



Department  
of Health

ANDREW M. CUOMO  
Governor

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

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

May 2, 2018

**CERTIFIED MAIL/RETURN RECEIPT**

Moshe Blackstein, NHA  
Beth Abraham Center  
612 Allerton Avenue  
Bronx, NY 10467

[REDACTED]  
[REDACTED]  
c/c [REDACTED]  
[REDACTED]

[REDACTED]

RE: In the Matter of [REDACTED] – Discharge Appeal

Dear Parties:

Enclosed please find the Decision After Hearing in the above referenced matter. This Decision 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 decision 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 Decision.

Sincerely,

*James F. Horan* /CAC  
James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH: cac  
Enclosure

STATE OF NEW YORK  
DEPARTMENT OF HEALTH

In the Matter of an Appeal, pursuant to  
10 NYCRR § 415.3, by:

[REDACTED]

Appellant,

from a determination by

**Beth Abraham Center for  
Rehabilitation and Nursing**

Respondent,

to discharge him from a residential  
health care facility.

COPY

DECISION

Hearing Before: Nafalie J. Bordeaux  
Administrative Law Judge

Held at: Beth Abraham Center for Rehabilitation and Nursing  
612 Allerton Avenue  
Bronx, NY 10467

Hearing Date: April 24, 2018  
The record closed April 30, 2018

Parties: Beth Abraham Center for Rehabilitation and Nursing  
By: Moshe Blackstein, Administrator

By [REDACTED] Appellant's [REDACTED]

**JURISDICTION**

By notice dated [REDACTED] 2018, Beth Abraham Center for Rehabilitation and Nursing (the Facility), a residential health care facility subject to Article 28 of the New York Public Health Law, determined to discharge [REDACTED] (the Appellant). The Appellant's [REDACTED] appealed the discharge determination to the New York State Department of Health (the Department) pursuant to 10 NYCRR § 415.3(h).

**HEARING RECORD**

Facility witnesses: Avi Newmann, Finance Coordinator  
Jose Santos, Social Worker

Facility exhibits: 1-14

Appellant witnesses: [REDACTED] Appellant's [REDACTED] and Representative  
[REDACTED] Appellant's [REDACTED]

Appellant exhibits: A

The notice of hearing, discharge notice, and the accompanying cover letter were marked as ALJ Exhibit I. A digital recording of the hearing was made.

**DISCUSSION**

The Appellant was admitted to the Facility on [REDACTED] 2017 from [REDACTED] Medical Center. (Facility Exhibit 8.) By notice dated [REDACTED], 2018, the Facility determined to discharge the Appellant, effective [REDACTED] 2018, because the Appellant's bill for services at the Facility has not been paid after reasonable and appropriate notice. The Facility proposed to discharge the Appellant [REDACTED] a nursing home located in [REDACTED] [REDACTED] (Facility Exhibit 13.)

Department regulations at 10 NYCRR § 415.3(h) describe the transfer and discharge rights of residential health care facility residents. At the Appellant's [REDACTED] request, a hearing was held on April 24, 2018 regarding the [REDACTED] 2018 determination. During the

hearing, the Appellant [REDACTED] asserted that the Appellant should be discharged to his home. (Recording @ 48:04.) She agreed to participate in a conference call with the Facility Administrator and the presiding Administrative Law Judge on April 30, 2018 at 9:30 am to confirm whether the Appellant would be discharged home. (Recording @ 50:50.)

The Appellant was discharged to his home on [REDACTED] 2018 after the Appellant's [REDACTED] signed a written confirmation that she was apprised of the risks of refusing further care for the Appellant and released the Facility from any liability associated with her decision. The Appellant's [REDACTED] did not participate in the scheduled April 30, 2018 conference call despite numerous attempts to contact her. The Appellant's authorized representative has abandoned this hearing.

**DECISION**

There is no issue to be decided regarding the Facility's [REDACTED] 2018 determination to discharge the Appellant.

Dated: May 1, 2018  
New York, New York



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Natalie J. Bordeaux  
Administrative Law Judge