

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2518048
<b>Decision Date:</b>	12/19/2025	<b>Hearing Date:</b>	12/12/2025
<b>Hearing Officer:</b>	Casey Groff		

**Appearance for Appellant:**  
*Pro se*

**Appearance for Nursing Facility:**  
Krystal Washburn Baroutas, Director of Social Services;  
Karen Bergstrom, RN, Director of Nursing;  
Beckie Jo Hebert, After Care Coordinator  
*\*All from Parsons Hill Rehabilitation & Health Care Center:*



*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; Expedited
<b>Decision Date:</b>	12/19/2025	<b>Hearing Date:</b>	12/12/2025
<b>Nursing Facility Rep.:</b>	Director of Social Services; <i>et. al.</i>	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Board of Hearings (Remote)	<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

Through an expedited discharge notice dated 12/4/25, the [REDACTED] (the "nursing facility") informed Appellant that it was seeking to discharge her from the facility on 12/8/25 because her health improved sufficiently so that she no longer required nursing facility services. (Exh. 1). Appellant filed a timely appeal of the notice on 12/5/25. (130 CMR 610.015(B); Exh. 2). A nursing facility's attempt to discharge a resident is valid grounds for appeal. (130 CMR 610.032(C)).

## Action Taken by Nursing Facility

The nursing facility sought to discharge Appellant from the facility, giving her less than 30 days' notice, on grounds that her health improved sufficiently so that she no longer required nursing facility services.

## Issue

The issue on appeal is whether the nursing facility complied with the requirements set forth in 130 CMR 610.00 *et. seq.*, 130 CMR 456.00 *et. seq.*, and M.G.L. c. 111, § 70E in seeking to discharge Appellant to a non-institutional setting in the community with fewer than 30 days' notice.

## Summary of Evidence

Appearing on behalf of the nursing facility was the social services director, the director of nursing, and an after-care coordinator (collectively the "nursing facility representatives"). Appellant appeared at the hearing *pro se*. All parties appeared remotely, by telephone.

Through oral testimony and documentary submissions, the nursing facility representatives presented the following evidence. Appellant is an adult female under the age of 65. She was admitted to the nursing facility on [REDACTED] for short-term rehabilitation to receive intravenous (IV) antibiotic treatment and wound care, with an expected completion date of 10/17/25. (Exh. 4, p. 4). Appellant is a MassHealth beneficiary and her benefits are managed through Tufts Together, a MassHealth managed care organization (MCO). (*Id.*).

Physician progress notes indicate that Appellant was transferred to the facility from an acute-care hospital where she had been treated for a femoral artery bleed associated with intravenous drug use. (*Id.* at 24). Following hospitalization, Appellant was admitted for treatment of a wound on her upper right side which required IV antibiotic therapy. Appellant's primary diagnosis on admission to the facility was [REDACTED]

[REDACTED] (*Id.* at 5).

The facility representatives testified that Appellant has since completed all rehabilitative services, IV antibiotic treatment, and wound care. The facility's director of nursing testified that Appellant's wounds have healed, and she no longer requires any skilled nursing services. She also testified that Appellant is independent with her activities of daily living (ADLs), ambulates independently, walks without any assistive devices, and does not require any nursing facility staff care.

Referring to documentation received from Appellant's MCO, the nursing facility representatives testified that Appellant has not paid for her nursing facility care since 11/26/25. (*Id.* at 6-7). The MCO records indicate that Appellant had initially been approved for nursing facility services upon admission; however, pursuant to its most recent assessment, the MCO determined Appellant no longer required nursing facility level of care and therefore denied continued authorization for payment of nursing facility services as of 11/26/25. (*Id.*). The facility submitted a private pay room and board invoice dated 12/4/25, showing that between 11/26/25 through 12/8/25, Appellant

accrued a balance of \$7,852.00 for 13 days of private pay room and board, calculated at a semi-private rate. (*Id.* at 42). Additionally, an updated invoice shows additional charges for the current billing period of 12/8/25 through 12/21/25 that will bring Appellant's total invoice to \$15,074.00 at a multi-bed rate. (*Id.*).

