

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**

[REDACTED]

<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2600236
<b>Decision Date:</b>	02/12/2026	<b>Hearing Date:</b>	1/23/2026
<b>Hearing Officer:</b>	Patrick Grogan	<b>Record Open to:</b>	N/A

**Appearances for Appellant:**

[REDACTED]

**Appearances for Facility:**

[REDACTED], Administrator, [REDACTED]  
[REDACTED], Office Manager, [REDACTED]  
[REDACTED], Social Worker

**Interpreter:**

N/A



*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>	Approved	<b>Issue:</b>	Nursing Facility Discharge, Failure to Pay
<b>Decision Date:</b>	02/12/2026	<b>Hearing Date:</b>	1/23/2026
<b>Facility's Reps.:</b>	[REDACTED] Administrator, [REDACTED] [REDACTED], Business Office Manager, [REDACTED], Social Worker	<b>Appellant's Reps.:</b>	[REDACTED]
<b>Hearing Location:</b>	Remote (Tel)	<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 a Notice dated December 10, 2025, [REDACTED] (hereinafter "the nursing facility" or "facility") issued a 30-Day Notice of Intent to Transfer/Discharge Resident to [REDACTED] for the specific reason: "You have failed, after reasonable and appropriate notice, to pay for (or have failed to have Medicare or Medicaid pay for) your stay at the nursing home." (130 CMR 456.701; 130 CMR 610.029(A); Exhibit 1). The Appellant filed this appeal in a timely manner on January 6, 2026 (130 CMR 610.015; Exhibit 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 Nursing Facility

The nursing facility issued a 30-Day Notice of Intent to Transfer/Discharge Resident for the specific reason: "You have failed, after reasonable and appropriate notice, to pay for (or have

failed to have Medicare or Medicaid pay for) your stay at the nursing home.” (130 CMR 456.701; 130 CMR 610.029(A); Exhibit 1)

## **Issue**

The appeal issue is whether the nursing facility was correct, pursuant to 130 CMR 456.701, in issuing to the Appellant a 30-Day Notice of Intent to Transfer/Discharge Resident for the specific reason: “You have failed, after reasonable and appropriate notice, to pay for (or have failed to have Medicare or Medicaid pay for) your stay at the nursing home.” (130 CMR 456.701; 130 CMR 610.029(A); Exhibit 1)

## **Summary of Evidence**

The Appellant is an individual under the age of 65 who is seeking appeal of a 30-Day Notice of Intent to Transfer/Discharge Resident for the specific reason: “You have failed, after reasonable and appropriate notice, to pay for (or have failed to have Medicare or Medicaid pay for) your stay at the nursing home.” (130 CMR 456.701); 130 CMR 610.029(B); Exhibit 1).

The nursing facility was represented telephonically at the Hearing by its administrator, the business officer manager, as well as a social worker. The Appellant represented herself, along with her two sisters. The facility’s representatives stated that attempts were made to have the Appellant pay, but the attempts have been unsuccessful. (Testimony, Exhibit 4)

Within the submission on behalf of the facility, there are no billing statements. (Exhibit 4) Within the facility’s submission, there is no evidence of service to the Appellant of any notice of amounts due to the facility. (Exhibit 4) Within the facility’s submission, there is no listed amount of payment due by the Appellant to the facility. (Exhibit 4) Within the facility’s submission there is a typed sheet log of conversations and attempts by the facility to speak with the Appellant and the Appellant’s sister regarding completion of a long-term-care conversion application as well as explanation of a patient paid amount. (Exhibit 4, pgs. 6-7) There is also a copy of a portion of a long-term-care conversion application, as well as the face sheet from the facility regarding the Appellant’s admission. (Exhibit 4)

Absent from the submission is any explanation of the discharge location. (Exhibit 4) Lacking is any information related to the appropriateness of the location to which the facility seeks to discharge the Appellant. (Exhibit 4) Also lacking within the facility’s submission is any documentation regarding any preparation or orientation provided to the Appellant for transfer. (Exhibit 4)

