

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

[Redacted]

APPEAL NO. 24N-00086

PETITIONER,

VS.

ADMINISTRATOR

[Redacted]

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a nursing home discharge hearing in the above-referenced matter on November 8, 2024 at 8:05 a.m. at the Bedrock Rehabilitation and Nursing center, located at 9311 South Orange Blossom Trail, Orlando, Florida, 32827.

APPEARANCES

For Petitioner: [Redacted] III, pro se

For Respondent: [Redacted], Nursing Home Business Office Manager

STATEMENT OF ISSUE

Petitioner appeals Respondent’s action discharging Petitioner from Bedrock Rehabilitation and Nursing Center (the “Facility”). Respondent carries the burden of proof by clear and convincing evidence.

SUMMARY OF PROCEEDINGS

██████████, Petitioner's mother, ██████████ appeared as Petitioner's witnesses. ██████████, Nursing Home Administrator, and ██████████ Nursing Home Administrator in training appeared as witnesses for Respondent.

Petitioner submitted one exhibit, which was entered into evidence as Petitioner's Exhibit one ("1"). Respondent submitted one exhibit, which was entered into evidence as Respondent's Exhibit one ("1").

The record was held open until close of business on November 15, 2024, for Respondent to provide additional evidence in support of its position.

Respondent timely submitted the evidence which was marked and combined with the documents submitted previously as Respondent's Exhibit one ("1"). The record closed on November 15, 2024.

Petitioner's Position

Petitioner took the position that he is not disputing the fact that he has failed to pay the facility or that he has an outstanding balance, but rather, the issue under appeal has to do with the reason as to why he stopped paying the facility. Petitioner argued that he offered to make partial payments as he has valid reasons for failing to pay the full requested amount which include the inability to obtain detailed/itemized billing information, insufficient support from the Facility in determining the discharge location, poor food quality, communication and training issues with the staff and other grievances.

Respondent's Position

Respondent took the position that Petitioner has not fully paid for the services received at the Facility after reasonable and appropriate notice, and Respondent has

requested that Petitioner be discharged. Respondent argued that Petitioner has refused to pay his full patient responsibility and currently has an outstanding balance of \$8838.50 as of October 22, 2024.

FINDINGS OF FACT¹

Based on the oral and documentary evidence presented at the final hearing and on the entire record of this proceeding, the following findings of fact are made:

1. Petitioner was admitted to the Facility on July 28, 2023, under Medicare part A (Skilled Services) for one hundred (100) days of coverage. (Pet'r Ex. 1 at 9; Hr'g R.)
2. Petitioner was approved for Medicaid benefits with a patient responsibility of \$1225.00 for October 2023, and ongoing. (Resp't Ex. 1 at 12 – 13.)
3. A monthly statement was provided to Petitioner reflecting the statement date, which includes the balance amount and date due. (Pet'r Ex. 1 at 96 – 98.)
4. Petitioner refused to pay the full amount due, however he later offered to pay partial amounts for the overdue balance². (Pet'r Ex. 1 at 1 – 3; Hr'g R.)
5. On August 12, 2024, Petitioner was issued a Nursing Home Transfer and Discharge Notice (“NHTDN”) informing him that he was being discharged due to “Your bill for services at this facility has not been paid after reasonable and appropriate notice to pay.” (Resp't Ex. 1 at 1 – 2; Hr'g R.)
6. As of November 8, 2024, Petitioner’s outstanding balance to the Facility is \$8839.50. Petitioner remains in the facility pending the hearing decision. Petitioner’s bill has not been brought current and continues to accumulate. (Resp't Ex. 1 at 6; Hr'g R.)

¹ Citations within the Findings of Fact and Conclusions of Law in this order follow Florida Rule of Appellate Procedure 9.800 and *The Bluebook: A Uniform System of Citation* as the standard for citation.

² No testimony was given on the exact date.

CONTROLLING LAW

7. Section 400.0255(15), Florida Statutes, provides the Department of Children and Families, Office of Appeal Hearings, jurisdiction over the subject matter of this proceeding and the parties. This section further prescribes this order as the final administrative decision of the Department of Children and Families.

8. Title 42 Code of Federal Regulations Section 483.15 sets forth the reasons a facility may involuntarily discharge a resident as follows: Admission, transfer, and discharge rights.

