

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2600832
Decision Date:	2/11/2026	Hearing Date:	02/02/2026
Hearing Officer:	Marc Tonaszuck	Record Open to:	

Appearances for Appellant:



**Appearances for [Redacted] Skilled
Nursing Facility:**
[Redacted] Administrator; [Redacted]
Social Worker; [Redacted] Business Office
Director; and [Redacted] Business Office



*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:	Denied	Issue:	Nursing Facility Discharge – Failure to Pay
Decision Date:	2/11/2026	Hearing Date:	02/02/2026
Skilled Nursing Facility Reps.:	[REDACTED], Administrator; [REDACTED] [REDACTED] Social Worker; [REDACTED] [REDACTED] Business Office Director; and [REDACTED] Business Office	Appellant's Reps.:	Pro se with Husband
Hearing Location:	Tewksbury MassHealth Enrollment Center	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

The appellant received a 30-Day Notice of Intent to Discharge Resident (Discharge Notice) dated 01/12/2026. The notice stated that [REDACTED] (“the skilled nursing facility” or “the facility”) seeks to discharge the appellant to [REDACTED] on [REDACTED] 2026. The notice indicates the reason for the discharge is that “you have failed, after reasonable and appropriate notice, to pay for ... your stay in the nursing facility” (Exhibit 1). The appellant filed this timely appeal on 01/14/2026 (130 CMR 610.015(B); and Exhibit 2). A patient’s discharge from a skilled nursing facility is valid grounds for appeal (130 CMR 610.028; 42 CFR Ch IV §483.200 et seq.).

Action Taken by the Nursing Facility

The skilled nursing facility intends to discharge the appellant from the facility.

Issue

Is the planned discharge correct pursuant to 130 CMR 610.028 and other relevant statutes and regulations?

Summary of Evidence

The facility representatives appeared telephonically at the fair hearing, as did the appellant. Exhibits 1-4 were admitted to the hearing record.

The nursing facility administrator testified that the appellant was admitted on [REDACTED] 2025 from the acute care hospital setting. She has diagnoses including chronic atrial fibrillation, moderate malnutrition and history of esophageal perforation. The latest nursing note indicates she is “alert and stable, compliant with care and medications, and able to make her needs known. She denies pain or discomfort” (Exhibit 4).

After the appellant exhausted her Medicare 100-day nursing facility benefit, the facility sought to have the appellant apply for MassHealth benefits. The administrator informed the appellant that without MassHealth benefits, her care would be costly. The appellant’s husband informed the facility administrator that he “does not trust the government,” and he refused to apply for MassHealth benefits. He informed the administrator that he “will think about paying.”

As of the date of the fair hearing, the appellant’s balance is \$43,952.14. She has not applied for MassHealth benefits, expresses no desire to do so, and she has not made arrangements for a payment plan with the facility.

The administrator testified that the proposed discharge location is the appellant’s address in the community where her husband resides. In the event the appellant is transferred home, she will require a great deal of care. The skilled nursing facility will arrange for visiting nurse services, a referral to [REDACTED] an appointment with the appellant’s primary care physician, and private home care services (Exhibit 4, p. 76.).

The appellant and her husband appeared at the fair hearing together. The husband testified that he was dissatisfied with the care the appellant receives at the facility. He testified that the facility staff “lacks humanity.” He testified he has “no intention of paying the bill.” The appellant did not dispute the amount of money owed to the facility, nor did she dispute that the discharge plan is safe

and appropriate.

Findings of Fact

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

1. The appellant was admitted to the skilled nursing facility on [REDACTED] 2025 from the acute care hospital setting.
2. The appellant has diagnoses including chronic atrial fibrillation, moderate malnutrition and history of esophageal perforation.
3. The latest nursing note in the appellant's clinical record indicates she is "alert and stable, compliant with care and medications, and able to make her needs known. She denies pain or discomfort."
4. The appellant's 100 day Medicare Nursing Facility benefit has been exhausted.
5. The appellant decided not to apply for MassHealth benefits.
6. The appellant currently owes the skilled nursing facility a balance of \$43,952.14 for the care provided to her.
7. The appellant received a 30-Day Notice of Intent to Discharge Resident (Discharge Notice) dated 01/12/2026. The notice stated that the facility seeks to discharge the appellant to [REDACTED] on [REDACTED] 2026. The notice indicates the reason for the discharge is that "you have failed, after reasonable and appropriate notice, to pay for ... your stay in the nursing facility."
8. The proposed discharge location is the appellant's address in the community where her husband resides.
9. The appellant has not made payment arrangements with the skilled nursing facility.
10. The appellant's husband has no intention of paying the skilled nursing facility.
11. For a discharge plan, the skilled nursing facility will arrange for visiting nurse services, a referral to [REDACTED] Senior Services, an appointment with the appellant's primary care physician, and private home care services.
12. In support of its decision to discharge the appellant, the nursing facility submitted a copy of

the appellant's clinical record that documents her failure to pay for the care she receives at the skilled nursing facility.

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 initiated by a nursing facility. MassHealth has enacted regulations that follow and implement the federal requirements concerning a resident's right to appeal a transfer or discharge, and the relevant MassHealth regulations may be found in both (1) the Nursing Facility Manual regulations at 130 CMR 456.000 et seq., and (2) the Fair Hearing Rules at 130 CMR 610.000 et seq.

Regulations at 130 CMR 610.028 address notice requirements regarding actions initiated by a nursing facility, as follows:

- (A) 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 MassHealth agency or Medicare pay for) a stay at the nursing facility; or
 - (6) the nursing facility ceases to operate.

- (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).

- (C) 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:
 - (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 MassHealth agency 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 610.029; and
 - (c) the effect of requesting a hearing as provided for under 130 CMR 610.030;
- (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. § 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. § 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.

Also relevant to this appeal, an amendment to G.L. c. 111, §70E, which went into effect in November of 2008, states 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 clinical record in this case, as submitted by the facility representatives at the time of hearing, documents that the appellant has failed to pay her nursing facility bill and owes \$43,952.14 to the facility for the care she receives. At hearing, the appellant did not dispute the unpaid balance. She and her husband have no intention of paying the balance, making payment arrangements or applying for MassHealth. Accordingly, the underlying reason for the proposed discharge is supported by the evidence in the hearing record.

The facility intends to discharge the appellant to her home in the community where her husband resides. For a discharge plan, the skilled nursing facility will arrange for visiting nurse services, a referral to [REDACTED] Senior Services, an appointment with the appellant's primary care physician, and private home care services.

The proposed discharge location and the discharge plan meet the above requirements as "safe and appropriate place." The nursing facility has provided sufficient preparation and orientation to the appellant to ensure safe and orderly discharge. The skilled nursing facility has shown that care can be provided to the appellant in the community. For the foregoing reasons, this appeal is denied. The facility may discharge the appellant pursuant to the 01/12/2026 discharge notice and the discharge plan, as submitted to the hearing record. The facility representative is encouraged to address any of the appellant's concerns prior to his discharge.

Order for the Nursing Facility

Proceed with discharge pursuant to 01/12/2026 discharge notice and the MassHealth regulations. Provide the appellant with appropriate community care contacts.

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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

[REDACTED]

Respondent: [REDACTED]