

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2600221
Decision Date:	1/21/2026	Hearing Date:	01/20/2026
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:



Appearance for Nursing Facility:

Via telephone for Regal Care Worcester:

Mariam Milien, Administrator

Courney Cyboski, Business Office Manager

Brandon Num, Administrator in Training



*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 Facility Discharge – Failure to Pay; Expedited
Decision Date:	1/21/2026	Hearing Date:	01/20/2026
Nursing Facility’s Rep.:	Mariama Millien, et al.	Appellant’s Rep.:	[REDACTED]
Hearing Location:	Springfield MassHealth Enrollment Center, Remote	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 (Expedited Appeal) dated December 23, 2025, [REDACTED] (hereinafter, “the facility”) informed the appellant of its intent to discharge him on [REDACTED] because he failed, after reasonable and appropriate notice, to pay for (or has failed to have Medicaid or Medicare pay for) services rendered at the facility (see 130 CMR 610.028 and Exhibit 1). The appellant filed this appeal in a timely manner on January 6, 2026 (see 130 CMR 610.015(B) and Exhibit 2). Notification of intent to discharge or transfer an individual from a nursing home facility is a valid basis for appeal (130 CMR 610.032).

Since the request for the hearing was received by the Board of Hearings during the notice period described in 130 CMR 610.015(B)(5), the nursing facility must stay the planned discharge or transfer until 5 days after this decision is rendered. While the stay is in effect, the resident shall not be transferred or discharged from the nursing facility (see 130 CMR 610.030(B)).

Action Taken by Nursing Facility

The facility informed the appellant of its intention to discharge him due to his failure to pay for his stay.

Issue

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

Summary of Evidence

All parties appeared at hearing via telephone. The facility was represented by its administrator, business officer manager, and administrator in training. The appellant appeared with his attorney.

The facility offered the following through testimony and documentary evidence: through a notice dated December 5, 2025, ██████████ found that the appellant was not clinically eligible for nursing facility services. Ex. 4 at 17. The appellant's last day of covered services would be November 24, 2025. *Id.* at 15. The business office manager met with the appellant on December 16, 2025, provided him with the ██████████ screening denial letter, and explained that he would no longer be covered as of November 24, 2025. *Id.* at 20. On December 18, 2025, the business officer manager met with the appellant again, provided him with a copy of his bill, and explained that the financial responsibility for the cost of his stay now falls to him. *Id.* The facility noted that on ██████████ the appellant signed the admission agreement which informs him of the facility's daily rate and his legal responsibility to cover the bill if he does not qualify for payment under MassHealth or other insurance. *Id.* at 21-34. Most recently, the appellant was presented with a bill dated January 19, 2026, which reflects a current outstanding balance of \$31,960. *Id.* at 19.

The facility testified that, per the facility's medical director's progress note on the appellant's readiness for discharge, the appellant is medically clear for discharge. *Id.* at 55. He is medically stable, with chronic conditions appropriately managed and demonstrates the capacity to participate in his own care at a non-medical shelter level. *Id.* He has expressed understanding of his medication schedule and demonstrates the ability to self-administer oral medications independently. *Id.* He is appropriate for outpatient follow-up and community-based support services. *Id.* He is medically stable for discharge to a wet shelter and there are no current medical contraindications preventing discharge to that setting. *Id.* He will require continued access to methadone maintenance through established clinic, ongoing primary care follow-up, and community harm reduction resources. *Id.*

The discharge location is a shelter in the community. Social work at the facility has been working on discharge planning with the appellant by sending referrals for services in the community, but there are often long waiting lists. The proposed shelter has outpatient services, behavioral care, and substance abuse and mental health counseling. According to the facility representatives, it is handicapped accessible and the appellant has stayed there before. The appellant no longer requires the intensity of skilled nursing services provided at the facility. *Id.*

The appellant's attorney responded that the same shelter was determined to be an unsafe and inappropriate discharge location in a Board of Hearings decision issued on December 12, 2025.¹ Nothing has changed for the appellant or at the shelter since that decision to make it any safer or more appropriate for the appellant. She noted that he was only at that shelter for one night prior to his admission and he had to sleep sitting in his wheelchair in a vestibule because he could not access the bed or mat area with his wheelchair. The shelter lays out yoga mats at night for sleep and once those are out, he cannot maneuver around them in his wheelchair or walker to access the mats or the bathroom. The appellant was in the nursing facility to recover after hip surgery and he is still reliant on a wheelchair, although is working on transitioning to a walker.

The appellant acknowledged that he has not made any payments to the facility, but stated he has no income. The facility responded that, since being a long-term resident, he's been receiving \$72.80 per month which he has been withdrawing from the account, but not making any payments to the facility. The appellant stated he has used that money for food and cigarettes. He has been working on applying for Social Security. While he doesn't feel good about staying at the facility without paying, he is terrified of ending up at the shelter in his condition. The appellant testified that his left arm is basically paralyzed and his right leg and hip are painful and have reduced mobility. He is in bad shape to be in the streets in the middle of the winter. The shelter is not open from 8:00AM to 6:00PM. He is trying to get a spot at various sober houses but there are either waiting lists or they're not handicapped accessible.