The nursing facility representatives testified that in the months that Appellant has resided at the facility, they have engaged in ongoing discharge planning efforts. The social services director testified that Appellant was homeless prior to her admission and that throughout Appellant's stay, the facility has submitted multiple referrals on Appellant's behalf for community-based placements and services, including housing programs, rest homes, personal support services (PSS), sober homes, and clinical stabilization services (CSS). Progress notes submitted by the facility reflect ongoing discussions between social services staff and Appellant regarding placement options, including follow-up on referral status and waitlist placement. (*Id.* at 10-33). The director of social services testified that, despite their efforts, they have been unsuccessful in securing placement for Appellant as her applications have been denied or remain pending with her on the waitlist. Social service notes reflect that Appellant was advised that an address was required to issue a discharge notice and that following discussion with facility staff, and in the absence of alternative options, Appellant directed social services to list the address of the homeless shelter on the discharge notice. (*Id.* at 11).

A physician encounter note dated 12/2/25 through Appellant's attending physician, [REDACTED] indicates that Appellant's wound had responded to treatment and healed appropriately, that there were no acute medical concerns, and that Appellant made great progress throughout her stay and course of treatment. (*Id.* at 8-12). According to the note, Appellant no longer required the services provided by the facility and was medically stable and cleared for safe discharge back to the community. (*Id.*).

On 12/4/25, the nursing facility issued a Notice of Intent to Transfer/Discharge Resident with Fewer than 30 Days' Notice, informing Appellant that she would be discharged from the facility on 12/8/25, to a named local homeless shelter, on the basis that her health improved such that she no longer required the services provided by the nursing facility. (Exh. 1; Exh. 4, p. 37). A copy of the notice was provided to the long-term care ombudsman. (*Id.*). Appellant filed a timely appeal of the notice on 12/5/25. (Exh. 2).

The nursing facility representatives testified that because no alternative placement has been secured, they are seeking to discharge her to a local homeless shelter, which, though not ideal, is a safe and appropriate discharge location. The facility testified that this shelter has an adjacent medical clinic which specifically serves individuals residing at the shelter and assists them in establishing primary care and accessing medical services, as well as a nearby mental health clinic. They testified that given Appellant's level of independence, there is no medical issue that would prevent her from being discharged to this location. They testified that although Appellant remains on some waitlists, it is uncertain when, if ever, an opening will become available. Without a

payment source and without any need for Appellant to remain at the facility, the nursing facility representatives testified that they were seeking to proceed with the discharge plan.

Appellant testified that she disputes the discharge because she has upcoming outpatient medical appointments, including a scheduled appointment on 12/19/25 with a wound care provider, as well as another upcoming medical appointment. Appellant expressed concern about her ability to attend these appointments if she is discharged from the nursing facility. She testified that she contacted her insurance company, which indicated that her need for nursing facility care may change depending on the outcome of these appointments or if new findings were identified. However, Appellant acknowledged as of the hearing date, that she had not received any indication that the insurance company had reversed its previous determination that her nursing facility stay was no longer medically necessary.

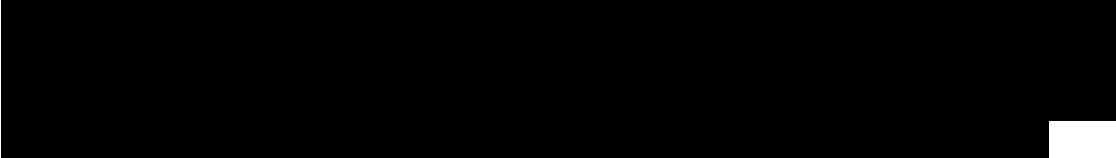
Appellant further testified that she has an [REDACTED] and expressed concern that managing her [REDACTED] supplies would be difficult in a homeless shelter setting, which also requires leaving the shelter during certain hours of the day. She testified that prior to admission, she was homeless and had been staying at shelters or “couch surfing” since approximately [REDACTED]. Appellant stated that she previously required a personal care attendant but explained that she does not require significant assistance in managing her ostomy bag or other medical issues at this time.


