

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:

[REDACTED]

Appeal Decision:	Approved	Appeal Number:	2601729
Decision Date:	02/27/2026	Hearing Date:	02/20/2026
Hearing Officer:	Radha Tilva	Record Open to:	02/25/2026

Appearance for Appellant:

Pro se

[REDACTED]

Appearance for Nursing Facility:

[REDACTED], Psychiatric Nurse Pract.
[REDACTED] Administrator
[REDACTED], Nurse



*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:	02/27/2026	Hearing Date:	02/20/2026
Nursing Facility Reps.:	[REDACTED]	Appellant's Rep.:	[REDACTED]
Hearing Location:	Telephonic	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 [REDACTED], the nursing facility issued a Notice of Intent Not to Readmit the Resident Following Hospitalization or Other Medical Leave of Absence from the Facility (Exhibit 1). The appellant filed this appeal in a timely manner on January 27, 2026 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by Nursing Facility

The nursing facility informed appellant that they did not want to readmit him to the facility following hospitalization.

Issue

Whether the nursing facility was correct, pursuant to 130 CMR 456.429, 456.701, 610.028 and 610.029, in notifying the appellant of its' intent not to readmit following hospitalization as the health and safety of individuals in the facility would be endangered by the appellant being at the

facility.

Summary of Evidence

The nursing facility was represented by telephone by a psychiatric nurse practitioner, administrator, and a nurse. The appellant appeared by telephone along with the social worker from the hospital he was admitted to, along with the Human Rights Officer from the hospital. Unsuccessful attempts were made to try to reach the appellant's mother, however, the appellant stated that he was prepared to go forward without her.

The notice on appeal was not issued to an appeal representative. The nursing facility representative stated that the appellant's sister is the representative they have on file for appellant and explained that she is his health care proxy, but the proxy is not invoked. The appellant agreed that he is his own person and stated that his mother was aware that the hearing was taking place.

The appellant has a history of [REDACTED]

[REDACTED] Exhibit 4, p. 2).

The nursing facility testified to the following: appellant was admitted to the facility in [REDACTED] from another nursing home. He came to the nursing home with a psychiatric history. The nursing facility sent the appellant to the hospital on [REDACTED] based on his behaviors; the facility noted that these behaviors are the reason for not readmitting the appellant. The appellant has exhibited episodes of aggression, verbal outbursts, throwing items, and threatening staff (nursing facility testimony). The nursing facility also stated that the appellant is paranoid about medications and believes that the facility is working with someone named "Erin" who is tampering with his medications. In [REDACTED], the facility sent the appellant to a local psychiatric hospital, where he exhibited violent behaviors and required restraints. The psychiatric hospital needed to give the appellant additional psychiatric medications to manage his behavior. The facility stated that the appellant was initially fine when he entered the facility, but then started to get uncontrolled delusions about [REDACTED] following him there. They explained that there is no [REDACTED] at the facility. The facility recommended the appellant take an anti-psychotic medication, but he refused. The facility cannot force him to take medications as he is his own person.

The facility does not want to readmit the appellant from the hospital as they feel that he is a safety concern for peers at the nursing home. The facility does not have the appropriate staff to handle him. The nursing facility representative(s) stated that they have a letter from a physician supporting transfer/discharge, however, they were not aware that there was a hearing as they never got the scheduling notice. The record was left open to provide the nursing facility the opportunity to submit the clinical record.

The appellant stated that he was Section 12'ed out of the nursing facility and into the hospital. The appellant testified that he never threatened to slap anyone at this facility. The appellant stated that his glasses were broken and his cologne stolen when he was in the shower. The appellant admitted that he has, on occasion, gotten angry, however, only when provoked. He stated that he has never thrown anything, but did throw water once in front of himself. The appellant testified that he has called the police to complain about the woman that is following him. He explained that she is following him to the different facilities he has been at and is harassing and stealing from him. He claimed that she is also stealing from his debit card. He is working with an attorney to file a complaint against her.

The social worker that testified on behalf of appellant stated that appellant's behavior has been good at the hospital and there have been no incidents involving him. In addition, he is psychiatrically stable at this point and meets with the treatment team daily. He has been ready to be discharged from the hospital for a couple of weeks and has been taking his medications consistently.

The record was held open to give the nursing facility the opportunity to provide a copy of the appellant's clinical record. A copy of the clinical record was received on February 23, 2026 and entered in evidence (Exhibit 4). [REDACTED] wrote on January 14, 2026 that the appellant is non compliant with care, has aggressive behaviors towards nursing staff, and has behavior which is difficult to control (Exhibit 4 p. 2). A nursing note, dated January 22, 2026, noted that the appellant continues to be restless with outburst behaviors at times and that the facility might need to section him if his behavior escalates (Exhibit 4, p. 5). On January 14, 2026, it was documented that the appellant came into the nurses' station yelling and screaming (Exhibit 4, p. 6). On January 5, 2026, it was noted that the appellant had increased agitation, redirected with poor effect (Exhibit 4, p. 10). On December 29, 2025, it was noted that the patient continued to be restless with outburst behavior at times and that nursing would continue to provide support as patient refused in house psychiatric services (Exhibit 4, p. 9).

