

STATE OF RHODE ISLAND  
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES APPEALS OFFICE

[REDACTED]

v.

DOCKET No. 25-0885

[REDACTED]

**DECISION**

**I. INTRODUCTION**

A telephonic hearing on the above-entitled matter was conducted by an Appeals Officer on March 27, 2025, with the [REDACTED] (Facility), the Alliance for Better Long-Term Care (Ombudsman) and [REDACTED] (Appellant and/or Resident). The Appellant and the Ombudsman initiated this matter to appeal an action taken by the Facility. This matter arose upon receipt of a "Pre-Transfer or Pre-Discharge 30 Day Notice" dated February 19, 2025, for non-payment. The Appellant disagrees with the facility regarding the payment owed and options for a payment plan. For the reasons discussed in more detail below, the decision has been decided against the Appellant.

**II. JURISDICTION**

The Executive Office of Health and Human Services (EOHHS) is authorized and designated by R.I.G.L. §42-7.2-6.1 and regulation 210-RICR-10-05-2 §2.4.8 to be the entity responsible for appeals and hearings related to resident involuntary transfers or discharges initiated by certified nursing facilities, without regard to payor. The administrative hearing was



held in accordance with the Administrative Procedures Act, R.I.G.L. §42-35-1 et. seq., and EOHHS regulation 210-RICR-10-05-2.

### **III. ISSUE**

The issue is whether the Appellant was given proper notice of intent to discharge for non-payment in accordance with the regulations as set forth below.

### **IV. PARTIES AND EXHIBITS**

Facility representatives: [REDACTED] and [REDACTED]

[REDACTED] attended the hearing and provided testimony and evidence relevant to the Pre-Transfer or Pre-Discharge 30 Day Notice. The Facility offered the following into evidence:

- Exhibit #1: A copy of the Resident billing statement from October 31, 2024, through February 28, 2025.

The Appellant attended the hearing and provided testimony. The Appellant's Authorized Representative, Ombudsman Charline Scanlon, attended the hearing on behalf of the Appellant and provided testimony regarding the Pre-Transfer or Pre-Discharge 30 Day Notice. The Appellant's family member, [REDACTED] testified on behalf of the Appellant. A copy of the notice and resident billing statement was provided upon appeal.

### **V. RELEVANT LAW**

The Code of Federal Regulation 42 C.F.R. §483 entitled "Requirements for Long Term Care Facilities", specifically §483.15, entitled "Admission, transfer, and discharge rights" provides established guidance pertaining to facility discharges. Specifically, §483.15(c)(1)(i)(E) "Transfer and discharge" provides the facility requirements needed to discharge a resident for non-payment, §483.15(c)(1)(ii) explains the resident may not be transferred or discharged while

an appeal is pending, §483.15(c)(5) explains the notice requirements, and §483.15(c)(7) explains requirements for a safe and orderly transfer from the facility.

Similarly, the Rhode Island Code of Regulations (RICR) at 210-RICR-50-00-7, entitled “Involuntary Discharge from a Long-Term Care Facility”, specifically §7.4(A)(5)(a) provides the discharge criteria for non-payment, §7.6, provides the requirements for the Pre-Transfer/Discharge Notice and §7.7, provides a resident’s appeal rights. Additionally, 210-RICR-10-05-2 entitled “Appeals Process and Procedures for EOHHS Agencies and Programs” specifically, §2.4.8 provides established guidance for the appeal process for “Institutional and Community-Based Long-Term Care Resident Involuntary Discharges and Transfers.

## **VI. FINDINGS OF FACT**

1. The Appellant was given a Pre-Transfer or Pre-Discharge 30 Day Notice dated February 19, 2025, from the Facility. The notice stated she would be discharged on March 21, 2025, which is a least 30 days from the date of the notice. The location where she will be transferred to is her home at [REDACTED]. The reason for discharge states, “Your bill for services at this facility has not been paid after reasonable and appropriate notice to pay.” The notice provided appeal rights and was sent to the Ombudsman as required.
2. The Ombudsman filed an appeal on the Appellant’s behalf on February 24, 2025.
3. The hearing was held on March 27, 2025.
4. The Appellant has been a resident at the Facility since October 11, 2024. She was admitted as a skilled, so Medicare paid her room and board until she became a private pay resident at the end of the month.
5. The Facility assisted the Appellant in applying for Medicaid, but she was denied eligibility, so she remained a private pay resident who is required to pay for care.

6. The Appellant was notified about her outstanding balance and was offered payment plans on several occasions, but no agreement could be reached.

7. The Appellant owes \$39,160.00, for the period of October 31, 2024, through February 28, 2025, according to the Resident billing statement. The Appellant also owes for March 1, 2025, onwards.

8. There is no record that the Appellant made any payments to the facility since she was admitted.

## **VII. DISCUSSION**

The Facility maintains that the Appellant became a resident of the facility in October 2024 and has continued to accrue room and board charges. The Appellant has been approached on several occasions advising her about her outstanding bill that needs to be paid but she refused to provide a payment source or make a payment plan.

Facility Representative Miranda testified she has been working with the Appellant since she arrived at the Facility in October. The Appellant received rehabilitation for her mobility, and she has made progress and could go home with some supports. They discussed being discharged home, but she refused. She also assisted her in applying for Medicaid after she refused to pay but she was denied, so they continued to discuss options for paying her bill, but it has been challenging and no agreement could be made.

