

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

V.

DOCKET No.25-4034

DECISION

I. INTRODUCTION

A Microsoft Teams hearing on the above-entitled matter was held on October 6, 2025. The Appellant, [REDACTED], initiated this matter to appeal the 30-day discharge notice issued by the nursing home, [REDACTED] (facility). The Appellant was issued a Pre-Transfer or Pre-Discharge 30-Day Notice on September 3, 2025; [REDACTED] is stating that the Appellant's health has improved so that he no longer meets the nursing home level of care required to remain at the facility. The Appellant then filed a timely appeal that was received by the Executive Office of Health and Human Services on September 9, 2025. The Appellant argues his surgeon has ordered his ongoing stay in-patient at [REDACTED]. The Appellant is seeking to have the discharge overturned and remain at the facility. For the reasons discussed in more details below, the Appellant's appeal is denied.

II. JURISDICTION

EOHHS is authorized and designated by R.I. General Laws § 42-7.2-6.1 and EOHHS regulation 210-RICR-10-05-2.1.3(A)(2)(n) to be the entity responsible for appeals and hearings related to transfers and discharges for all patients of nursing homes regardless of if they are on Medicaid or not. The

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

III. ISSUE

The issue before this Appeals Officer is whether there is sufficient evidence to support 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. 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. 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). 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

Present for [REDACTED] was [REDACTED], administrator (Administrator); [REDACTED], director of rehab (Rehab Director); and [REDACTED], director of nursing (Nursing Director), who provided testimony and evidence regarding the involuntary discharge. The Appellant testified and also submitted evidence. The following exhibits were presented as evidence:

- [REDACTED] Exhibits:
 - Exhibit #1: Pre-Transfer or Pre-discharge 30-Day Notice (amended 9/26/25); Progress Notes, Physical Therapy (PT) Treatment Encounter Note(s) and PT Evaluation and Plan of Treatment; Occupational Therapy (OT) Evaluation & Plan of Treatment; Acentra Health Report dated September 3, 2025; two videos dated September 23, 2025, and September 24, 2025; Admission agreement.

- Appellant Exhibits:
 - Exhibit #1: Appeal dated September 9, 2025; Surgeon/doctor notes dated August 20, 2025, and September 1, 2025; Fifteen emails sent to Appeals Office (September 26, 2025 through October 6, 2025).

VI. RELEVANT LAW/REGULATIONS

Under 210-RICR-50-00-7, there is a set of requirements, both procedural and substantive, a nursing home must take to involuntarily discharge a patient. This process is not limited to Medicaid patients. 210-RICR-50-00-7.1. Facilities are not allowed to discharge patients involuntarily, except in certain cases. This includes discharging patients when their health has improved sufficiently so that the resident no longer needs the services provided by the long-term care facility. 210-RICR-50-00-7.4(A)(2).

Furthermore, 210-RICR-50-00-7.6 lays out a number of procedural requirements to discharge a patient from a nursing home involuntarily. These include:

1. Written notice being given to the patient and any representative they have. 210-RICR-50-00-7.6(A). The notice must:
 - a. be in a language and manner the patient understands.
 - b. list the reason for the transfer/discharge.
 - c. list the effective date of the transfer/discharge.
 - d. list the location the patient is being transferred/discharged to.
 - e. contain a statement of the patient's appeals rights including the name, mailing address, email address, and telephone number of the entity that receives such appeals.
 - f. contain information on how to obtain the appeal form and on how to get assistance in completing the appeal if needed.
 - g. contain the name, mailing address, email address, and telephone number of the Office of the State Long-Term Care Ombudsman.
 - h. be provided at least 30 days in advance of the transfer, except in certain cases of:

- i. danger to the safety or health of the individuals in the facility.
 - ii. when the patient's health improves sufficiently to allow a more immediate transfer or discharge.
 - iii. when a more immediate transfer or discharge is needed based on the patient's urgent medical needs.
 - iv. when the patient hasn't been in the facility for a period of at least 30 days.
 - i. For intellectually and/or developmentally disabled patients, the notice also needs to include the mailing address, email address, and telephone number of the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals Division of Developmental Disabilities.
 - j. For patients with a mental disorder or related disability, the notice also needs to include the mailing address, email address, and telephone number of the Office of the Mental Health Advocate.
2. Notification of the pending discharge must be provided to the Office of the State Long-Term Care Ombudsman. The Ombudsman is part of and operates out of the Alliance for Better Long-Term Care.
 3. The long-term care facility must document in the resident's clinical record the basis for the transfer or discharge. 210-RICR-50-00-7.5(A).

