

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:

[REDACTED]

Appeal Decision:	Approved	Appeal Number:	2601271
Decision Date:	02/17/2026	Hearing Date:	02/12/2026
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:

[REDACTED]

Appearance for Nursing Facility:

Via telephone:

[REDACTED], Administrator
[REDACTED], CSW, Dir. of Social Services



*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
Decision Date:	02/17/2026	Hearing Date:	02/12/2026
MassHealth's Rep.:	David Ianacone; Kiana Franqui	Appellant's Rep.:	██████████
Hearing Location:	Tewksbury 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 dated January 14, 2026, the skilled nursing facility, ██████████ ("the facility"), informed the appellant of the facility's intent to discharge him to a private home in the community February 14, 2026 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 21, 2026 (see 130 CMR 610.015(B) and Exhibit 2). Challenging a notice of transfer or discharge initiated by a nursing facility is a valid ground for appeal to the Board of Hearings (130 CMR 610.032(C)).

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 at the facility.

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 and director of social services. The appellant appeared pro se, but was accompanied by the ombudsman who was present for support only and did not present any testimony.

The facility offered the following through testimony and documentary evidence: the appellant entered the facility on [REDACTED] for rehabilitation with the intent to discharge after a short-term stay. Commonwealth Care Alliance (CCA) covered the appellant's first six months under his short-term care benefits. After six months, CCA notified the appellant and facility that his short-term benefits would end. The facility assisted the appellant in applying for MassHealth long-term care benefits. At the time of applying for MassHealth long-term care, the facility's business office manager informed the appellant that, as required by MassHealth regulations, he would need to contribute to the cost of his care using his income in the form of a Patient Paid Amount (PPA). The appellant was approved for MassHealth long-term care benefits beginning in June 2025 with a monthly PPA of \$1,122.20. The PPA was determined by his monthly Social Security less the Personal Needs Allowance (PNA) of \$72.80. The facility explained that when a person has MassHealth for long-term care, MassHealth covers all their needs and thus expects the member to stop paying for other expenses in the community because they're not needed when living in the nursing facility.

The appellant made two payments of \$50.00 (one on August 12, 2025 and one on October 15, 2025), but has otherwise refused to pay his PPA. As he refused to pay his PPA, the administrator, business office manager, and social services director had a meeting with the appellant on December 17, 2025. On the same day, the administrator summarized the meeting in a letter, a copy of which it provided to the appellant and included in its submission for hearing. The facility understood that CCA probably could have better communicated their stoppage of coverage, but that is something to address with CCA, not the facility. Additionally, the facility acknowledged that the appellant would prefer to be discharged rather than remain in the facility even longer. The facility explained to the appellant that he does not have to stay at the facility and can leave at any time. At its meeting, the facility emphasized that the appellant owes the facility a monthly payment of \$1,122.20 which is expected immediately. The facility also informed the appellant that the business office manager would be applying for rep payee for his Social Security check, but until that time, he is expected to pay the facility directly. At the meeting, the appellant informed the facility that he would not pay because he has the following expenses: \$405 for life insurance, \$409 for storage, and \$285 for cell phone expenses. The facility informed him that he would need to

stop paying those and there are cell phone and data packages available for around \$32 per month. As the appellant insisted he would not stop paying those expenses and would not pay the facility the PPA owed, the facility proceeded with the 30-Day Notice of Intent to Discharge on [REDACTED]. The appellant currently has an outstanding balance of \$10,065.40 owed to the facility.

The facility has been working on discharge planning with the appellant for a while now because he had expressed not wanting to stay in the facility. The facility had a CCA representative come to assist the appellant with finding housing in the community. The facility also helped the appellant apply and qualify for the Money Follows the Person (MFP) Waiver, which can provide him with numerous services in the community including up to 84 hours of in-home care, help with home renovations (such as a ramp or stair lift to make the home handicapped accessible), and financial assistance to purchase furniture. Additionally, prior to discharge the facility would ensure he is set up with VNA services, PT/OT, skilled nursing services, transitional care, a new PCP, appointments for medication follow-ups, and transportation through PT-1.

The proposed discharge location is a relative's home in the community which is an address it had on file for the appellant. The social services director testified that the appellant is a two-person transfer/lift and requires a Hoyer lift. He would need space for a Hoyer lift in the discharge location, but the facility was not aware if the proposed discharge location had that kind of space. The appellant can manage his own care, such as taking his medication. He uses a wheelchair and is incontinent and uses briefs. He receives wound care, but not physical or occupational therapy at this time.

The appellant testified that the proposed discharge location is his sister's home. He is not sure how the facility got that address as she is solely his health care proxy. He has never lived there before and is not invited to live there upon discharge. His sister owns the home with her husband who is sick [REDACTED]. She is already taking care of her husband and cannot also have the appellant living there. Furthermore, the home is not wheelchair accessible. It has stairs outside and he cannot get in and out of it as a result. He has no legal access to the house. Prior to his admission to the facility, he lived with his brother, but his brother had [REDACTED] and no longer lives there and the house has been condemned. He testified that he has not paid (and will continue not to pay) his bill because he needs to pay for his storage unit and insurance so it is available to him when he leaves the facility. Everything that was in his home (couches, beds, televisions, kitchen table, pots and pans, and clothes) is in the storage unit. He said he does not want to remain at the facility. He stated that did not get the first bill until September and was not aware of the PPA amount until then.

