



September 17, 2025



RE: [REDACTED] v. BECKLEY HEALTHCARE CENTER
ACTION NO.:25-BOR-2518

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Human Services. These same laws and regulations are used in all cases to ensure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: James McBurney, Beckley Healthcare Center

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

[REDACTED]

Resident,

v.

Action Number: 25-BOR-2518

BECKLEY HEALTHCARE CENTER,

Facility.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the Office of Inspector General Common Chapters Manual. This fair hearing was convened on September 17, 2025.

The matter before the Hearing Officer arises from the July 16, 2025, decision by the Facility to discharge the Resident from Beckley Healthcare Center.

At the hearing, the Facility appeared by James McBurney, Administrator. Appearing as witnesses for the Facility were Ashley Onyewuchi, Administrator; Ebony Pannell, Social Worker, and Melinda Harrah, Social Worker. The Resident appeared by counsel, Benita Whitman. Appearing as a witness for the Resident was [REDACTED], her daughter and guardian. The witnesses were placed under oath and the following documents were admitted into evidence.

Facility's Exhibits:

None

Resident's Exhibits:

- R-1 30-Day Notice of Discharge dated July 16, 2025
- R-2 Pre-Admission Screening dated April 8, 2025
- R-3 Code of Federal Regulations – 42 CFR 483.15(c)

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Resident resides at Beckley Healthcare Center (Facility).
- 2) The Resident was receiving Long Term Care Medicaid benefits that paid for her care at the Facility.
- 3) On April 8, 2025, a Pre-Admission Screening (PAS) was completed for the Resident to determine continued Long Term Care Medicaid eligibility (Exhibit R-2).
- 4) The Resident was awarded deficits in the areas of *vacating in an emergency* and *medication administration* (Exhibit R-2).
- 5) Bureau for Medical Services policy requires the presence of at least five (5) deficits to qualify for Long Term Care Medicaid.
- 6) The Facility issued a 30-Day Notice of Discharge to the Resident and her guardian advising that she would be discharged to [REDACTED] West Virginia on August 14, 2025, as her health had improved sufficiently so she no longer needs the services provided by the facility (Exhibit R-1).

APPLICABLE POLICY

Code of Federal Regulations – 42 CFR §483.15(c) provides that the nursing facility administrator or designee must permit each resident to remain in the facility, and not be transferred or discharged from the facility unless one of the following conditions is met:

(1) Facility requirements

- (i) The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless-
 - (A) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;
 - (B) The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;
 - (C) The safety of individuals in the facility is endangered due to the clinical or behavioral status of the resident;
 - (D) The health of individuals in the facility would otherwise be endangered;
 - (E) The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. Non-payment applies if the resident does not submit the necessary paperwork for third party payment or after the

third party, including Medicare or Medicaid, denies the claim and the resident refuses to pay for his or her stay. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid; or

(F) The facility ceases to operate.

(ii) The facility may not transfer or discharge the resident while the appeal is pending, when a resident exercises his or her right to appeal a transfer or discharge notice from the facility, unless the failure to discharge or transfer would endanger the health or safety of the resident or other individuals in the facility. The facility must document the danger that failure to transfer or discharge would pose.

(2) Documentation. *When the facility transfers or discharges a resident under any of the circumstances specified in paragraphs (c)(1)(i)(A) through (F) of this section, the facility must ensure that the transfer or discharge is documented in the resident's medical record* and appropriate information is communicated to the receiving health care institution or provider.

(i) Documentation in the resident's medical record must include:

(A) The basis for the transfer per paragraph (c)(1)(i) of this section.

(B) In the case of paragraph (c)(1)(i)(A) of this section, the specific resident need(s) that cannot be met, facility attempts to meet the resident needs, and the service available at the receiving facility to meet the need(s).

(ii) The documentation required by paragraph (c)(2)(i) of this section must be made by

(A) The resident's physician when transfer or discharge is necessary under paragraph (c)(1)(A) or (B) of this section; and

(B) A physician when transfer or discharge is necessary under paragraph (c)(1)(i)(C) or (D) of this section.

(iii) Information provided to the receiving provider must include a minimum of the following:

(A) Contact information of the practitioner responsible for the care of the resident

(B) Resident representative information including contact information.

(C) Advance Directive information.

(D) All special instructions or precautions for ongoing care, as appropriate.

(E) Comprehensive care plan goals,

(F) All other necessary information, including a copy of the resident's discharge summary, consistent with §483.21(c)(2), as applicable, and any other documentation, as applicable, to ensure a safe and effective transition of care.

