

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS**

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5003580155	ASHTABULA	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1330254	MED	OVERRULED
No Compliance Required		
Decision Date:	04/30/2007	
Request Date:	01/29/2007	
Hearing Officer:	WANDA WILSON	

State Hearing Decision

ISSUE SECTION

The Appellant entered a nursing facility on August 21, 2006 for a less than thirty day convalescent stay. The Area Agency on Aging (AAoA) received a request from the nursing facility on October 31, 2006 requesting a level of care effective begin date of September 29, 2006. The request contained no physician order sheet showing discharge date nor physician signature on the order. The Appellant exceeded the thirty day convalescent stay; however, there is no evidence that a resident review had been completed by the thirtieth day. The nursing facility's request for a level of care for the Appellant effective September 29, 2006 was denied. All requirements were met October 31, 2006 and the effective begin date for the level of care is October 31, 2006.

The Appellant's Authorized Representative requested a state hearing because she disagrees with the effective beginning date for the level of care in the Appellant's case and believes a mistake has been made.

After considering testimony and evidence provided at hearing and considering the policy applicable in the Appellant's appeal, the Hearing Officer concludes the AAoA determination of October 31, 2006 as the effective date of level of care is in accordance with applicable policy.

The Hearing Officer recommends that Appeal 1330254 be overruled.

PROCEDURAL MATTERS

The state hearing request made by the Appellant's Authorized Representative was received by the Ohio Department of Job and Family Services (ODJFS), Bureau of State Hearings on January 29, 2007. State hearing scheduling notices were mailed February 16, and March 29, 2007 scheduling and rescheduling the state hearing for February 26, and April 9, 2007. The state hearing was conducted by speaker phone on April 9, 2007. The ODJFS received an appeal summary from the AAoA on February 5, 2007.

STATE HEARING DECISION CONTINUATION

The Appellant was represented at hearing by his Authorized Representative, Ms. Linda Johnston. The Ashtabula County Department of Job and Family Services was represented at hearing by Ms. Arleene Allgood, Nursing Home Supervisor. The AAoA was represented at hearing by Ms. Zoanne Snider, Pre-Admission Reviewer.

FINDINGS OF FACT

1. The Appellant, age sixty, was admitted to a hospital on August 13, 2006 and entered a nursing facility for a less than thirty day convalescent stay on August 21, 2006.
2. The AAoA received a request for a level of care from the nursing facility on October 31, 2006 requesting an effective level of care date of September 29, 2006.
3. The Physician's Orders provided by the nursing facility show no discharge date or Physician Signature date.
4. The Appellant remained in the nursing facility longer than the thirty day convalescent stay; however, a pre-admission review was not completed.
5. The Appellant completed a resident review on October 31, 2006 and the effective level of care date is October 31, 2006.
6. The nursing facility provided an undated "To Whom It May Concern" statement from the Physician stating "Please accept this letter as confirmation that I did discharge (Appellant) and sign the goldenrod form for his discharge on August 21, 2006."

CONCLUSIONS OF POLICY

Policy

Ohio Admin. Code § 5101:3-3-15 (1993) sets forth the in-person assessment process and level of care review process for individuals who are seeking Medicaid payment for long term care services.

Authorization of payment to a nursing facility shall correspond with the effective date of the level of care determination and this date shall be: (a) the date of admission to the nursing facility if it is within thirty days of the physician's signature; (b) a date other than that specified in(a) of this rule. This alternative date may be authorized only upon receipt of a letter which contains a credible explanation for the delay from the originator of the level of care request. If the request is to backdate the level of care more than thirty days from the physician's signature, the physician must verify the continuing accuracy of the information and need for inpatient care either by adding a statement to that effect on the JFS O3697 or by attaching a separate letter of explanation; (c) if the individual was required to undergo pre admission screening and failed to do so prior to admission, the effective date of the level of care determination shall be the later of the date of the pre admission screening determination that the individual required the level of services available in a nursing facility, or the date established in (b) of this rule.

Ohio Admin. Code § 5101:3-3-151 (1998) states in part that a new admission is considered to be an admission for a convalescent stay if the individual is admitted directly from a hospital after receiving inpatient care at that hospital; and the individual requires the level of services provided by a nursing facility for the condition which was treated in the hospital; and the individual's attending physician has provided written certification, signed and dated no later than the date of discharge from the hospital, that the individual is likely to require the level of services provided by a for less than thirty days.

STATE HEARING DECISION CONTINUATION

Individuals seeking new admissions are exempt from pre admission screening requirements if they meet the defining criteria of an admission for a convalescent stay and the admitting nursing facility must obtain from the discharging hospital, and/or the individual's attending physician, written documentation which verifies that each of the defining criteria for an admission for a convalescent stay have been met.

Ohio Admin. Code § 5101:3-3-152 (1998) states in part that resident review is required if an individual was admitted under the exempted hospital discharge provision and has since been found to require more than thirty days of services at the nursing facility level.

