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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 15, 2020

CERTIFIED MAIL/RETURN RECEIPT

Helen John, DSW
Riverdale Nursing Home
641 West 230th Street
Bronx, New York 10463

[REDACTED]
c/o Riverdale Nursing Home
641 West 230th Street
Bronx, New York 10463

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 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
Chief Administrative Law Judge
Bureau of Adjudication

JFH: cmg
Enclosure

STATE OF NEW YORK : DEPARTMENT OF HEALTH

COPY

In the Matter of
Riverdale Nursing Home
641 West 230th Street, Bronx, 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 Leon Smulakoush (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 has been a resident at the Facility and undergoing short-term rehabilitation since [REDACTED] 2019, and he has an apartment in [REDACTED]
- C. On [REDACTED], 2019, the Facility served a Notice of Discharge on the Appellant proposing to discharge the Appellant to his home because the Appellant has exhibited behavior that is a danger to others in the Facility, [REDACTED] and [REDACTED] [REDACTED] into the Facility, and he no longer requires the services in 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 housing in the community, because his apartment is currently rented.

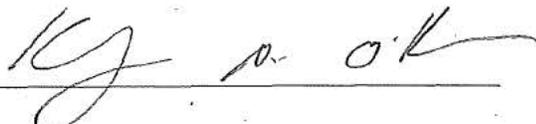
- E. The Appellant requested a hearing pursuant to Title 10 NYCRR § 415.3(h), which took place at the Facility on [REDACTED] 2019 (hearing).
- F. At the hearing, the Appellant expressed his willingness not to [REDACTED] or bring [REDACTED] into the Facility or [REDACTED] when out on pass.
- G. The Appellant expressed an interest to remain at the Facility to continue therapy and work with the Facility to transition into the community.
- H. The Facility, through its Administrator, agreed to allow the Appellant to remain at the Facility until on or before [REDACTED], 2020, if he did not [REDACTED] or [REDACTED] into the facility.
- I. The Facility and Appellant agreed that if the Appellant had not secured housing in the community by [REDACTED], 2020, the Facility could discharge the Appellant to the [REDACTED], NY (shelter).
- 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:

The Facility may discharge the Appellant to his home if it is available or the shelter, on [REDACTED] 2020, pursuant to the Facility's normal discharge procedure.

Dated: Menands, New York
January 15, 2020



Kimberly A. O'Brien
Administrative Law Judge

To: Helen John, Director of Social Work
Riverdale Nursing Home
641 West 230th Street
Bronx, NY 10463

■ Resident
Riverdale Nursing Home
641 West 230th Street
Bronx, NY 10463