Furthermore, the shelter is a wet shelter, meaning that current drug and alcohol abusers who are still using and not in recovery are allowed to reside there. The appellant asserted that this poses a risk to his own recovery efforts.

¹ This was appeal #2517065 based off a November 7, 2025 notice of intent to discharge with less than 30-days' notice because the appellant's health had improved to the point where he no longer requires the services of a skilled nursing facility.

Findings of Fact

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

1. The appellant was admitted to the facility on [REDACTED] to receive physical therapy following right hip surgery.
2. On December 23, 2025, the facility issued a notice of intent to discharge with less than 30-days' notice because the appellant failed, after reasonable and appropriate notice, to pay for (or has failed to have Medicaid or Medicare pay for) services rendered at the facility.
3. On January 6, 2026, the appellant filed the appeal in a timely manner.
4. The appellant was screened by [REDACTED] on November 24, 2025 and was determined to no longer need skilled nursing services.
5. The proposed discharge location is a wet shelter which has outpatient services, behavioral care, and substance abuse and mental health counseling.
6. The facility's physician noted in the appellant's clinical record that he is medically stable for discharge to a wet shelter and there are no current medical contraindications preventing discharge to that setting. The appellant no longer requires the intensity of skilled nursing services provided at the facility
7. Discharge planning includes continued access to methadone maintenance through established clinic, ongoing primary care follow-up, and community harm reduction resources.
8. The appellant is currently in recovery and on methadone.
9. The appellant previously spent a night at this shelter and had to sleep in his wheelchair in a vestibule because he could not access the sleeping area. The shelter puts mats down for sleeping and once those mats are down, he cannot maneuver his wheelchair around them or access the bathroom.

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. (See 130 CMR 610.028(A), emphasis added)

Additionally, pursuant to 130 CMR 610.028(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).

In this case, the facility is seeking to discharge the appellant for failing to pay for his stay at the facility. The facility notified the appellant of the debt owed to the facility by both providing billing statements to the appellant and through ongoing conversations between the facility and the appellant. The appellant also signed an admission agreement and fee schedule acknowledging his financial obligations to the facility. While the appellant applied for MassHealth benefits, on December 5, 2025, he was found not clinically eligible for nursing facility services, meaning MassHealth will not pay for long-term care services at the facility. The appellant acknowledged he has not paid the facility and does not have the means to do so.

According to the clinical record, the appellant does not have any skilled nursing needs, he is clinically and medically stable, and can participate in his own care. According to the facility's physician, there are no current medical contraindications preventing discharge to the wet shelter. He will require continued access to methadone maintenance through his established clinic, ongoing primary care follow-up, and community harm reduction. None of this requires the intensity of skilled nursing services provided by the facility and social work will continue to help coordinate these elements to ensure continuity of care. Through its testimony and documentation, the facility has sufficiently demonstrated that the appellant has failed to pay for his stay at the facility after reasonable and appropriate notice.

In addition to the MassHealth-related regulations discussed above, the nursing facility also has an obligation to comply with all other applicable state laws, including M.G.L. c.111, §70E, which went into effect in November of 2008. The key paragraph of that statute provides 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 facility has not demonstrated that the discharge location is a safe and appropriate place for the appellant. The facility has proposed a discharge to a homeless shelter. While being in recovery or needing a wheelchair or walker does not in itself make discharge to a shelter unsafe or inappropriate, in the appellant's situation, it does. He is in a maintenance program for addiction and the discharge location is a wet shelter where current substance abuse users reside. This would neither be safe nor appropriate for a person who is in an active addiction recovery program.

Additionally, the shelter does not meet the appellant's physical needs. He was previously at the same shelter and had to sleep sitting in his wheelchair in a vestibule because he could not access the bed or mat area with his wheelchair. Additionally, the shelter lays out yoga mats at night for sleep and once those are out, he cannot safely maneuver around them in his wheelchair or walker to access the mats or the bathroom. While the appellant does not have a right to remain in the nursing facility without paying, the facility has not shown that the proposed discharge location in the [REDACTED] notice under appeal is safe and appropriate.²

For these reasons, the appeal is approved.

Order for Nursing Facility

Rescind the Notice of Intent to Discharge with Less than 30 Days' Notice (Expedited Appeal) dated [REDACTED] Do NOT proceed with discharge.

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.

² There is nothing in this decision prohibiting the facility from issuing a new Notice of Intent to Discharge listing a safe and appropriate discharge location; however, the discharge location proposed in the notice under appeal (the same discharge location already deemed inappropriate and unsafe just over a month ago) is not safe or appropriate given the appellant's needs.

Implementation of this Decision

If this nursing facility fails to comply with the above order, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Alexandra Shube
Hearing Officer
Board of Hearings