(c) Transfer and discharge—(1) Facility requirements—(i) The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless—

...

(E) The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. Non-payment applies if the resident does not submit the necessary paperwork for third party payment or after the third party, including Medicare or Medicaid, denies the claim and the resident refuses to pay for his or her stay. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid; (emphasis added)

CONCLUSIONS OF LAW

9. Based on the evidence presented, the nursing facility has established that your bill for services at this facility has not been paid after reasonable and appropriate notice to pay. This is one of the six reasons provided in federal regulations for which a nursing facility may involuntarily discharge a resident.

10. According to the above authority, a facility may not discharge except for certain reasons, one of which is when the resident has failed, after reasonable and appropriate

notice, to pay for the stay at the facility. The finding shows on August 12, 2024, the Facility issued a NHTDN to Petitioner. Respondent's reason for discharging Petitioner is that bill for services rendered has not been paid after reasonable and appropriate notice to pay. This fact was not disputed. As of October 22, 2024, Petitioner's balance owed to the facility was \$838.50.

11. Establishing that the reason for a discharge is lawful is just one step in the discharge process. The Facility must also provide discharge planning, which includes identifying an appropriate transfer or discharge location and sufficiently preparing the resident for a safe and orderly transfer or discharge from the Facility. The undersigned cannot and has not considered either of these issues. The undersigned has considered only whether the discharge is for a lawful reason.

12. Any discharge by the Facility must comply with all applicable federal regulations, Florida Statutes, and AHCA requirements. Should the resident have concerns about the appropriateness of the discharge location or the discharge planning process, the resident may contact the AHCA's health care facility complaint line at (888) 419-3456.

13. Based on the evidence and testimony, Petitioner is aware that his monthly patient responsibility was \$1225.00 for October 2023 through October 2024. Petitioner acknowledged he cease to pay this amount for reasons he deemed valid. Petitioner admits there is an outstanding balance/bill at the Facility. Petitioner has failed to make the required monthly payments to continue residing at the Facility. The undersigned concludes that the Facility has given Petitioner reasonable and appropriate notice to pay for her stay at the Facility. Respondent has met its burden of proof.

DECISION

Based on the foregoing Findings of Fact, Controlling Law and Conclusions of Law, this appeal is DENIED. The Facility's action to discharge Petitioner is in accordance with Federal Regulations. The Facility may proceed with its proposed discharge action, as described in the Conclusions of Law and in accordance with all applicable AHCA requirements.

NOTICE OF RIGHT TO APPEAL

The decision of the hearing officer is final. Any aggrieved party may appeal the decision to the district court of appeals in the appellate district where the Facility is located. Review procedures shall be in accordance with the Florida Rules of Appellate Procedure. To begin the judicial review, the party must file one copy of a "Notice of Appeal" with the Office of Appeal Hearings, Suite I, Room 129, 2415 North Monroe Street, Tallahassee, FL 32303-4190. The party must also file another copy of the "Notice of Appeal" with the appropriate District Court of Appeal. The Notices must be filed within thirty (30) days of the date stamped on the first page of the final order. Petitioner must either pay the court fees required by law or seek an order of indigency to waive those fees. The Department has no funds to assist in this review, and any financial obligations incurred will be the party's responsibility.

DONE and ORDERED this 20 day of December, 2024,
in Tallahassee, Florida.

[REDACTED]
[REDACTED]
Hearing Officer
Suite I, Room 129
2415 North Monroe Street
Tallahassee, FL 32303-4190
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal.Hearings@myflfamilies.com

Copies Furnished To: [REDACTED] III, Petitioner
[REDACTED], Respondent
Agency for Health Care Administration

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

[REDACTED]

PETITIONER,

APPEAL NO. 24N-00086

Vs.

FLORIDA DEPT OF CHILDREN AND FAMILIES
CIRCUIT: 09 Orange

CASE NO.

RESPONDENT.

CERTIFICATE OF SERVICE

This is to certify that a copy of the attached notice or order was provided to Petitioner at the above address and to the following individuals by either regular U.S. or electronic mail:

I HEREBY CERTIFY that these copies were furnished on December 20, 2024.

[REDACTED]

Agency Clerk, Office of Appeal Hearings
Department of Children and Families
Suite I, Room 129, 2415 North Monroe Street, Tallahassee, FL 32303-4190