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Department of Health

ANDREW M. CUOMO
Governor

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

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

January 24, 2020

CERTIFIED MAIL/RETURN RECEIPT

Douglas Liff, NHA
Holiswood Center
195-44 Woodhull Avenue
Hollis, New York 11423

[REDACTED]
Holiswood Center
195-44 Woodhull Avenue
Hollis, New York 11423

RE: In the Matter of [REDACTED] – 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: cmg
Enclosure

STATE OF NEW YORK : DEPARTMENT OF HEALTH

COPY

In the Matter of
Holliswood Center
195-44 Woodhull Avenue, Hollis, NY

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

Before: Administrative Law Judge (ALJ)
Kimberly A. O'Brien

For Riverdale Nursing Home (Facility): Administrator David Liff (Administrator)

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 Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) § 415.3.
- B. The Appellant is [REDACTED] years old, receives Medicaid benefits, and has been a resident at the Facility since [REDACTED], 2018.
- C. On [REDACTED] 2019, the Facility served a Notice of Discharge on the Appellant proposing to discharge the Appellant to Buffalo Center for Rehabilitation, Buffalo, New York, because after reasonable and appropriate notice the Appellant has failed to pay his established "Net Available Monthly Income" (NAMI) to the Facility.
- D. The Appellant challenged the Discharge Notice on the grounds that he required additional time in the Facility to continue therapy and to secure a place in the [REDACTED]

Rehabilitation Program [REDACTED] Program), find an assisted living placement or housing in the community.

E. The Appellant requested a hearing pursuant to Title 10 NYCRR § 415.3(h), which took place at the Facility on January 6, 2020 (hearing).

F. At the hearing, the Appellant stated that he will not pay his NAMI to the Facility and he will not go to Buffalo Center for Rehabilitation.

G. The Appellant expressed an interest to remain at the Facility to continue therapy and work with the Facility to transition into the [REDACTED] Program or into the community while he awaits placement in the [REDACTED] Program.

H. The Facility, through its Administrator, agreed to allow the Appellant to remain at the Facility until [REDACTED] 2020.

I. The Facility and Appellant agreed that if the Appellant had not secured a [REDACTED] Program placement, an assisted living facility placement, or housing in the community, the Facility could discharge the Appellant to Buffalo Center for Rehabilitation, Buffalo, New York, on [REDACTED], 2020.

J. This verbal stipulation is memorialized on the audio-recording of the hearing which is contained on a Compact Disc in the hearing record.

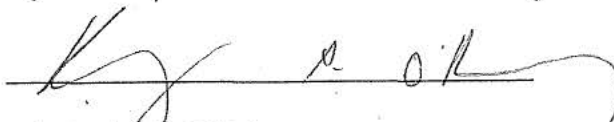
ORDER

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

On or before [REDACTED], 2020, if it is available the Facility may discharge the Appellant to the [REDACTED] Program, an assisted living facility, or housing in the community (options). If none of these options become available, the Facility may discharge Appellant to Buffalo Center for

Rehabilitation, Buffalo, New York, on [REDACTED] 2020, pursuant to the Facility's normal discharge procedure.

Dated: Menands, New York
January 24, 2020



Kimberly A. O'Brien
Administrative Law Judge

To: Douglas Liff, NHA
Holliswood Center
195-44 Woodhull Avenue
Hollis, NY 11423

[REDACTED] Resident
Holliswood Center
195-44 Woodhull Avenue
Hollis, NY 11423