

cc: Ms. Suzanne Caligiuri/Division of Quality & Surveillance by scan
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Department of Health

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

December 6, 2021

CERTIFIED MAIL/RETURN RECEIPT

Cora Monroy, DSW
Ellicott Center for Rehabilitation and Nursing
200 Seventh Street
Buffalo, New York 14201

Bria Lewis, Esq.
Center for Elder Law & Justice
438 Main Street, Suite 1200
Buffalo, New York 14202

██████████ ██████████
c/o Ellicott Center for Rehabilitation and Nursing
200 Seventh Street
Buffalo, New York 14201

RE: In the Matter of ██████████ ██████████ – 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,

Dawn MacKillop-Soller

Dawn MacKillop-Soller
Acting Chief Administrative Law Judge
Bureau of Adjudication

DXM: cmg
Enclosure

**STATE OF NEW YORK
DEPARTMENT OF HEALTH**

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

██████████

Appellant,

from a determination by

**Ellicott Center for Rehabilitation
and Nursing,**

Respondent,

to discharge her from a residential
health care facility.

COPY

DECISION

Hearing before:

John Harris Terepka
Administrative Law Judge

Hearing date:

September 28, December 2, 2021
By videoconference

Parties:

Ellicott Center for Rehabilitation and Nursing
200 Seventh Street
Buffalo, New York 14201
By: Cora Monroy, Director of Social Work

██████████
Ellicott Center for Rehabilitation and Nursing
By: Bria Lewis, Esq.
Center for Elder Law & Justice
438 Main Street, Suite 1200
Buffalo, New York 14202

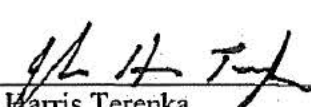
Ellicott Center for Rehabilitation and Nursing (the Respondent), a residential health care facility (RHCF) subject to Article 28 of the Public Health Law, determined to discharge [REDACTED] [REDACTED] (the Appellant) from care and treatment in its nursing home. The Appellant appealed the discharge determination to the New York State Department of Health pursuant to 10 NYCRR 415.3(i). The Respondent has the burden of proving that the discharge or transfer is or was necessary and that the discharge plan is appropriate. 18 NYCRR 415.3(i)(2)(iii)(b).

The hearing was commenced on September 28 and scheduled to continue on November 16, 2021. On the morning of November 16, upon the Respondent's request and with the Appellant's consent, it was rescheduled to December 2, 2021. Written notice of each scheduled hearing date was sent to the parties. At the hearing on September 28, the original notice of hearing with attached notice of discharge was marked as ALJ Exhibit I. The hearing was held, and recorded, by videoconference on both September 28 and December 2.

The Appellant appeared, by counsel, ready to proceed on December 2. The Respondent did not appear or request the hearing be rescheduled, and has not contacted this bureau in any other manner. On the Respondent's default, the discharge appeal is granted. The Respondent is not authorized to discharge the Appellant.

This decision is made by John Harris Terepka, Bureau of Adjudication, who has been designated to make such decisions.

Dated: Rochester, New York
December 6, 2021



John Harris Terepka
Administrative Law Judge
Bureau of Adjudication