Finally, there is a requirement for the discharge to be a safe discharge. Federally, 42 C.F.R. § 483.15(c)(7) requires the facility must provide (and document) sufficient preparation and orientation to the patient to ensure a safe and orderly transfer or discharge. This must be in a form and manner that the patient can understand. On the state level, 210-RICR-50-00-7.5(B) lays out the documentation requirements of a safe discharge. This includes 1) contact information for the practitioner responsible for the care of the patient, 2) the patient's representative's information, including contact information, 3) any advance directives of the patient, 4) any special instructions or precautions for ongoing care, 5)

comprehensive care plan goals, and 6) all other necessary information and documentation to ensure a safe and effective transition of care, including a copy of the discharge summary.

VII. TRAVEL OF THE CASE

A hearing was scheduled for September 29, 2025, at 1 p.m. On September 26, 2025, the Appellant emailed the EOHHS Appeals Office requesting a reschedule “as far out as you find acceptable so we can gather evidence,” citing R.I.G.L. § 23-17.5-17(c)(ii), which states: “No more than one request for continuance by the patient shall be permitted and, if granted, the hearing on the appeal must be rescheduled for a date and time no later than forty (40) days after the receipt by the state agency of the request for appeal.”

The parties convened for the telephonic hearing, during which the Appellant again requested the continuance, and the October 6, 2025, reschedule was agreed upon by Renee Miller, the ombudsman from the Office of the Rhode Island State Long Term Care Ombudsman, who was assisting the Appellant at the time, and the [REDACTED] representatives. The agreed upon date of October 6 fell within the 40-day time period as outlined in state regulations as the appeal was received on September 9, 2025.

The Appellant “terminated” Ms. Miller during the informal hearing and reiterated the termination in a follow-up email to the EOHHS Appeals Office on October 2, 2025. Lori Light, from the Office of the Rhode Island State Long Term Care Ombudsman, also sent an email to the EOHHS Appeals Office on October 2, 2025, stating that Ms. Miller would not be attending the October 6, 2025, hearing about the discharge appeal, and said the Appellant’s request to replace Ms. Miller with another ombudsman would not be honored. It appears that this decision was made because the relationship between the Appellant and the designated ombudsman became contentious. Specifically, Ms. Light wrote: “Please be reminded that the Long-Term Care Ombudsman Program is a free, confidential advocacy program not a paid service. Upon review of this case, I have determined that nothing further could have been done differently or in addition to the advocacy already provided.”

After the initial telephonic pre-hearing discussion but before this hearing, the Appellant sent several emails, including 10 on the day of the October 6, 2025, hearing to the EOHHS Appeals Office requesting an investigation of [REDACTED] for fraud, elder abuse and other wrongdoing. He demanded that the hearing on his discharge appeal be postponed until the investigation was completed. The EOHHS Appeals Office only has jurisdiction over administrative appeals, and does not have the authority to conduct or order an investigation of the facility's alleged wrongdoing. Accordingly, this decision will focus solely on the involuntary discharge under appeal.

In an October 6, 2025, email the Appellant also demanded that the EOHHS office subpoena individuals for the October 6, 2025, hearing, citing the Administrative Procedures Act and 440-RICR-10-00-1.15, which deals with contractors' registration and the licensing board. The Appellant wanted to subpoena "PT/OT managers and staff, nurses, CNA/CMT, contract specialists, admissions personnel, physicians ([REDACTED]), and agency officials with direct knowledge of discharge, care levels, and all the many instances of fraud" and wrote that he needed "EOHHS to assist in identifying and contacting" the witnesses. While the Appellant was advised that he could bring witnesses to the hearing that he would like to testify, the EOHHS Administrative Appeals Office does not have the ability to subpoena witnesses or require attendance of non-parties at a hearing. The Appellant did not bring any witnesses to the hearing.

VIII. FINDINGS OF FACT

1. The Appellant has resided at [REDACTED] since August 9, 2025.
2. He was admitted to [REDACTED] two days after surgery at [REDACTED] on his right foot/ankle. The Appellant described the surgery as "complicated" and said it takes a year to heal.
3. The Pre-Discharge 30-Day Notice was given to the Appellant on September 3, 2025, stating the date of the effective discharge as October 3, 2025. The Notice stated: "[REDACTED] health has improved. He no longer needs the level of care provided on the short-term rehab unit. He does not

meet nursing home level of care.” It listed [REDACTED] as the discharge location for the Appellant as that was his previous residence before he had the surgery.