In response to Appellant’s concerns, the nursing facility representatives reiterated that the adjacent clinic, which serves individuals from the shelter, can assist Appellant in managing any current medical needs, including helping her access community-based supports and transportation services so she can attend her upcoming outpatient appointments. The facility representatives reiterated that the basis for Appellant’s admission to the facility has been resolved, and she does not require skilled level care to attend medical appointments. They also testified that there has been no indication from the MCO that it intends to reconsider its determination at this time, nor is there any reason to expect a change in position.

## **Findings of Fact**

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

1. Appellant is an adult female under the age of 65 and receives her MassHealth benefits through an MCO.
2. Following an acute-care hospital stay, Appellant was admitted to the nursing facility for short-term rehabilitation to receive IV antibiotic treatment and wound care, with an expected completion date of 10/17/25.
3. Appellant’s primary admitting diagnosis was acute and subacute infective [REDACTED]



4. While at the facility, Appellant completed her IV antibiotic treatment; her wound responded to treatment and has since healed appropriately.
5. Appellant is independent with ADLs, ambulates independently without any assistive devices, and does not require or receive skilled nursing level of care services.
6. On 11/26/25, Appellant's MCO discontinued payment for her nursing facility stay after it determined, pursuant to an assessment, that a nursing facility level of care was no longer medically necessary.
7. A physician encounter noted dated 12/2/25 documented that Appellant completed all short-term treatments (including IV antibiotics and wound care), that there were no acute medical concerns, and that Appellant was medically stable and cleared for discharge to the community as she no longer required nursing facility level services.
8. Throughout Appellant's stay, the nursing facility engaged in discharge planning efforts, including submitting referrals for housing programs, rest homes, and community-based supports; however, Appellant had not been accepted into any community programs as of the hearing date.
9. Prior to being hospitalized and admitted to the nursing facility, Appellant was homeless.
10. On 12/4/25, the nursing facility issued a Notice of Intent to Transfer/Discharge Resident with Fewer than 30 Days' Notice, informing Appellant that she would be discharged from the facility on 12/8/25, to a local homeless shelter, on the basis that her health improved such that she no longer required the services provided by the nursing facility.
11. The proposed homeless shelter, listed on the discharge notice, has adjacent medical and mental health clinics that serve shelter residents by assisting with establishing primary care and coordinating medical services in the community, including transportation services to outpatient medical appointments.
12. Appellant has a pre-existing  does not require nursing facility level of care to maintain; and she has upcoming medical appointments, including a follow-up wound appointment, which she can attend through community-based transportation services.

13. Between 11/26/25 and 12/8/25 Appellant incurred \$7,852.00 in private pay room and board charges and continues to incur additional charges for the current billing period ending 12/21/25, which will bring her invoice balance to \$15,074.00; as of the hearing date, no private payments on the outstanding balance had been made to the facility.

## Analysis and Conclusions of Law

The federal Nursing Home Reform Act (NHRA) of 1987, codified at 42 USC §§ 1396r(c), guarantees nursing facility residents the right to advance notice of, and the right to appeal, any transfer or discharge initiated by a nursing facility. *See also* 42 CFR §§ 483.204, 483.15(c), 483.206. Massachusetts has enacted statutory and regulatory provisions that mirror the federal resident-rights protections, including M.G.L. c. 111 § 70E and MassHealth regulations at 130 CMR 456.00 *et seq.*, and 130 CMR 610.00 *et seq.*

Under the applicable MassHealth regulations, a resident *cannot* be transferred or discharged from a nursing facility, *unless* one of the following circumstances apply:

- (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.

*See* 130 CMR 610.028(A) (emphasis added); *see also* 130 CMR 456.701(A).

