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Madison, WI 53704  
(608) 669-4712

Nov. 5, 2021

GRIEVANCE OVER NOTICE OF TERMINATION RE: ELAINE BENZ

Bureau of Quality Assurance  
Division of Disability and Elder Services  
P.O. Box 7851, Madison, WI 53707

Dear Bureau of Quality Assurance,

This is to lodge a grievance, per DHS 89.35, over the [notice of termination](#) emailed to us at approximately 3 p.m. on Nov. 4 regarding the care of my mother, Elaine Benz, by ProHealth Care Regency Senior Communities New Berlin. A copy of this letter is included as an attachment to this email and can also be viewed by clicking the link in the above sentence.

This grievance is supplemental to an inquiry that the Bureau of Quality Assurance is now conducting; the case has been assigned to Hillary Holman. We turned to your office for help after we were told by a nurse at the facility at 4 p.m. on Oct. 28 that our Mom would not be allowed to return to her home after a stint at a rehab center, and that we would need to find alternative housing by the next morning. We worked out an emergency arrangement with the rehab center, Heritage Rehabilitation Center, 5404 W. Loomis Rd., Greendale, for Mom to stay a few more days, at considerable expense.

We dispute ProHealth Regency's representations with regard to my mother's level of care. According to this letter signed by Mara Henningsen, the Regency New Berlin's campus administrator, my mother requires more than 28 hours per week of supportive, personal and nursing services.

Elaine Benz does not require anywhere near this level of care. She has never received it in the past, and she is not receiving it now, at Heritage, where she still resides. Heritage went into COVID-19 lockdown on Oct. 25, meaning our Mom is in danger and we are unable to visit.

The Regency claims that it need not follow the law (DHS 89) regarding advance written notice on the sole grounds that would make this legal—that there is “an immediate documented threat to the health and safety of the resident or others.”

We have not seen any such documentation. In fact, an insurance company denying her coverage of additional services on Oct. 28 [concluded](#) following a review of Elaine Benz’s medical records that “There is no documented evidence that continued skilled services are needed daily to support or prevent decline. There are no documented medical issues to support the need for daily skilled nursing care.” That letter is also attached and can be read by clicking on the above link.

Elaine needs help getting up, getting dressed, going to the bathroom, and getting in and out of a wheelchair. She gets taken to and from meals. All of these things together require far less than 28 hours of direct attention per week. We believe it’s at most a couple hours per day.

But ProHealth Regency, in this notice and in conversations with my sister Diane Roth and me, claims our mother needs 24-7 personal care and is requiring us to hire an outside provider to be by her side at all times, including when she is sleeping. We are told by Nancy Nguyen, a nurse at ProHealth Regency, that if she can get by with less care, the Regency will re-evaluate.

Of course she requires less care, and ProHealth Regency knows it. We believe that ProHealth Regency’s claim that she needs extraordinary levels of care has been concocted because of the otherwise clear violation of law that the Regency committed in preventing her from coming home with less than 24-hour notice. We suspect it may be tied to the investigation started by the Bureau of Quality Assurance in response to my contacts.

We further believe that the reason ProHealth Regency decided to kick our mom out is not because she needs 24/7 care or anything close to it but because she needs a little more care than the average resident.

Despite our disagreement with ProHealth Regency's determination as to our mother's requisite level of care, we have tried to comply with it. On Nov. 3 at about 8:45 a.m., we were provided by Nguyen with the names of three providers of 24/7 care. We worked over the next two days to line up a care team through Comfort Keepers, one of these three, and even met with its representative and purchased a suggested mattress for the care attendant to sleep and a guard rail for her bed, with plans to put this all into place by Nov. 5. We have since learned that Comfort Keepers is so irresponsible that it wanted to put a team of three people who have refused to be vaccinated against COVID-19 into an elder care facility. New Berlin Regency will properly not admit any caregiver who's not vaccinated. We are now scrambling to find other arrangements.

Despite all that has happened, we believe that the best solution would be to allow our mother to return to the Regency New Berlin, and for us to be given the required 30 days to find appropriate alternative arrangements. This will allow her to leave the rehab center, which remains in a COVID-19 lockdown.

We think it is clear what has happened. ProHealth Regency decided it could kick our mother out because she required too much care, though far less than it is obligated to provide. It made no attempt to give us reasonable advance warning—despite its assertion, in the letter of termination, that it had reached its decision that she would have to go prior to Oct. 12, when it had scheduled a meeting, which never happened, with Diane to discuss our mom's care needs.

The fiction that our mother suddenly needs round-the-clock care was manufactured by ProHealth Regency to avoid having to comply with its statutory obligations under DHS 89, and to avoid enforcement action for breaking this law.

There is a reason, and a good one at that, why the law requiring at least 30 days advance written notice is on the books. It's to prevent providers from putting families in the predicament that ProHealth Regency has put us.

We request your immediate intervention.

Sincerely,

Bill Lueders