

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

██████████ (Appellant)

Docket: 25-3467

V.

██████████ ("the Facility")

**DECISION**

**I. INTRODUCTION**

The Facility issued the Appellant a Pre-Transfer/Pre-Discharge 30-Day Notice on July 17, 2025. The Appellant filed a timely appeal, with the Executive Hearing Office ("EHO") on July 28, 2025, to challenge this adverse action.

An Administrative hearing was conducted on the matter via Microsoft Teams on August 21, 2025, the Appellant declined the video option. For the reasons discussed herein, this appeal is denied.

**II. JURISDICTION**

EOHHS is designated by the R.I. General Laws §42-7.2-6.1(2) and according to the Rhode Island Code of Regulations ("RICR"), to be the entity responsible for appeals and hearings related to transfers and discharges of long-term care facility residents. (210-RICR-10-05-2.1.3). Hearings are held in accordance with the Administrative Procedures Act (R.I. Gen. Laws § 42-35.1 et. seq.).

**III. ISSUES**

The issue is whether there is sufficient evidence that the Appellant has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility, if so, did the Facility comply with the necessary rules and regulations to permit the involuntary discharge of the Appellant.



#### **IV. STANDARD OF PROOF**

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, unless otherwise specified, a preponderance of the evidence is generally required to prevail. (2 Richard J. Pierce, Administrative Law Treaties § 10.7 (2002) & see *Lyons v. Rhode Island Pub. Employees Council* 94, 559 A.2d 130, 134 (R.I. 1989) (preponderance standard is the “normal” standard in civil cases)). This means that for each element to be proven, the factfinder must believe that the facts asserted by the proponent are more probably true than false. (*Id.*). When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. (*Narragansett Electric Co. vs. Carbone*, 898 A.2d 87 (R.I. 2006))

#### **V. PARTIES AND EXHIBITS**

The Facility was represented by Administrator [REDACTED] and Director of Social Services [REDACTED] was also present and testified on the Facility’s behalf. The 30-day notice was marked as the Facility’s exhibit 1. The Appellant appeared and testified on their own behalf. The Appellant’s brother, [REDACTED] was present but did not testify. Beth Mantia of the Ombudsman appeared and testified on the Appellant’s behalf. The Administrative record contained the appeal request form received by the Appellant and letters sent to the Appellant from the EHO.

#### **VI. RELEVANT LAW/REGULATIONS**

Per 210-RICR-50-00-7, state licensed long-term care facilities, without regard to the resident’s source of payment, are prohibited from transferring/discharging a resident without the agreement or consent of the resident. These involuntary discharges are permitted in some instances such as the health and safety of the resident or if other residents in the facility would be

endangered by their stay, non-payment or if the facility ceases to operate. Non-payment applies if the resident does not submit necessary paperwork for third party payment, or after third party payment denies the claim and the resident refuses to pay for their stay. Involuntary discharge for non-payment is permitted when the resident after reasonable and appropriate notice still refuses to pay.

The long-term care facility must notify the resident at least 30 days in advance of the resident's transfer or discharge. The notice must inform the resident of the reasons for the discharge in a language and manner they understand. The long-term care facility must also notify the Office of the State Long-Term Care Ombudsman. The written notice must include (1) The reason for transfer or discharge; (2) The effective date of transfer or discharge; (3) The location to which the resident is transferred or discharged; (4) A statement of the residents appeal rights, including the name, the mailing and email address, and telephone number of the entity that receives such requests; and information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request; (5) The name, mailing and email address and telephone number of the Ombudsman. At the time the resident receives the discharge notice, they must receive a notice of appeal rights.

## **VII. FINDINGS OF FACTS**

1. The Appellant has resided at the Facility since February 1, 2024.
2. Medicaid pays for his stay at Facility, he is responsible to pay a cost-of-care of \$1,391.06 per month.
3. As of August 1, 2025, he owes a balance of \$25,039.08 and has refused to pay.
4. The Facility met with the Appellant several times regarding the balance to arrange a payment plan.

5. The Appellant has been trying to coordinate home care services since November 2024 but has been unsuccessful.

6. On July 17, 2025, the Facility issued a 30-day notice that informed 1) Reason for discharge was non-payment. 2) Effective date of the discharge was August 17, 2025. 3) Discharge location was [REDACTED]. 4) The OHHS Appeals Office's address and phone number were included. 5) The Ombudsman's Office address, email address and phone number were included. 6) Resident rights and rights of a fair hearing were sent as attachments with the notice. 7) The Notice was given to the Ombudsman on July 17, 2025.

7. The Appellant testified he wants to leave the Facility and return home, he does not agree with the discharge date.

8. The Ombudsman argued that the Appellant should be allowed more time to obtain professional home care service.

#### **VIII. DISCUSSION**

Per regulations nursing facilities are not allowed to discharge residents without their consent. Residents are required to pay to stay at a nursing facility. When a resident refuses to pay they can be involuntarily discharged, providing it is in accordance with regulations.

The Facility testified they have done their due diligence and have tried to work with the Appellant for almost one year on his discharge plan home and his responsibility to pay. He acknowledges their attempts, does not dispute his balance or that he has refused to pay. The Appellant provided no information as to why he will not make payments. The notice issued by the Facility gave the Appellant 30 days advance notice, it included the discharge date, reason and

location. The Appellant was informed of his appeal rights and the contact information for the Appeals Office and Ombudsman's Office was on the notice.

The Appellant requested a two-month stay of the discharge date to have the house prepared for his return. The Facility testified they have been working with the Appellant and Neighborhood Health Care to coordinate Certified Nursing Assistants ("CNA"). There are none available and they could not provide a timeframe as to when this might take place. The Ombudsman argued that this is not a safe discharge, and it should not be permitted.

While the Appellant's request is acknowledged, he did not provide any reason of why this request should be considered. Prior to being admitted to the Facility he resided at the proposed discharge location; he has medical equipment there and family members to assist him. The Facility testified his refusal to pay has become a financial burden. The Facility denied the Appellant's request for more time.

#### **IX. CONCLUSION OF LAW**

After review of the Administrative record, I conclude, there is sufficient evidence to support that the Appellant has failed, after reasonable and appropriate notice, to pay for his stay at the Facility in accordance 210-RICR-50-00-7-4(A)(5). The Facility issued the Appellant a valid 30-Day Notice in accordance with 210-RICR-50-00-7-6.

#### **X. DECISION**

Based on the foregoing Findings of Facts, Conclusion of Law, and testimony it is ordered that the 30-day notice is valid, the Facility is permitted to involuntarily discharge the Appellant for non-payment; this appeal request is denied.

*/s/Holly Young | Appeals Officer | Executive Office of Health and Human Services*

### **NOTICE OF APPELLANT RIGHTS**

This Final Order constitutes a final order of the Departments of Human Services pursuant to the RI General Laws §42-15-12. Pursuant to RI General Laws §43.35.15, 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.

### **CERTIFICATION**

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to

[REDACTED]; Beth Mantia, C/o Alliance for Better Long Term Care, 422 Post Road, Suite 204, Warwick, RI 02888 and by email to beth@alliancebltc.org; and [REDACTED],

[REDACTED]. On this 28<sup>TH</sup> day of AUGUST, 2025.

  
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