

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

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

JOHANNE E. MORNE, M.S.
Acting Executive Deputy Commissioner

January 9, 2024

CERTIFIED MAIL/RETURN RECEIPT

[REDACTED]
c/o Hopkins Center for Rehab & Health
155 Dean Street
Brooklyn, New York 11217

Daiva Brito, DSW
Hopkins Center for Rehab & Health
155 Dean Street
Brooklyn, New York 11217

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,

Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB: cmg
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

**Hopkins Center for
Rehabilitation & Healthcare**

Respondent,

to discharge him from a residential
health care facility.

COPY

DECISION
AFTER HEARING

#DA23-6213

Hearing before:

John Harris Terepka
Administrative Law Judge

Held at:

New York State Department of Health
by videoconference
December 7, 14, 18, 2023; January 8, 2024

Parties:

Hopkins Center for Rehabilitation & Healthcare
155 Dean Street
Brooklyn, New York 11217
dbrito@hopkinscenter.com
By: Daiva Brito, director of social services

[REDACTED]
Hopkins Center for Rehabilitation & Healthcare

JURISDICTION

Hopkins Center for Rehabilitation & Healthcare (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).

HEARING RECORD

Respondent witnesses: Daiva Brito, director of social services
Ari Donowitz, administrator
Virender Hak, MD, attending physician

Appellant witnesses: [REDACTED] [REDACTED]

Exhibits: Respondent Exhibits 1-18
ALJ Exhibit I (notice of hearing and November 10, 2023 discharge notice)

A digital recording of the hearing was made. (12/7:1h54m; 12/14:0h38m; 12/18:0h18m; 1/08:0h13m.)

DISCUSSION

Respondent Hopkins Center for Rehabilitation & Healthcare is a residential health care facility, specifically a nursing home within the meaning of PHL 2801.2 and 10 NYCRR 415.2(k), located in Brooklyn, New York. Appellant [REDACTED] [REDACTED] age [REDACTED] was readmitted as a resident in [REDACTED] 2022 after hospitalization. (Exhibit 1.) His diagnoses include [REDACTED]. (12/7:1h11m.)

By notice dated [REDACTED], 2023, the Respondent advised the Appellant of its determination to discharge him on [REDACTED], 2023 on the grounds that his health has improved sufficiently that he no longer needs the services provided by the facility. The discharge notice advised the Appellant he would be discharged to the [REDACTED] shelter system, at [REDACTED]. (Exhibit ALJ I.) The Appellant

requested a hearing, which was held on [REDACTED] and [REDACTED] 2023, and scheduled to continue on [REDACTED].

On [REDACTED], 2023, the Respondent issued a new discharge notice, advising the Appellant of its determination to discharge him on [REDACTED] 2024, again on the grounds that he no longer needs the services provided by the facility. The [REDACTED] discharge notice advised the Appellant he would be discharged to [REDACTED] [REDACTED]. (Exhibit 17.)

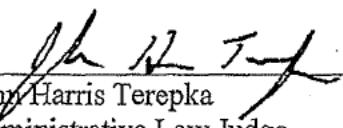
[REDACTED] is an assisted living facility that has reviewed the Appellant's care needs, is able to meet them, and has agreed to admit him as a resident. (Exhibits 16, 18.) At the continuation of the hearing on January 8, 2024, the Appellant agreed that the new discharge plan is appropriate and agreed to be discharged to [REDACTED].

The Respondent withdrew the [REDACTED] 2023 notice of discharge, and the Appellant agreed to accept the second, [REDACTED] 2023 notice of discharge and waive any right to appeal it. The Respondent agreed to extend the discharge date on the [REDACTED] notice from [REDACTED] to [REDACTED] 2024.

DECISION: In accordance with the parties' agreements at the hearing on January 8, 2024, the Respondent is authorized to discharge the Appellant in accordance with the [REDACTED] 2023 discharge notice. The discharge date is extended to [REDACTED] 2024.

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

Dated: Rochester, New York
January 9, 2024


John Harris Terepka
Administrative Law Judge
Bureau of Adjudication