



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

August 16, 2019

CERTIFIED MAIL/RETURN RECEIPT & EMAIL

Sharon Sklar, Director of Social Work
Highland Care Center
91-31 175th Street
Jamaica, New York 11432

██████████
c/o Highland Care Center
91-31 175th Street
Jamaica, New York 11432

RE: In the Matter of ██████████ – Discharge Appeal

Dear Parties:

Enclosed please find the Order Following Stipulation in the above referenced matter. This Order is final and binding.

The party who did not prevail in this hearing may appeal to the courts pursuant to the provisions of Article 78 of the Civil Practice Law and Rules. If the party wishes to appeal this Order it may seek advice from the legal resources available (e.g. their attorney, the County Bar Association, Legal Aid, etc.). Such an appeal must be commenced within four (4) months from the date of this Order.

Sincerely,

James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: nm
Enclosure

STATE OF NEW YORK : DEPARTMENT OF HEALTH

ORIGINAL

In the Matter of
[REDACTED] Highland Care Center

Order Following Stipulation

Appeal from a Nursing Home Resident Discharge pursuant to Title 10 (Health) of the Official Compilation of Codes, Rules and Regulation of the State of New York (NYCRR) §415.3(h)

Before: Administrative Law Judge (ALJ) James F. Horan
For Highland Care Center (Facility): Patrick Sukhu, Social Worker
For Resident [REDACTED] Appellant): *Pro Se*

- A. The Facility holds licensure as a skilled nursing facility in the State of New York and operates pursuant to the New York State Nursing Home Code, including those provisions of the Code relating to discharge and transfer at Title 10 (Health) of the Officer Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) § 415.3(h).
- B. The Appellant lives in [REDACTED] County and has been a resident at the Facility undergoing rehabilitation since [REDACTED] 2019.
- C. The Facility served a Notice of Discharge on the Appellant on [REDACTED] 2019, proposing to discharge the Appellant to his home because the Appellant no longer requires the services in the Facility.
- D. The Appellant requested a hearing pursuant to Title 10 NYCRR § 415.3(h) to challenge the Discharge Notice on the grounds that the Appellant required additional time in the Facility due to continuing pain.

- E. On [REDACTED] 2019, the ALJ conducted a pre-hearing conference call with the Appellant and Social Worker Sukhu.
- F. During that call, the Appellant indicated he was feeling better and expressed his willingness to leave the Facility voluntarily and return home, if the Facility allowed him to stay until [REDACTED] 2018.
- G. The Facility declined the offer to resolve this matter, because the Facility felt there was nothing in the verbal statement to bind the Appellant to leave on [REDACTED] [REDACTED].
- H. The hearing took place at the Facility on [REDACTED] 2019, at which time the Appellant expressed once again his willingness to leave on the [REDACTED].
- I. The ALJ then ruled that the Appellant was withdrawing his challenge to the Discharge Order effective [REDACTED], 2019.
- J. The ALJ stated that if the Facility would suspend the Discharge Notice until [REDACTED] 2019, the ALJ would issue an Order permitting the Facility to proceed with the Discharge and Discharge Plan, but no sooner than [REDACTED] 2019.
- K. The Facility, through its Director of Social Work, Sharon Sklar, agreed to allow the Appellant to remain until [REDACTED] [REDACTED].
- L. This verbal stipulation is memorialized on the audio-recording of the hearing which is contained on a Compact Disc in the hearing record.

ORDER

NOW; after considering the parties verbal stipulation, the ALJ issues the following

Order:

The Facility may discharge the Appellant to his home, no sooner than [REDACTED] 2019,
pursuant to the Facility's normal discharge procedure.

Dated: Menands, New York
August 15, 2019



James F. Horan
Administrative Law Judge

To: Sharon Sklar, Director of Social Work
Highland Care Center
91-31 175th Street
Jamaica, NY 11432

█ Resident
c/o Highland Care Center
91-31 175th Street
Jamaica, NY 11432