When a transfer or discharge is necessary under subsections (1) or (2) above, as is the case here, the resident's clinical record must be documented by the "resident's physician." *See* 130 CMR 610.028(B)(1); 130 CMR 456.701(B)(1). The facility must typically provide the resident with at least 30-days' written notice of the discharge, but it may give less than 30-days' notice where 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.*" 130 CMR 610.029(B)(2).

Based on the regulatory authority and in consideration of the evidence in the record, Appellant has not demonstrated that the facility issued the 12/4/25 discharge notice in error. The facility cited proper grounds for discharge under 130 CMR 610.028(A)(2), and for an expedited discharge under 130 CMR 610.029(B)(2)— specifically, that Appellant no longer has a medical need to remain at the nursing facility as supported by physician documentation. The nursing facility

submitted a 12/2/25 encounter note documenting the findings by the attending physician that Appellant's wounds responded to treatment, that there were no acute medical concerns, and that Appellant was medically stable and cleared for discharge to the community as she no longer required services provided by the nursing facility. See Exh. 4. This documentation is consistent with the testimony provided by the nursing facility representatives, as well as other portions of Appellant's clinical record, which confirm that Appellant completed IV antibiotic treatment and all other care for which she had been admitted. *Id.* There was no evidence to suggest that Appellant currently had any medical need that required a skilled level of care.

Next, the applicable regulations require that the nursing facility provides the resident with adequate notice of the discharge or transfer. MassHealth Fair Hearing Rules at 130 CMR 610.028(C) establish the format and content requirements of the notice itself.<sup>1</sup> Here, there is no allegation or evidence to suggest the 12/4/25 discharge notice, as written, was deficient or failed to meet the criteria imposed under 130 CMR 610.028(C).

Finally, before a nursing facility may discharge a resident, it must comply with the requirements set forth under M.G.L. c. 111, §70E, which states the following:

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 record demonstrates that the facility engaged in ongoing discharge planning efforts throughout Appellant's stay. As Appellant was homeless prior to her nursing facility admission, social services submitted multiple referrals for alternative community placements on Appellant's behalf. Despite such efforts, Appellant had either been denied placement or remained on the program(s) waitlist(s) as of the hearing date. In the absence of an alternative community placement, the facility designated a local homeless shelter as the discharge location. The evidence

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<sup>1</sup> In summary, 130 CMR 610.028(C) requires: that the facility hand-deliver the notice to the resident (and provide a mailed copy to any designated family member or legal representative); that the notice be legible and written in 12-point or larger, in a language the resident understands, and that it contain the following information: (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 a fair hearing by the MassHealth agency, including how and when to send the request, as well as the effect of requesting a hearing; (6) contact information for the local long-term-care ombudsman office; (7) if applicable, the contact information of the agency responsible for the protection and advocacy of developmentally disabled individuals, (8) if applicable, the contact information for the agency responsible for the protection and advocacy of mentally ill individuals; (9) a statement that all residents may seek legal assistance and that free legal assistance may be available through their local legal services office; and (10) the name of someone at the nursing facility who is available to assist the resident with any of the foregoing.

indicates that the proposed shelter has adjacent medical and mental health clinics that specifically serve shelter residents, and which assist with establishing primary care and coordinating community based medical services. While Appellant expressed understandable concerns regarding her ongoing management of medical needs in the community, including transportation to upcoming outpatient appointments, there is no evidence to suggest these concerns cannot be adequately addressed through available community supports. As Appellant has been deemed medically stable for discharge with no current need for skilled nursing care, and considering the facility's documented discharge planning efforts, the facility has demonstrated that it met the requirements of M.G.L. c. 111. § 70E, above.

The appeal is DENIED.

## **Order for Nursing Facility**

Proceed with the discharge plan as set forth in the 12/4/25 notice. Discharge Appellant no sooner than five days from the date of this decision pursuant to 130 CMR 610.030(B).

## **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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Casey Groff  
Hearing Officer  
Board of Hearings

cc: Respondent: [REDACTED]