The Facility concluded that discharging the Appellant home would be a safe discharge based on the videos and they intend to set up a visiting nurse, and any additional supports she needs. The Appellant has limited mobility issues, advocates for herself and is competent to care for herself.

The Appellant disputes the facilities testimony stating she does not understand why the bill is so high, and she was never offered a payment plan previously. When the facility did offer a payment plan, they told her she would have to pay \$40,000.00, but she cannot afford that amount. She has been residing at the facility with her mother who has severe dementia and is dying. They previously resided together at her home, but she could not care for her mother or herself anymore because she had no car to get to doctor appointments. She assists her mother with healthcare bills, and she is also planning her funeral, so she doesn't have the money to pay the facility what they want. She argued that she is willing to pay something every month, but she also needs to support her mother. She agreed that no payment agreement could be reached. She further argued she has a severe panic disorder and disputes that she had physical therapy in the facility as they stated, so she would need supports if discharged. She also cannot live at home because it was ransacked recently by other family members. She insisted that if she is discharged from the Facility she will not leave without her mother.

The Appellant's family member also testified that the home was ransacked, and all their belongings were packed to be disposed of by other family members. She further testified if she had the money, she would assist the Appellant in paying her balance so she could stay in facility with her mother.

The Ombudsman testified on behalf of the Appellant. She stated the Appellant knew she owed the facility money, and she was notified on several occasions about making payment and/or setting up a payment agreement. She argued that the Appellant's anxiety issues may have hindered her ability to react to the situation. She hoped that a payment agreement could be reached between the Facility and Appellant, but they could not reach an agreement on several occasions. She does not know the Appellant's current financial situation, but feels she is willing

to pay something, but the facility is not willing to take less than half of what is owed. She further testified a video taken by the family member shows the home has the necessities for living, it looked clean and would be acceptable but admits has not seen the house in person.

The Ombudsman further testified that the Appellant is adamant that she stays with her mother, but her mother cannot leave the facility. She argued that for the Appellant's mental health it would be best for her to stay in the Facility until her mother's end of life. She further argued if the Appellant is discharged home, it must be a safe discharge.

In review of the Federal regulation at 42 C.F.R. §483.15(c) and Rhode Island Code of Regulations at 210-RICR-50-00-7, the long-term care facility can discharge a resident if he/she has failed, after reasonable and appropriate notice, to pay for a stay at the facility. The Appellant filed a Medicaid application but was subsequently denied and she failed to make any payments to the facility. Additionally, the regulations state before a resident can be discharged, the facility must notify the resident (and, if known, a resident representative) of the discharge, the reason for the discharge in a language and manner they understand and the Office of the State Long-Term Care Ombudsman. The notice must include the reason for discharge, effective date, location, appeals rights, Office of the State Long-Term Care Ombudsman name, address (mailing and email) and telephone number. The facility issued a Pre-Transfer or Pre-Discharge 30 Day Notice on February 19, 2025. The notice issued to the Appellant stated the effective date, location, reason, and the Ombudsman was notified as required, therefore she received proper notice. Lastly in §483.15(c)(7) Orientation for transfer or discharge states, "A facility must provide and document sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from facility. This orientation must be provided in a form and manner that the resident

can understand.” The facility testified that if the Appellant is discharged, they will set up any supports that are needed for a safe discharge.

In this case, the Appellant has failed to make payment to the facility since October 2024, nor has she agreed to any payment agreements discussed. The Facility and the Ombudsman agreed she has been approached on several occasions to discuss making payment. Both parties agree if the Appellant is discharged it must be a safe and orderly discharge.

The Appellant also testified that her mother is frightened and confused and is not receiving proper care at the facility. The Appellant stated that if she is discharged from the facility, she will refuse to leave or she will take her mother with her. The issue on appeal, however, is the Appellant’s failure to pay the facility for her care since October 2024. Although the Appellant and her family member testified that her mother was not receiving proper care in the facility, the issue of quality of care is outside the scope of this Appeal and EOHHS’s jurisdiction. Accordingly, that issue will not be decided in the context of this Appeal.

#### **VIII. CONCLUSIONS OF LAW**

After careful and considerate review of the Federal and State regulations for Involuntary Transfer or Discharges from a Long-Term Care Facility, as well as the evidence and testimony provided this Appeals Officer concludes:

1. The Appellant was given reasonable and appropriate notice to pay the facility.
2. The Appellant has not made any payments to the facility.
3. The Facility issued a proper Pre-Transfer or Pre-Discharge 30 Day Notice to the Appellant, with appeal rights and it was also provided it to the Ombudsman.
4. The Facility followed the discharge requirements in accordance with the Federal and State Regulations.

**IX. DECISION**

Based on the foregoing Findings of Fact, Conclusions of Law and by a preponderance of evidence, it is found that a final order be entered that the Appellant's request to remain in the facility is denied. The Facility may discharge the Appellant for non-payment, if it is a safe and orderly discharge.

**APPEAL DENIED**

*/s/ Louanne Marcello*

Louanne Marcello  
Appeals Officer

**CERTIFICATION**

I hereby certify that I mailed (via regular mail, postage prepaid) and/or emailed, a true copy of the foregoing to [REDACTED]

[REDACTED]; [REDACTED]

[REDACTED] and via email to [REDACTED] and to [REDACTED]

[REDACTED], on this

3<sup>rd</sup> day of April, 2025.

*Louanne Marcello*



### **NOTICE OF APPELLATE RIGHTS**

**This Final Order constitutes a final order of the Executive Office of Health and Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.**