a short term MassHealth screen through June 30, 2025. As of June 30, 2025, appellant was found to no longer meet clinical eligibility to remain in a nursing home setting, so payment was stopped on that date. She stated the facility then issued the 30-day discharge notice on June 30, 2025 to appellant's address on file in [REDACTED] Massachusetts. She stated appellant then filed an appeal on July 30, 2025 for the June 30, 2025 discharge notice. The Administrator testified that as of the end of August 2025, appellant owes the facility \$33,390. (Testimony).

I asked the Administrator why the copy of the 30-day discharge notice in evidence, (Ex. 1), has information scratched out and why the word "homeless" is written above the discharge address. The Administrator stated she has the original notice, and nothing is scratched out on the form. (Testimony). I then asked appellant about the notice of discharge form in evidence, and he testified he wrote the word "homeless" above the discharge address and scratched out the name of the representative. Appellant stated he is homeless because he can no longer reside at the address indicated on the 30-day discharge notice. (Appellant Testimony). I then asked the Administrator where they were going to discharge appellant and she stated, "to the address on file." (Testimony). I reminded her that appellant testified that he cannot go back to that address noted as the discharge location. She stated that the facility will work with him on finding alternative placements if that is what he wants.

Findings of Fact

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

1. Appellant was admitted to the facility on [REDACTED] 2025 as a short-term rehabilitation resident. (Testimony).
2. Appellant was initially screened into the facility under a Medicare Part A benefit but that

benefit was exhausted so appellant was transitioned to a short-term MassHealth screen through June 30, 2025. (Testimony).

3. As of June 30, 2025, appellant was found to no longer meet clinical eligibility to remain in a nursing home setting, so payment was stopped on that date. (Testimony).
4. Appellant was issued a 30-day discharge notice on June 30, 2025 to appellant's address on file located in ██████████ Massachusetts. (Testimony; Ex. 1).
5. Appellant filed an appeal on July 30, 2025 challenging the June 30, 2025 discharge notice. (Testimony; Ex. 2)
6. Appellant is homeless. (Appellant Testimony).

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. 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.³

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, as codified within 130 CMR 456.701(C):

- (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

³ The regulatory language in the MassHealth Nursing Facility Manual, found in 130 CMR 456.000 et seq. has regulations which are identical (or nearly identical) to counterpart regulations found within the Commonwealth's Fair Hearing Rules at 130 CMR 610.001 et seq. as well as corresponding federal government regulations. Because of such commonality, the remainder of regulation references in this Fair Hearing decision will only refer to the MassHealth Nursing Facility Manual regulations in 130 CMR 456.000 unless otherwise noted and required for clarification.

- 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.

Further, the notice requirements set forth in 130 CMR 456.701(A) state that 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.

When the facility transfers or discharges a resident under any of the circumstances specified in 130 CMR 456.701(A)(1) through (4), the resident's clinical record must contain documentation to explain the transfer or discharge. Pursuant to 130 CMR 456.701(B), 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).

130 CMR 456.702: Time Frames for Notices Issued by Nursing Facilities: ⁴

(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) Instead 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 must be made as soon as practicable before the discharge or transfer in any of the following circumstances, which are emergency discharges or emergency transfers.

⁴ See also 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. (emphasis added)
- (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.

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

- (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 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 immediate family member or legal representative at the time the nursing facility determines that it will not readmit the resident.

130 CMR 456.704: 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 456.703(B)(1), 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 456.703(B)(2), and the request is received prior to 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 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 as described in 130 CMR 456.703(B)(3), the nursing facility must, upon receipt of the appeal decision favorable to the resident, promptly readmit the resident to the next available bed.

The nursing facility must also comply with all other applicable state laws, including G.L. c. 111, § 70E. The key paragraph of this statute, which is directly relevant to any type of appeal involving a nursing facility-initiated transfer or discharge, reads 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.⁵

In this case, the facility initiated the discharge proceedings because it determined that appellant had failed, after reasonable and appropriate notice, to pay for (or failed to have MassHealth or Medicare pay for) a stay at the nursing facility (Ex. 1). The record does not adequately support the facility's position regarding nonpayment. The record shows the only notice the facility gave appellant that he owes money for nonpayment was the actual notice and the testimony of the Administrator at hearing. The facility offered no bills into evidence that had been presented to appellant indicating payment due to the facility. While the Administrator testified appellant owed payment, the lack of a paper trail showing money owed is concerning. The facility has not shown that it notified appellant of the debt owed and this lack of effort does not constitute reasonable and appropriate notice of the debt owed to the facility.

However, payment is not the sole consideration in this appeal. The facility has specific regulatory requirements that must be met before an appellant may be discharged. Specifically, the facility must also comply with 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 Administrator testified that they were discharging appellant to an address they had on file for appellant. However, appellant credibly testified that he is homeless because he could not return to that address. Finding appellant credible in his testimony of being homeless, the location chosen by the facility on the discharge notice is unsuitable. In choosing the discharge location, the Administrator stated they just chose appellant's last known address. It is clear that the facility made no inquiries as to the appropriateness of the discharge location. Also lacking is documentation regarding any preparation or orientation provided to the appellant. These statutory requirements must be met prior to the discharge of a resident. Within this record, based upon the testimony from the facility as well as the documentary evidence submitted, the requirements of G.L. c. 111, § 70E have not been met.

On this record, appellant has met his burden, by a preponderance of evidence, to show the invalidity of the administrative determination. Accordingly, this appeal is APPROVED.

⁵ 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.

Order for Respondent

Rescind the June 30, 2025, 30-Day Notice of Intent to Discharge/Transfer Resident.

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.

Thomas Doyle
Hearing Officer
Board of Hearings