(3) Notice before transfer. Before a facility transfers or discharges a resident, the facility must -

(i) Notify the resident and the resident's representative(s) of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand. The facility must send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman.

(ii) Record the reasons for the transfer or discharge in the resident's medical record in accordance with paragraph (c)(2) of this section; and

(iii) Include in the notice the items described in paragraph (c)(5) of this section.

(4) Timing of the notice.

(i) Except as specified in paragraphs (c)(4)(ii) and (8) of this section, the notice of transfer or discharge required under this section must be made by the facility at least 30 days before the resident is transferred or discharged.

(ii) Notice must be made as soon as practicable before transfer or discharge when -

- The safety of individuals in the facility would be endangered under paragraph (c)(1)(i)(C) of this section;
- The health of individuals in the facility would be endangered, under paragraph (c)(1)(i)(D) of this section;
- The resident's health improves sufficiently to allow a more immediate transfer or discharge, under paragraph (c)(1)(i)(B) of this section;
- An immediate transfer or discharge is required by the resident's urgent medical needs, under paragraph (c)(1)(i)(A) of this section; or
- A resident has not resided in the facility for 30 days.

(5) Contents of the notice. The written notice specified in paragraph (c)(3) of this section must include the following:

(i) The reason for transfer or discharge;

(ii) The effective date of transfer or discharge;

(iii) The location to which the resident is transferred or discharged;

(iv) A statement of the resident's appeal rights, including the name, address (mailing and email), and telephone number of the entity which receives such requests; and information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request;

(v) The name, address (mailing and email) and telephone number of the Office of the State Long-Term Care Ombudsman;

(vi) For nursing facility residents with intellectual and developmental disabilities or related disabilities, the mailing and email address and telephone number of the agency responsible for the protection and advocacy of individuals with developmental disabilities established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000; and

(vii) For nursing facility residents with a mental disorder or related disabilities, the mailing and email address and telephone number of the agency responsible for the protection and advocacy of individuals with a mental disorder established under the Protection and Advocacy for Mentally Ill Individuals Act.

(6) Changes to the notice. If the information in the notice changes prior to effecting the transfer or discharge, the facility must update the recipients of the notice as soon as practicable once the updated information becomes available.

(7) Orientation for transfer or discharge. *A facility must provide and document sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility. This orientation must be provided in a form and manner that the resident can understand.*

DISCUSSION

Federal regulations permit the involuntary discharge of a resident if the discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility. The Facility issued a 30-Day Discharge notice to the Resident when it was determined that she no longer required a nursing facility level of care.

James McBurney, Facility Administrator, testified that the April 2025 PAS was denied and the Resident no longer had the payor source of Medicaid to pay for her care. Mr. McBurney noted that the Resident's guardian did not appeal the denied April 2025 PAS and after waiting for the appeal period to expire, the Facility proceeded with discharging the Resident.

██████████, the Resident's daughter and guardian, testified that her mother requires 24-hour care and supervision due to her primary diagnosis of schizophrenia and contended that her residence, ██████████ West Virginia, is unsuitable for her mother. Ms. ██████████ stated she works full-time and is enrolled in school and is therefore unable to provide the constant care her mother requires. Ms. ██████████ stated the Facility's social worker emailed her a list of alternative placements for her mother but failed to assist further in preparing the Resident for a safe discharge.

Federal regulations stipulate that the resident's medical record must include documentation by the physician if the involuntary discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility. A facility must also provide and document sufficient preparation and orientation to ensure the resident is safely discharged from the facility.

The Facility failed to provide any evidence for the hearing, including physician documentation in the Resident's medical record that her health had improved so that she no longer required a nursing facility level of care. No records were provided documenting the efforts made by the Facility to ensure a safe discharge.

Whereas the Facility failed to follow regulatory requirements in the involuntary discharge of the Resident, the Facility's proposed discharge cannot be affirmed.

CONCLUSIONS OF LAW

- 1) A resident's medical record must include physician documentation of the reason for an involuntary discharge.
- 2) There was no evidence presented of physician documentation in the Resident's medical record of the reason for the discharge.
- 3) A facility must provide and document sufficient preparation and orientation to a resident to ensure a safe and orderly transfer or discharge from the facility.
- 4) No records were provided documenting the efforts made by the Facility to ensure a safe discharge.
- 5) The Facility failed to follow federal regulations in the proposed discharge of the Resident.

DECISION

It is the decision of the State Hearing Officer to **reverse** the proposal of Beckley Healthcare Center in the involuntary discharge of the Resident from its facility.

ENTERED this 17th day of September 2025

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Kristi Logan
Certified State Hearing Officer