4. The Appellant stated in his request to EOHHS for a hearing that the facility’s PT notes contradict his surgeon’s orders for his ongoing in-patient stay at [REDACTED].
5. An amended Pre-Discharge 30-Day Notice was issued by the Administrator on September 26, 2025, listing [REDACTED], an assisted living facility, as the location to which the Appellant would be discharged. [REDACTED] offers PT and OT.
6. The Administrator testified that the facility’s interdisciplinary team felt that the Appellant met the goals they had initially set up for him, noting he was able to move from a bed to a chair independently, and they provided the Appellant with a notice of “downgrade or discharge” due to the improvement, which he appealed through his insurer prior to the 30-Day Discharge being issued.
7. The Administrator testified that Neighborhood Health Plan of Rhode Island (NHPRI) reviewed the facility’s decision to downgrade the Appellant and agreed with the facility that he no longer met the skilled criteria to be at [REDACTED], which the Appellant appealed again.
8. Acentra Health, a beneficiary and family-centered care quality improvement organization authorized by the Medicare program to review skilled services provided to Medicare patients, sent a letter to the Appellant on September 3, 2025, stating that Acentra used an independent peer reviewer who was not involved in the original review, and determined NHPRI was correct in issuing the termination of coverage by upholding the original decision made by NHPRI. A physician reviewed the medical records, and looked at multiple activities to determine the Appellant’s ability to move around. The determination was based on the Appellant’s ability to move from a bed to a chair independently, his ability to walk greater than 100 feet, and his ability to walk modified independently, meaning he does not need help from others, but needs to use something to help him. It also was noted that he does not have signs or symptoms that need to be watched and/or treated seven days a week. The letter states that the plan after leaving the SNF

(skilled nursing facility) is to go home, and that he may still need skilled services, “but you no longer need therapy five days a week and/or nursing care seven days a week. Acentra Health agrees with the Notice of Medicare Non-Coverage.”

9. The Administrator testified that after the letter was received from Acentra Health confirming the termination of the SNF coverage, her staff felt it was important to provide the Appellant with the Pre-Discharge 30-Day Notice because he did not need the services [REDACTED] provided, and they needed to have the bed available to somebody who did need the services.
10. The Rehab Director testified that at the time the Appellant was downgraded, he met three of the four goals they had set for him, and that they discontinued the fourth goal, which was the ability to climb stairs, because he was not required to climb stairs to return back to the facility that he was planning to return to at that time ([REDACTED]). The Appellant was considered by the [REDACTED] team to be “modified independent,” as he was ambulating beyond 500 feet with the use of the rolling walker and a knee sling which he was using appropriately to maintain non-weight bearing status for his ankle.
11. The Rehab Director testified that the Appellant was initially cleared by [REDACTED] staff to be independent on the unit on August 18, 2025, due to meeting three of the four goals.
12. A September 18, 2025, Progress Note states the Appellant’s incision was healed and scabbed over, with no new redness or discoloration, and that he was observed walking approximately five steps across the floor without a sock, sneaker, or CAM (controlled ankle motion) boot on his RLE (right lower extremity). On September 25, 2025, a Progress Note documented that the Appellant was showering independently with no signs or symptoms of distress noted.
13. [REDACTED] provided video footage of the Appellant walking out of his room on September 24, 2025, in his bare feet without using the rolling walker. Another video from September 23, 2025, shows him pushing the walker, and walking with his foot in the boot, and not using the sling.

14. The Appellant has refused to provide income information to [REDACTED], the proposed discharge location, or tour the assisted living facility. The Administrator testified that [REDACTED], another assisted living facility, also has a bed available for the Appellant, but again, the Appellant refuses to cooperate in the discharge process.
15. [REDACTED] representatives testified there was never a specific length of time the Appellant was to stay at the facility. A patient must meet specific goals, such as being able to walk independently, and being able to perform certain activities of daily living such as bathing or dressing, before they can be discharged.
16. The Appellant testified that he saw his surgeon, [REDACTED], at [REDACTED], on August 20, 2025, after he had already been declared independent, and that his surgeon's input from that visit was omitted during the insurance company review because it was after the fact. The notes from that August 20, 2025, visit state, "continue NWB (non-weight bearing) on RLE PT/OT supervised."
17. The Appellant believes the discharge is incorrect, and is based only on the facility's PT notes, and not information from his surgeon. He said the insurance company only had information from one side to base its decision on — [REDACTED].
18. The Appellant testified he feels the Administrator has influenced the PT unit to say he is more independent than he is. The Appellant also testified he has had difficulty receiving his PT.
19. The Appellant returned to [REDACTED] on September 1, 2025, because his cast got wet when he was bathing, which he blamed on a lack of supervision by the nurses; a nurse had been helping bathe him at the time. Two nurses had placed a bag over the cast and taped it, but it still became saturated. The Appellant said this shows he needs supervised bathing.
20. The notes from the September 1, 2025, visit, which appears were not signed by his surgeon but another healthcare provider, show the cast was replaced. They state "cont post op non weight bearing, pt (patient) requires in patient care SNF care and OT/PT, he is not cleared for DC (discharge) to home."