On February 24, 2026, the Hearing Officer wrote to the nursing facility to request if any discharge planning was done (Exhibit 5). On February 25, 2026, the nursing facility wrote that discharging appellant to the hospital was a safe and appropriate discharge so that he could be evaluated and prescribed an antipsychotic to manage his behaviors and delusions (Exhibit 5). The facility further wrote that the hospital has the ability and resources available and if appellant returned to their facility without a treatment plan that includes an antipsychotic treatment, the residents and staff would be at high risk for harm from his continued delusions and behaviors (*Id.*). Along with their response, the facility submitted more progress notes which supported the facility's allegations of the appellant's behavior issues (see Exhibit 5). The notes also seemed to correct prior testimony which supported that appellant was discharged to the hospital he is presently at on [REDACTED], [REDACTED] and not [REDACTED] (Exhibit 5, p. 6).

Findings of Fact

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

1. Appellant was admitted to the facility in [REDACTED] from another nursing home.
2. Appellant has a history of [REDACTED]
3. The appellant has had several documented episodes at the facility involving aggression, verbal outbursts, throwing items, noncompliance with medications, and threatening staff.
4. The appellant was sent to the hospital on or around [REDACTED] as a result of his behaviors.
5. The appellant has been taking his medications while at the hospital and his condition has stabilized; there have been no incidents involving him at the hospital. The hospital has been ready to discharge him for a few weeks.
6. On [REDACTED] the nursing facility issued a Notice of Intent Not to Readmit the Resident Following Hospitalization or Other Medical Leave of Absence from the Facility.
7. The notice was not sent to a family member or legal representative of the appellant.
8. The facility has not done any discharge planning.
9. The facility feels that appellant is a safety risk to the people at the 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 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 some of 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.¹

¹ The regulatory language in the MassHealth Nursing Facility Manual, found in 130 CMR 456.400 et seq. has regulations which are identical (or near-identical) to counterpart regulations be found within the Commonwealth's Fair Hearing Rules at 130 CMR 610.000 et. seq. as well as corresponding federal government regulations. Because of such commonality, the remainder of regulatory references in this decision will only refer to the MassHealth

In this case, the nursing facility issued a notice of intent not to readmit the appellant following hospitalization or other medical leave of absence. When a nursing facility is notified that the resident is ready to return to the facility, the nursing facility must readmit the resident following a medical leave of absence (130 CMR 456.429). The social worker from the hospital testified that appellant has been ready to be discharged from the hospital for a few weeks and that he is psychiatrically stable.

If a nursing facility does not allow the resident to be readmitted following hospitalization or other medical leave of absence, the nursing facility's failure to readmit the resident is deemed a transfer or discharge (130 CMR 456.429(A)). The nursing facility must provide the resident and the member's authorized or legal representative with a notice explaining its decision not to readmit the resident (130 CMR 456.429(A)). The notice 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 such determination is made (Emphasis added. 130 CMR 610.029(C) and 130 CMR 456.429(A)). The nursing facility stated that they did not send a copy of the notice at issue to the appellant's sister, who is the contact they have on file, because the appellant "was his own person" and because his sister thought she was the health care proxy, but the health care proxy is not yet evoked. In their attempt not to readmit the appellant, the nursing facility violated regulatory requirements that serve to protect and provide due process to an extremely vulnerable population. The regulations are abundantly clear that a copy must be provided to either an immediate family member or legal representative. The nursing facility has failed to comply with this important requirement.

In addition to being obligated to comply with all of the notice requirements that ensure individuals from such a vulnerable population are provided due process, a nursing facility 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, which is directly relevant to any type of appeal involving a transfer or discharge, including a failure to readmit, 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.

The nursing facility did not provide any testimony to support that they would help ensure a safe and orderly transfer or discharge. The facility's February 25, 2026 submission indicated that the facility believed the safe and appropriate discharge was to the hospital. While the facility believes that the hospital is better equipped to handle appellant's behaviors, the testimony

from the social worker supports that appellant has been ready to be discharged from the hospital for at least a few weeks. Pursuant to the statute above it is the duty of the nursing facility to ensure a safe and orderly transfer or discharge to another safe and appropriate place. Simply sending a resident to a hospital does not wash their hands of this obligation.

This appeal is approved to ensure that the facility acts in compliance with the laws and regulations governing a nursing facility transfer and discharge. As noted above, these laws and regulations are in place to ensure individuals are provided with the necessary rights and protections to ensure a safe transfer or discharge to another safe and appropriate place.

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)(2) or (3), the nursing facility must, upon receipt of the appeal decision favorable to the resident, promptly readmit the resident to the next available bed (130 CMR 456.704(D)). For the reasons set forth above this appeal is APPROVED.

Order for MassHealth

Rescind the notice issued dated January 16, 2026, and readmit the appellant to the next available bed in the facility in compliance with 130 CMR 456.425(B), 130 CMR 456.428, and 130 456.704(D).

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 you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Radha Tilva
Hearing Officer
Board of Hearings

cc: Respondent: Watertown Rehab & Nursing Center, Attn: Administrator, 59 Coolidge Hill Road, Watertown, MA 02472