Analysis

The Appellant was admitted to a hospital on August 13, 2006 and was discharged August 21, 2006 and entered a nursing facility on that date for a less than thirty day convalescent stay. The Appellant's nursing facility stay exceeded the thirty day convalescent time period. The AAoA received a request from the nursing facility on October 31, 2006 requesting a level of care with effective begin date of September 29, 2006. The nursing facility provided Physician's Orders signed but not dated by the attending physician. Date of Appellant's discharge from the hospital is not entered by the Physician.

The AAoA approved level of care with effective begin date of October 31, 2006. The AAoA testified that because there is no Physician order signed and dated that the Appellant is likely to require the level of services provided by a nursing facility for less than thirty days and because there was no resident review completed when the Appellant was found to need more than thirty days of nursing facility services, and all requirements for level of care were not met until October 31, 2006, the level of care effective date could not be determined as September 29, 2006.

The Appellant's Authorized Representative testified that although the physician did not date the Physician's Orders she obtained a statement from the Physician verifying he discharged the Appellant on August 21, 2006.

The AAoA testified that even with the Physician statement acknowledging he discharged Appellant August 21, 2006, the resident review was not completed until October 31, 2006 but should have been completed within the thirty day convalescent stay time frame, the effective date of level of care cannot be earlier than October 31, 2006.

Considering testimony and evidence provided at hearing, the Hearing Officer is persuaded the Appellant entered a nursing facility on August 21, 2006 for a less than thirty day convalescent stay. The Appellant remained in the nursing facility for longer than thirty days and the nursing facility requested a level of care with effective begin date of September 29, 2006. The Hearing Officer is persuaded that all requirements for a September 29, 2006 level of care effective date were not met; all requirements were met October 31, 2006 and this would be the effective beginning date of level of care.

HEARING OFFICER'S RECOMMENDATION

Based on the record and Agency policy before me, I recommend that appeal 1330254 be overruled.

STATE HEARING DECISION CONTINUATION

FINAL ADMINISTRATIVE DECISION AND ORDER

Since I find the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeal 1330254 is overruled.

Hearing Authority

April 30, 2007

Notice to Appellant

This is the official report of your hearing and is to inform you of the decision and order in your case. All papers and materials introduced at the hearing or otherwise filed in the proceeding make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services. If you would like a copy of the official record, please telephone the hearing supervisor at the CANTON District hearing section at 1-866-635-3748.

If you believe this state hearing decision is wrong, you may request an administrative appeal by writing to: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. BOX 182825, Columbus, OH 43218-2825 or fax: (614) 728-9574. Your request should include a copy of this hearing decision and an explanation of why you think it is wrong. Your written request must be received by the Bureau of State Hearings within 15 calendar days from the date this decision is issued. (*If the 15th day falls on a weekend or holiday, this deadline is extended to the next work day.*) During the 15-day administrative appeal period you may request a free copy of the tape recording of the hearing by contacting the district hearings section.

If you want information on free legal services but don't know the number of your local legal aid office, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888, for the local number.

Aviso a la Apelante

Esta es la decisión estatal administrativa de su caso. Todos los documentos y materiales presentados como prueba en la vista o de otra manera radicados componen el récord administrativo. El récord administrativo será mantenido por el Ohio Department of Job and Family Services.

Si usted cree que esta decisión estatal administrativa es errónea, usted puede solicitar una apelación administrativa escribiendo al: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 o facsímil (614) 728-9574. Su solicitud debe indicar por qué usted piensa que la decisión administrativa es errónea. Usted puede completar la solicitud de apelación incluida con esta decisión. Su solicitud escrita o formulario de apelación tiene que ser recibido por el Bureau of State Hearings dentro de los 15 días calendario desde la fecha en que esta decisión es expedida. (Si el 15to. día recae sobre un fin de semana o un día feriado, esta fecha límite es extendida al próximo día laborable). Durante el período de 15 días de apelación administrativa, usted o su representante pueden solicitar una copia gratuita del récord administrativo y de la grabación de la vista llamando al Bureau of State Hearings al 1-866-635-3748 (seleccione la opción 1 del menú principal).

Si usted quiere información sobre servicios legales gratuitos pero no sabe el número de su oficina local de servicios legales, usted puede llamar al Ohio State Legal Services Association, gratuitamente, al 1-800-589-5888, para el número local.

STATE HEARING DECISION CONTINUATION

Appendix

AAoA EXHIBITS

- A. AAoA Appeal Summary dated February 5, 2007, Three Pages
- B. AAoA Review Results dated October 31, 2006, One Page
- C. Referral Information Form Showing Hospital Admission August 13, 2006, One Page
- D. Country Club Retirement Campus Undated Correspondence to PASSPORT Screening, District IX AAoA, One Page
- E. PASARR (SMI/MRDD) Identification Screen dated October 31, 2006, Two Pages

APPELLANT EXHIBITS

- 1. Appellant's January 29, 2007 State Hearing Request and Appointment of Representation, Two Pages
- 2. Undated To Whom It May Concern Letter from Medical Doctor, One Page