



September 17, 2025

[REDACTED]

RE: [REDACTED] v. MARTINSBURG HEALTHCARE CENTER
BOR ACTION NO.: 25-BOR-2653

Dear [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,

Lori Woodward, J.D.
Certified State Hearing Officer
Member, State Board of Review

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

cc: Sabrina Myers, MHC, [REDACTED]

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

[REDACTED],

Resident,

v.

BOR Action #25-BOR-2653

MARTINSBURG 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 West Virginia Common Chapters Manual. This fair hearing was convened on September 16, 2025.

The matter before the Hearing Officer arises from the August 11, 2025 decision by the Facility to propose an involuntary discharge/transfer of the Resident for non-payment.

At the hearing, the Facility appeared by Sabrina Myers, Business Manager. Appearing as a witness for the Facility was Kristen Hummel, Licensed Social Worker. The Resident was represented by her daughter, [REDACTED]. The witnesses were placed under oath and the following documents were admitted into evidence.

Facility's Exhibits:

- F-1 Timeline
- F-2 Billing Statement dated September 1, 2025
- F-3 Collection letter dated July 9, 2025
- F-4 Collection letter dated July 16, 2025
- F-5 Collection letter dated August 6, 2025
- F-6 Notice of Transfer or Discharge dated August 11, 2025

Resident's Exhibits:

None

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 was admitted to the Facility on April 15, 2025.
- 2) The Resident's Facility stay was covered under Humana until May 25, 2025. (Exhibit F-1)
- 3) The Resident believed she was over the asset limit for West Virginia Medicaid Long-Term Care (LTC) eligibility and did not apply until August 2025. (No determination of eligibility has been made by the DoHS as of the date of the hearing.)
- 4) The Resident made a payment of \$13,100 in August 2025, towards her outstanding balance.
- 5) The Resident's outstanding balance as of September 1, 2025, is \$61,532. (Exhibit F-2)
- 6) On July 9, July 16, and August 6, 2025, the Facility issued written requests for payment of the Resident's outstanding balance. (Exhibits F-3-5)
- 7) On August 11, 2025, the Facility issued a Notice of Transfer or Discharge to the Resident for failure to pay for her stay at the Facility. (Exhibit F-6)
- 8) The August 11, 2025 Notice listed the destination of transfer as home, **REMOVED** [REDACTED] WV. (Exhibit F-6)
- 9) The Resident needs 24 hour care with assistance with transferring.
- 10) No other LTC facility has been found for the transfer of the Resident to date.

APPLICABLE POLICY

42 CFR §483.15(c), Transfer and discharge, in pertinent part:

(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—
...
(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.

42 CFR §483.15(c)(2), *Documentation, in part:*

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.

42 CFR 483.15(c)(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.

42 CFR 483.15(c)(5), *Contents of the notice, in part:* 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;
- (i) The location to which the resident is transferred or discharged;
- (ii) 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;
- (iii) The name, address (mailing and email) and telephone number of the Office of the State Long-Term Care Ombudsman

WV 64 CSR 13 §4.13.6.b, *Involuntary Transfer:* In the event of an involuntary transfer, the nursing home shall assist the resident, legal representative, or both in finding a reasonably appropriate alternative placement prior to the proposed transfer or discharge and by developing a plan designed to minimize any transfer trauma to the resident. The plan may include counseling the resident, legal representative, or both regarding available community resources and taking steps under the nursing home's control to assure safe relocation.

WV 64 CSR 13 §4.13.7, *Discharge to a Community Setting*

- 4.13.7.a. A nursing home shall not discharge a resident requiring the nursing home's services to a community setting against his or her will.
- 4.13.7.b. A nursing home shall document that a resident who was voluntarily discharged to a community setting fully understood all options for care and helped develop a plan of care in anticipation of the resident's discharge.

DISCUSSION

Federal regulations permit the involuntary discharge of an individual if the individual has failed, after reasonable and appropriate notice, to pay for a stay at a nursing facility. Notice of the proposed discharge must be made 30 days in advance and must provide specific information listed in the regulations to be included in the notice. Additionally, the regulations require documentation to be recorded in the Resident's medical record regarding the specific reason for the resident's discharge or transfer, regardless of the reason for discharge.

The Resident was admitted to the Facility on April 15, 2025. On May 25, 2025, the Resident's medical coverage with Humana ended. The Appellant failed to apply for WV LTC Medicaid coverage as her representative believed she was over the asset limit for eligibility. However, in August 2025, the Resident applied for WV LTC Medicaid benefits and is awaiting the eligibility determination as of the date of this hearing.

On August 11, 2025, the Facility issued a 30-day Notice of Transfer or Discharge, effective September 10, 2025. The Notice advised the Resident that due to the non-payment of the outstanding balance owed to the Facility, she would be discharged to home. As of September 1, 2025, the Resident's outstanding balance is \$61,532.

Under the regulations, the reason for a resident's discharge or transfer must be documented in the resident's medical record, regardless of the reason for the discharge/transfer. Although the Facility's witness, Kristen Hummel, submitted her Progress Notes from the Resident's medical records as exhibits, she did so one day prior to the hearing and failed to provide the Resident's representative, [REDACTED] with the same. Because Ms. [REDACTED] had no opportunity to examine these documents, they were not admitted into the record. However, Ms. Hummel was given the opportunity to discuss these exhibits. Although Ms. Hummel's testimony explained the attempts she made to contact other LTC facilities for possible transfer of the Resident without success, no testimony was provided to show that the Resident's medical records contained the reason for her discharge.

Regulations require a facility to assist the resident in finding a reasonably appropriate alternative placement before the discharge/transfer of the resident. This discharge/transfer location must be noted on the discharge/transfer notice. Although the evidence showed that the Facility made several attempts to find another LTC facility for the Resident, it was unsuccessful. Consequently, the Facility proposed the location of the Resident's discharge/transfer to her home. Ms. Hummel testified that the Resident requires 24 hour care and assistance when transferring, necessitating a mechanical lift. Ms. [REDACTED] testified that she was in contact with Humana who explained that the Resident's home health needs would be met if she was discharged home. Ms. Hummel, was concerned as she believed that Humana would not provide the 24 hour care required by the Resident. However, Ms. [REDACTED] stated that the Resident would prefer to be discharged to home and that Humana assured her that the Resident's needs would be met.

The uncertainty of whether the Resident's medical needs would be met if she were to be discharged home is concerning. However, because the Facility failed to prove the that the reason for the Resident's proposed discharge was documented in her medical record, the issue of the discharge location is moot at this time.

The Facility failed to show by a preponderance of evidence that the reason for the discharge/transfer was noted in the Resident's medical record. Therefore, the Facility's decision to involuntarily discharge/transfer the Resident cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Federal and state regulations require that documentation regarding the reason a nursing facility resident requires a transfer or discharge be included in the resident's medical record.
- 2) The Facility failed to show by a preponderance of evidence that the reason for the Resident's discharge was documented in her medical record; therefore, its proposed discharge/transfer cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Facility's August 11, 2025 proposal to discharge the Resident.

ENTERED this 17th day of September 2025.

Lori Woodward, Certified State Hearing Officer