

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

May 25, 2022

CERTIFIED MAIL/RETURN RECEIPT

██████████
c/o Waters Edge Rehab & Nursing Center
at Port Jefferson
150 Dark Hollow Road
Port Jefferson, New York 11777

Kim Butler, DSW
Waters Edge Rehab & Nursing Center
at Port Jefferson
150 Dark Hollow Road
Port Jefferson, New York 11777

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
Acting Chief Administrative Law Judge
Bureau of Adjudication

DXM: cmg
Enclosure

Appellant “failed, after reasonable and appropriate notice to pay for care or to have paid under Medicare or Medicaid for the stay at the facility.” [Ex I.] The Appellant filed an appeal of the transfer to the New York State Department of Health pursuant to 10 NYCRR 415.3(i). The Facility has the burden of proving the discharge or transfer is necessary and the discharge plan is appropriate. 10 NYCRR 415.3(i)(2)(iii)(b).

HEARING RECORD

ALJ Exhibits: I – Notice of Hearing, May 4, 2022
 II – Additional Hearing Letter, May 17, 2022
 III – Notice of Discharge, [REDACTED] 2022
 IV – Invoice, Medicaid Net Adjusted Monthly Income determination,
 [REDACTED] 2021 through [REDACTED], 2022

DISCUSSION

The hearing was scheduled for May 11, 2022, but adjourned to May 25, 2022, at the request of the Facility because the Facility did not have exhibits prepared or witnesses available. The Facility and the Appellant were duly served with written notice of the hearing dates via email correspondence and certified or regular U.S. mail. [Ex I and II.]

On May 12, 2022, the Facility submitted proposed exhibits that included ten invoices issued by the Facility (six of which were dated/issued on [REDACTED], 2022) and two Medicaid Net Adjusted Monthly Income determinations. [Ex IV.] The Appellant did not submit any proposed exhibits.

The hearing was held on May 25, 2022, by videoconference before Rayanne Babich, Administrative Law Judge, and recorded (R. 00:48). Neither the Appellant nor the Facility appeared at the hearing on May 25, 2022, despite written notice, as well as electronic videoconference invitations sent to three Facility representatives and the Appellant. No request

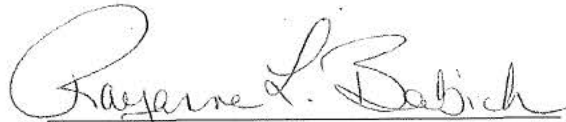
for an adjournment was received. Therefore, the Appellant and the Facility have abandoned this hearing. NY State APA § 301(5) (2014).

ORDER

This matter has been abandoned. There is no issue to be decided regarding the Facility's

██████████ 2022, determination to discharge the Appellant.

Dated: May 25, 2022
Albany, New York



Rayanne L. Babich
Administrative Law Judge

TO:

██████████ Appellant
c/o Waters Edge Rehab & Nursing Center at Port Jefferson
150 Dark Hollow Road
Port Jefferson, New York 11777

Kim Butler, Director of Social Work
Waters Edge Rehab & Nursing Center at Port Jefferson
150 Dark Hollow Road
Port Jefferson, New York 11777