21. The Nursing Director testified in response to the September 1, 2025, [REDACTED] visit notes, saying the Appellant was there for a cast change and not an evaluation, and was not sure why there were notes about the Appellant not being cleared for a home discharge.

22. Despite the difficulties and conflicts the Appellant claims that he experienced at [REDACTED] including repeated assaults by staff that the Appellant referenced in an October 6, 2025, email to the EOHHS Appeals Office, the Appellant testified he wants to remain at [REDACTED] because, he said, "I love the nurses. I love the care."

IX. DISCUSSION

The facility sent the Pre-Transfer or Pre-Discharge 30-Day Notice to the Appellant on September 3, 2025, after receiving the letter from Acentra stating that it agreed with the Notice of Medicare Non-Coverage from NHPRI, and that the Appellant no longer needed therapy five days a week and/or nursing care seven days a week. The Notice also was delivered after the facility's team determined that the Appellant had met three of four progress goals they identified for him; it discontinued the fourth goal of climbing stairs.

The Appellant maintains that he needs and wants to stay at [REDACTED], despite his allegations of fraud, elder abuse and other wrongdoing. The Appellant also testified he felt the decision to downgrade him was one-sided, stating he believes the physical therapists have been influenced by the Administrator, and that his surgeon's recommendations were not considered.

The Appellant failed to submit any evidence from his surgeon after he received the first Pre-Transfer or Pre-Discharge 30-Day Notice on September 3, 2025. The note the Appellant submitted from his surgeon/doctor's office was dated September 1, 2025. It stated that the Appellant was to continue post op non-weight bearing, that he requires in-patient SNF care and OT/PT, and that he is not cleared for a discharge to home. [REDACTED] was not discharging the Appellant to his home, but to an assisted living facility, where he could continue with the non-skilled PT and OT. The note did not list the reasons

why skilled nursing care was needed, or specific recommendations related to skilled nursing care.

Acentra, in its review of the Medicare coverage termination, detailed why skilled care was no longer needed. The Acentra letter states that a physician reviewed the Appellant's medical records and multiple activities to determine the Appellant's ability to ambulate. It was determined that the Appellant did not have any signs or symptoms that needed to be watched and/or treated seven days a week.

██████████ representatives followed the requirements listed under 210-RICR-50-00-7 to involuntarily discharge a patient, which state patients can be discharged when their health has improved sufficiently so that the resident no longer needs the services provided by the long-term care facility. The facility correctly gave the Appellant written notice, advising him of the date of the discharge, outlining the reasons why, and the location to which he would be discharged to. 210-RICR-50-00-7.6 ██████████

██████████ representatives also followed the requirements for a safe discharge as outlined in 42 C.F.R. § 483.15(c)(7).

Information provided by ██████████ shows the Appellant's progress since his admission on August 9, 2025, and his ability to move around. The Appellant described the surgery as complex and that it would take a year to heal, but it is unclear why he would need to stay only at ██████████, a skilled nursing facility, for the physical therapy and occupational therapy he may need going forward, when those services can be provided at other non-skilled facilities.

X. CONCLUSION OF LAW

After careful review of the testimony and evidence presented at the Administrative Hearing, this Appeals Officer concludes:

1. ██████████ representatives properly issued a Pre-Discharge 30-Day Notice to the Appellant advising him that he no longer needed the services provided by the facility's short-term rehab unit and that he also does not meet the nursing home level of care and identified a place where he

could be safely discharged – [REDACTED], an assisted living facility, which provides PT and OT services.

2. Acentra Health, in a September 3, 2025, notice to the Appellant, upheld an earlier decision by NHPRI regarding terminating Medicare coverage due to the Appellant's progress and ability to move around. It determined that the Appellant did not have any signs or symptoms that needed to be watched and/or treated seven days a week.
3. The evidence provided by the Appellant failed to show a level of care that required him to stay at [REDACTED], and continue to receive skilled nursing services.

XI. DECISION

Based on the foregoing Findings of Fact, Conclusions of Law, evidence, and testimony, it is found that a final order be entered that there is sufficient evidence to support [REDACTED] involuntary discharge of the Appellant. Therefore, the appeal is denied.

APPEAL DENIED

Lori Stabile

Lori Stabile

Appeals Officer

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.

CERTIFICATION

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to [REDACTED];
copies were sent, via email, to [REDACTED], and [REDACTED] representative
[REDACTED],
and at [REDACTED] on this 14th day of October,
2025.


