



I hereby ADOPT the findings, conclusions and recommended decision of the Administrative Law Judge in their entirety and incorporate the same herein by reference. This appeal stems from the notice of intent to discharge Petitioner from Powerback Rehabilitation (Powerback). Powerback indicated that the discharge was required because Petitioner's health had improved sufficiently so that he no longer needed the services provided by Powerback and because the resident had failed, after reasonable and appropriate notice, to pay for his stay at the facility pursuant to 42 C.F.R. §483.15(c)(i)(B) and 42 C.F.R. §483.15(c)(i)(E).

At the hearing, several of Powerback's staff testified to the circumstances that preceded the decision to discharge Petitioner, including the change in this medical condition, the non-payment of bills for his stay at Powerback and Petitioner's behavior toward other residents and staff. However, the February 23, 2018 notice from Powerback cites Petitioner's discharge as appropriate because his health had sufficiently improved and because the Petitioner had failed to pay for his stay at Powerback pursuant to 42 C.F.R §483.15(c)(i)(B) and C.F.R. §483.15(c)(i)(E). The evidence in the record shows that the Petitioner was medically stable, cleared for discharge and unlikely to suffer a trauma due to his discharge. Furthermore, Powerback engaged in extensive discharge planning, located a handicapped accessible motel and coordinated with MLTSS caseworkers to provide for appropriate medical and social services upon discharge. In February 2018, Powerback received permission from the Office of Community Choice Options to discharge Petitioner. Additionally, on at least two occasions, Powerback notified Petitioner that he was to be discharged from the facility for failure to make payment for his facility stay.

In Exceptions, the Petitioner argues that a May 31, 2018 decision by Federal Administrative Law Judge Michael Amendola finding that Petitioner qualified for


continued Medicare coverage of inpatient skilled nursing facility (SNF). However, this decision addresses Petitioner's Medicare coverage of SNF services after October 21, 2016 with regard to Quadrangle Sunrise, not Powerback.<sup>1</sup> Furthermore, the decision does not address the facts and circumstances of Petitioner's stay at or involuntary discharge from Powerback for the totality of his stay beginning November 2017 through May 2018, which is beyond the hundred days permitted under the Medicare program.<sup>2</sup>

Based on my review of the record, I concur with the ALJ's findings and hereby ADOPT the Initial Decision. Powerback may proceed with the involuntary discharge of Petitioner.

THEREFORE, it is on this 7<sup>th</sup> day of SEPTEMBER 2018,

ORDERED:

That the Initial Decision in this matter is hereby ADOPTED.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services

<sup>1</sup> The decision also referenced an appeal arising from an August 19, 2017 denial of Medicare coverage of ongoing SNF services on the basis that the documentation did not reflect that Petitioner needed daily therapy or skilled nursing services. (P-7). Respondent's papers note that the decision may be amended at some point in the future, but as of the date of the Initial Decision there has been no change to the decision.

<sup>2</sup> The most recent invoice for Petitioner's stay at Powerback is dated May 9, 2018. Petitioner has not been discharged and continues to reside at Powerback pending the outcome of this Final Agency Decision.