



# 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 30, 2018

## CERTIFIED MAIL/RETURN RECEIPT

Erick Koranteng, Director of Social Services  
Bronx Gardens Rehabilitation & Nursing  
2175 Quarry Road  
Bronx, New York 10457

██████████ Resident

C/o Erick Koranteng, Director of Social Services  
Bronx Gardens Rehabilitation & Nursing  
2175 Quarry Road  
Bronx, New York 10457

**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,

*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




Appellant,

from a determination by **BRONX GARDENS REHABILITATION  
& NURSING**, Respondent,

to discharge him from a residential health care facility.

**COPY**

**DECISION  
&  
ORDER**

A Discharge Notification, dated April 13, 2018, was issued to  ("Appellant" or "Resident") by Bronx Gardens Rehabilitation & Nursing ("facility" or "Respondent"). The Resident appealed the facility's proposed transfer/discharge. The pre-transfer Hearing was held on May 23, 2018, at the facility, 2175 Quarry Road, Bronx, New York, before Kimberly A. O'Brien, Esq., Administrative Law Judge ("ALJ").

The Respondent appeared by Erick Koranteng, Director of Social Services ("DSW" or "social worker"). The Appellant appeared in person and spoke on his own behalf. The Hearing was held in accordance with the Public Health Law of the State of New York; Part 415 of Volume 10 of the New York Code of Rules and Regulations ("NYCRR"); the United States Code of Federal Regulations ("CFR") 42 CFR Subpart E (§§431.200 - 431.246) and 42 CFR Part 483; the New York State Administrative Procedure Act; and 10 NYCRR Part 51.

The following individuals were present at the hearing: Erick Koranteng, DSW; Jaqueline Bermudez, Social Worker; Betsy Gabriel, Social Worker; Abdul Abubakar, Administrator; Luz

Class, Medicaid Coordinator; and Resident. Evidence was received, witnesses were sworn or affirmed and examined. An audio recording of the hearing was made. The documentary evidence includes: ALJ Ex. 1- Notice of Hearing [REDACTED] 18 Notice of Transfer/Discharge; Ex. 1-Resident Medicaid Budget Letter and Bill; Ex. 2-Resident's Bill; and Ex. 3-Assessment/Physician Discharge Summary & Order. The Resident was provided with a copy of the documentary evidence.

### **STATEMENT OF THE CASE**

The "resident's health has improved sufficiently" so that he "no longer needs services provided by this facility." The facility proposes to discharge the Resident from the facility to a shelter [ALJ Ex. 1]. The Resident is aware of the facility's assertions and appealed his discharge.

### **FINDINGS OF FACT**

The following findings of fact were made after a review of the entire record in this matter. Citations in brackets refer to exhibits [Ex. ] or testimony. These citations represent evidence found persuasive in arriving at a particular finding. Conflicting evidence was considered and rejected in favor of the cited evidence.

1. The Resident, a [REDACTED]-year-old male, was admitted to the facility on [REDACTED] 2017 [Ex. 1, Ex. 3].
2. The Resident is articulate, alert, oriented and he can make his own decisions. He is independent with all activities of daily living (ADL's) including transfers, ambulation, feeding, bathing, grooming, dressing and toileting. The Resident regularly goes out on pass unescorted [Ex 3; ALJ Ex. 1].
3. On [REDACTED] 2018, the Resident's physician, Katrina Victoria, M.D., documented

that the Resident is stable for discharge to a shelter [Ex.3].

4. The Resident receives monthly Social Security benefits [REDACTED] and part of his stay is covered by Medicaid. He was expected to pay the facility his Net Available Monthly Income ("NAMI"), [REDACTED], but he has not done so [Ex. 1, Ex. 2].

5. The facility proposed to discharge the Resident to the [REDACTED] Shelter, [REDACTED] [REDACTED] ("shelter") [ALJ Ex. 1].

### DISCUSSION

Before going on the record, the ALJ held a pre-hearing conference ("conference"). The ALJ explained the hearing process and conducted a lengthy discussion with the parties about the Resident's needs, the reasons for the proposed discharge, and the proposed discharge location. The Resident explained that he has an [REDACTED] and he does not wish to renew it; instead he would like to apply for [REDACTED] once he is out in the community. The Resident did not dispute that he had not paid his NAMI to the facility. He said he was paying other bills, and saving money for housing in the community and his citizenship application fee. The Resident said that he will pay the facility after he leaves the facility and gets a job. The Resident conceded that he no longer needs the care the facility provides, but he does not want to go to a shelter.

The facility arranged for the Resident to visit an assisted living facility ("AL"). The Resident told the AL that he would like to apply, but the Resident's application was not accepted because his [REDACTED]. The social worker explained that under the circumstances the shelter is the only available discharge location, and because the Resident is not paying his NAMI to the facility he is jeopardizing his ability to receive community Medicaid ("Medicaid issue"). The facility proposed a payment plan that would likely resolve the Medicaid issue and allow the Resident to continue to stay on at the facility for several more weeks. The Resident did not agree

to the plan. He said that he did not have any money, and even if he was allowed to stay at the facility, he would not pay his NAMI to the facility when his check arrived on the first of the month. The ALJ advised the parties that under the circumstances the facility is authorized to discharge the Resident to the shelter on or after [REDACTED] 2017.<sup>1</sup>

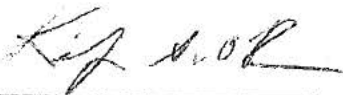
### CONCLUSIONS

The facility has shown that the Resident no longer requires the services the facility provides. The facility has also shown that the shelter is available and appropriate to meet the Resident's needs. Accordingly, the facility may discharge the Resident to the shelter.

### ORDER

1. The Appeal by the Resident of his transfer/discharge is **denied**; and
2. The Facility may transfer/discharge the Resident to the shelter, on or after [REDACTED] [REDACTED] 2018, in accordance with this Decision and Order; and
3. This Order may be appealed to a court of competent jurisdiction pursuant to the New York Civil Practice Law and Rules; and
4. This Order shall be effective on service on the parties.

DATED: Albany, New York  
May 29, 2018




KIMBERLY A. O'BRIEN  
Administrative Law Judge

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<sup>1</sup> The parties agreed that this Decision and Order would be emailed to Mr. Koranteng, DSW, erick@citadelcarecenters.com, and that upon receipt he would provide a hard copy to the Resident. Hard copies will also be mailed to the facility.

Erick Koranteng, Director of Social Services  
Bronx Gardens Rehabilitation & Nursing  
2175 Quarry Road  
Bronx, New York 10457  
[erick@citadelcarecenters.com](mailto:erick@citadelcarecenters.com)

 Resident  
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