The Appellant appeared, along with her two sisters. (Testimony) The Appellant expressed confusion regarding the need for a long-term-care conversion and the fact that the 6-month short

term stay at multiple facilities accumulated to meet the duration of 6 months, requiring a long-term-care conversion. (Testimony) The Appellant indicated, through her sister, that she is unable to return to the location that was listed on the Notice. (Testimony) The sister explained that the listed location had been where the Appellant had resided with her late husband, the Appellant could not return to that location, and it was incredulous to believe that the Appellant could maintain the cost of a residence in addition to her medical issues and costs. (Testimony) In response to inquiry posed, the facility administrator indicated that, based upon the proffered testimony, the facility was unsure whether the Appellant could return to the location explicitly listed on the Notice. (Testimony)

## **Findings of Fact**

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

1. The Appellant is an individual under the age of 65 who is seeking appeal of a 30-Day Notice of Intent to Transfer/Discharge Resident for the specific reason: You have failed, after reasonable and appropriate notice, to pay for (or have failed to have Medicare or Medicaid pay for) your stay at the nursing home.” (130 CMR 456.701); 130 CMR 610.029(A); Exhibit 1).
2. Within the facility’s submission there is a typed sheet logging of conversations and attempts by the facility to speak with the Appellant and the Appellant’s sister regarding completion of a long-term-care conversion application as well as explanation of a patient paid amount. (Exhibit 4, pgs. 6-7). There is also a copy of a long-term-care conversion application, as well as the face sheet from the facility regarding the Appellant’s prior admission. (Exhibit 4)
3. Within the submission on behalf of the facility, there are no billing statements, no evidence of service to the Appellant of any notice of amounts due to the facility nor is there any listed amount of payment due by the Appellant to the facility. (Exhibit 4)
4. Absent from the submission is any explanation of the discharge location, the appropriateness of the location to which the facility seeks to discharge the Appellant, as well as documentation regarding any preparation or orientation provided to the Appellant. (Exhibit 4)
5. Based upon the testimony offered, the attempted discharge location is not a location where the Appellant may return to reside. (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.<sup>1</sup>

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 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

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<sup>1</sup> 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.

- 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:<sup>2</sup>

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<sup>2</sup> 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.

(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.

- (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

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- (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).

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.<sup>3</sup>

The Appellant has the burden "to demonstrate the invalidity of the administrative

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<sup>3</sup> 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.

determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998).

In this case, the facility initiated the discharge proceedings because it determined that the 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 (Exhibit 1). The Record fails to adequately support the facility's position regarding nonpayment. (Exhibit 4) Within the submission on behalf of the facility, there are no billing statements included, nor any tally of the amount due by the Appellant to support the facility's contention that the Appellant has not paid the facility. (Exhibit 4). Although the facility submitted a typed sheet log of conversations and attempts by the facility to speak with the Appellant and the Appellant's sister, this does not show that the Appellant owes the facility anything, nor that the facility has provided notice to the Appellant of a certain amount due. (Exhibit 4, pgs. 6-7) Additionally, no testimony was offered regarding money owed and due. (Testimony)

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. Absent from the submission is any explanation of the discharge location. (Exhibit 4) Lacking is any information related to the appropriateness of the location to which the facility seeks to discharge the Appellant. (Exhibit 4) Also lacking within the facility's submission is documentation regarding any preparation or orientation provided to the Appellant. (Exhibit 4) The testimony on behalf of the Appellant indicates that the Appellant cannot return to the named discharge location. (Testimony) The facility conceded that it was unsure whether the Appellant could return to the named discharge location. (Testimony) The facility provided no testimony regarding the appropriateness of the discharge location, nor any preparation provided to the Appellant for the transfer. (Testimony)

On this Record, based upon the analysis supra, the Appellant has met the burden, by a preponderance of evidence, to show the invalidity of the nursing facility's action. Accordingly, this appeal is APPROVED.

## **Order for Nursing Facility**

Rescind the December 10, 2025, 30-Day Notice of Intent to Transfer/Discharge Resident.

## **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.

## **Implementation of this Decision**

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

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Patrick Grogan  
Hearing Officer

cc: Respondent: [REDACTED]