The facility responded that another benefit of the MFP Waiver is that it will assist with buying furniture, which would eliminate the need for the appellant to keep his storage unit. The facility questioned whether there was another option for storing his belongings as he must pay for his stay at the facility. Without the business office manager present, the facility could not say for certain when it presented him with bills, but it has been billing him monthly. Despite him being

aware of the PPA since at least September, he's refusing to pay. Furthermore, on [REDACTED], near the beginning of his stay at the facility, the appellant signed an admission agreement and fee schedule acknowledging his financial obligations to the facility.

Findings of Fact

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

1. The appellant was admitted to the facility [REDACTED] rehabilitation services with the intent to discharge after a short-term stay (Testimony and Exhibit 4).
2. On [REDACTED], the facility issued a 30-Day Notice of Intent to Discharge 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 (Testimony and Exhibit 1).
3. On January 21, 2026, the appellant filed the appeal in a timely manner (Exhibit 2).
4. CCA paid for the appellant's first six months at the facility under his short-term care benefits (Testimony and Exhibit 4).
5. After the appellant's CCA short-term care benefits terminated, he was found eligible for MassHealth long-term care benefits beginning June 2025 with a monthly Patient Paid Amount (PPA) of \$1,122.20 (Testimony and Exhibits 4 and 5).
6. His PPA was determined by his monthly Social Security less the Personal Needs Allowance of \$72.80.
7. The appellant has refused to pay the PPA because he wants to continue to pay for a storage unit, life insurance, and cell phone (Testimony and Exhibit 4).
8. The appellant currently has a balance of \$10,065.40 owed to the facility (Testimony and Exhibits 4 and 5).
9. On [REDACTED], near the beginning of his stay at the facility, the appellant signed an admission agreement and fee schedule acknowledging his financial obligations to the facility (Testimony and Exhibit 4).
10. The facility has continually worked with the appellant on discharge planning. The facility has had a CCA representative come to assist the appellant with finding housing in the community. The facility also helped the appellant apply and qualify for the MFP program, which can provide him with numerous services in the community including up to 84 hours of

in-home care, help with home renovations (such as a ramp or stair lift to make the home handicapped accessible), and buying furniture. Additionally, prior to discharge the facility would ensure he is set up with VNA services, PT/OT, skilled nursing services, transitional care, a new PCP, appointments for medication follow-ups, and transportation through PT-1. (Testimony).

11. The appellant uses a wheelchair, has open wounds requiring care, and requires a two-person transfer and Hoyer lift (Testimony).
12. The proposed discharge location is his sister's home in the community (Testimony and Exhibit 1).
13. The appellant's sister owns and occupies the house with her husband and the appellant is not invited to live there. The sister is unable to host the appellant because she is caring for her husband who is sick with cancer. Additionally, the home has stairs which make it inaccessible to the appellant in his wheelchair. (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 initiated by a nursing facility. MassHealth has enacted regulations that mirror the federal requirements concerning a resident's right to appeal a transfer or discharge, and the relevant MassHealth regulations may be found in the Nursing Facility Manual regulations at 130 CMR 456.000 et seq. and in the Fair Hearing Rules at 130 CMR 610.000 et seq.

Pursuant to 130 CMR 456.701(A) and 130 CMR 610.028(A), a nursing facility resident may be transferred or discharged 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) a stay at the nursing facility;**
- or
- (6) the nursing facility ceases to operate.

130 CMR 610.028(A); 456.701(A); (Emphasis added).

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).

130 CMR 610.028(B).

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. On December 6, 2024, the appellant also signed an admission agreement and fee schedule acknowledging his financial obligations to the facility. The appellant has been approved for MassHealth long-term care benefits but continually refuses to pay his PPA. The appellant acknowledged that he has not paid for his stay, but stated he will not stop paying for his storage unit, life insurance, and cell phone and will not pay the facility the full amount. The appellant currently has an outstanding balance of \$10,065.40. 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 the appellant's sister's home in the community. Per the appellant's testimony, his sister will not allow him to live in her home because she is already caring for her husband [REDACTED]. Not only is the appellant not invited to live there, but it is not handicapped accessible as there are stairs to get into the home. The appellant is in a wheelchair. He also requires a two-person transfer and Hoyer lift and the home is not set up for that. While the facility has diligently assisted and worked on

discharge planning with the appellant, including getting him approved for the MFP Waiver, which would provide assistance in the community, the proposed discharge location is not safe or appropriate given that he is not welcome to live there and it is not handicapped accessible. The appellant does not have a right to remain in the nursing facility without paying; however, the facility has not shown that the proposed discharge location in the January 14, 2026 notice under appeal is safe and appropriate.¹

For these reasons, the appeal is approved.

Order for Nursing Facility

Rescind the 30-Day Notice of Intent to Discharge Resident dated January 14, 2026. Do NOT proceed with discharge.

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

cc: Respondent: [REDACTED]

¹ There is nothing in this decision prohibiting the facility from issuing a new 30-Day Notice of Intent to Discharge listing a safe and appropriate discharge location; however, the discharge location proposed in the notice under appeal is not safe or appropriate given the appellant's needs and the inability to live in his sister's home as she, the home owner, does not want him there.