

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2513560
Decision Date:	10/28/2025	Hearing Date:	October 8, 2025
Hearing Officer:	Stanley M. Kallianidis		

Appellant Representative:

Pro Se

Facility Representative:



***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; Safety of Individuals in Facility
Decision Date:	10/28/2025	Hearing Date:	October 8, 2025

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 August 25, 2025, the respondent nursing facility, [REDACTED] (herein after "the facility") planned to discharge the appellant because he "no longer requires the services provided at the facility," and because "the safety of individuals in the nursing facility is endangered" (Exhibit 1). The appellant filed this appeal in a timely manner on September 17, 2025 (see 130 CMR 610.015 and Exhibit 2).

On September 23, 2025, notice of the hearing was sent to the parties (Exhibit 3).

Action Taken by the Facility

The facility planned to discharge the appellant because of his health improvement and because he is endangering the safety of individuals in the facility.

Issue

Is the appellant endangering the safety of individuals in the facility pursuant to 130 CMR 610.028?

Summary of Evidence

A representative from the facility testified that the appellant is an adult male who was admitted in early [REDACTED] from the hospital following treatment for an intestinal infection. His admitting diagnoses included spinal stenosis, anxiety disorder, major depressive disorder, and substance abuse. The appellant had recent hip surgery and is progressing with physical and occupational therapy. The appellant ambulates independently with his wheelchair (Exhibit 4).

The facility representative stated that it is planning the appellant's discharge because his health has improved and because he is endangering the safety of individuals in the facility. The facility representative testified that he may be safely discharged because he is alert and oriented x 3 and is independent with his activities of daily living (Exhibit 4).

Primarily, the reason for the appellant's discharge is that he recently struck two residents on separate occasions. On [REDACTED], the police were called after the appellant allegedly struck a female resident with his cane when she tried to retrieve her phone. On [REDACTED], the appellant allegedly struck a male resident with his cane and kicked him after a verbal altercation outside the building. In addition, the facility representative testified that the appellant has been verbally abusive to staff on multiple occasions (Exhibit 4).

The facility is planning to discharge the appellant to a homeless shelter in [REDACTED]. The reason for the place of discharge is that the appellant was also homeless prior to his admission to the facility. The facility representative further testified that it has coordinated the appellant's planned discharge with the shelter and has reached out to the Veterans Administration to plan his future medical needs (Exhibit 4).

The appellant testified that he still needs physical therapy. He does not want to be discharged to a shelter but would not mind leaving the facility if he were able to obtain housing. He denied ever striking anyone in the facility.

The appellant submitted a letter from another facility resident who attested to his good character. The letter did not reference either of the two incidents in question (Exhibit 5).

An ombudsman from [REDACTED] testified that he could not speak to the two incidents but expressed concern over the appellant's discharge to a shelter because the appellant has not completed his physical therapy.

Findings of Fact

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

1. In a notice dated August 25, 2025, the facility planned to discharge the appellant because he “no longer requires the services provided at the facility,” and because “the safety of individuals in the nursing facility is endangered” (Exhibit 1).
2. The appellant is adult male who was admitted to the respondent facility from the hospital in early [REDACTED] following treatment for an intestinal infection (Exhibit 4).
3. The appellant’s admitting diagnoses included spinal stenosis, anxiety disorder, major depressive disorder, and substance abuse (Exhibit 4).
4. The appellant underwent recent hip surgery and is progressing with physical and occupational therapy. The appellant ambulates independently with his wheelchair (Exhibit 4).
5. The appellant is alert and oriented x 3 and is independent with his activities of daily living (Exhibit 4).
6. On [REDACTED], the police were called after the appellant allegedly struck a female resident with his cane when she tried to retrieve her phone. On [REDACTED], the appellant allegedly struck a male resident with his cane and kicked him after a verbal altercation outside the building (Exhibit 4).
7. The facility is planning to discharge the appellant to a homeless shelter in [REDACTED]. The reason for the place of discharge is that the appellant was also homeless prior to his admission to the facility (Exhibit 4 and testimony).
8. The facility has coordinated the appellant’s planned discharge with the shelter and has reached out to the Veterans Administration to plan his future medical needs (Exhibit 4).

Analysis and Conclusions of Law

With regard to nursing facility-initiated discharges, a resident may be discharged when the safety of individuals in the facility is endangered (130 CMR 610.028(A)(3)). The reason for the discharge must be documented by the resident’s clinical record (130 CMR 610.028(B)).

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.

The appellant in this case is adult male who was admitted to the respondent facility from the hospital in early [REDACTED] following treatment for an intestinal infection. The appellant's admitting diagnoses included spinal stenosis, anxiety disorder, major depressive disorder, and substance abuse.

In a notice dated August 25, 2025, the facility planned on discharging the appellant because he "no longer requires the services provided at the facility," and because "the safety of individuals in the nursing facility is endangered."

Because the appellant is still involved with physical therapy due to a recent hip surgery, I draw no conclusions as to whether he still needs the services of the facility. However, where the appellant was involved in two physical altercations with other residents, one a female where the police were summoned, I conclude that he is a threat to the safety of others in the facility.

Based upon documentation in the appellant's record, I specifically have found that the appellant was involved in two recent physical altercations with other residents. On [REDACTED], the police were called after the appellant allegedly struck a female resident with his cane when she tried to retrieve her phone. On [REDACTED], the appellant allegedly struck a male resident with his cane and kicked him after a verbal altercation outside the building.

These incidents are on their own alarming, but because they happened recently and are in close succession, they are most concerning. The appellant's scant testimony of the events and outright denial that they ever happened suggest that he is not being forthright. The testimony from the facility representative was credible and is corroborated by a police report. Given these two separate incidents of the appellant's striking different individuals, I have no other choice but to conclude as I have that the appellant is a threat to the safety of others while he remains at the facility.

The facility is planning to discharge the appellant to a homeless shelter in [REDACTED]. The reason for the place of discharge is that the appellant came to the facility as a homeless individual. I have found that the facility has coordinated the appellant's planned discharge with the shelter and has reached out to the Veterans Administration to plan his future medical needs. I conclude that this action complies with the "sufficient preparation and orientation" outlined above.

In summary, pursuant to the above regulation and policy, where the safety of individuals in the facility is endangered by the appellant's not one but two episodes of violence towards his fellow

residents, the facility may discharge him to the shelter as planned.

The appeal is denied accordingly.

Order for the Facility

Discharging the appellant as specified in the discharge notice is authorized within 30 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:

