

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

[REDACTED]

V.

DOCKET No. 26-0987

[REDACTED]

DECISION

**I. INTRODUCTION**

A Microsoft Teams hearing on the above-entitled matter came before an Appeals Officer on February 17, 2026, at 9:00 AM, and the Appellant's representatives declined the option of a video hearing. The Alliance for Better Long-Term Care (hereinafter the "Alliance") initiated this matter on behalf of the Appellant, [REDACTED] (hereinafter the "Appellant") to appeal the decision made by [REDACTED] (hereinafter the "Facility") to refuse to readmit the Appellant into the Facility after she was discharged to a hospital. For the reasons discussed in more detail below, the Appellant's Appeal is denied.

**II. JURISDICTION**

EOHHS is authorized and designated by R.I.G.L. § 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 residents of assisted living and nursing home facilities, regardless of whether 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 EOHHS regulation 210-RICR-10-05-2.

### **III. ISSUE**

Does the EOHHS Appeals Office have jurisdiction over the Facility's decision not to readmit 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. See 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. When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. See *Narragansett Electric Co. vs. Carbone*, 898 A.2d 87 (R.I. 2006).

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

Administrator, [REDACTED], and Nursing Director, [REDACTED], attended the hearing on behalf of the Facility. The Facility did not submit any exhibits as evidence.

The Appellant did not attend the hearing. Charline Scanlon attended the hearing on behalf of the Alliance. [REDACTED] from [REDACTED] attended the hearing as a witness for the Appellant. The following exhibits were entered as evidence for the Appellant:

Exhibit 1# -- Pre-Transfer or Pre-Discharge 30 Day Notice Filled Out by the Alliance.

Exhibit 2# -- Appeal Letter Submitted by the Alliance.

Exhibit 3# -- Request for a Hearing Form.

Exhibit 4# -- Patient Registration Record from [REDACTED].

**VI. RELEVANT LAW/REGULATIONS**

A long-term care facility must permit each resident to remain in the long-term care facility and not transfer or discharge the resident from the long-term care facility unless the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the long-term care facility. See 210-RICR-50-00-7.4(A)(1).

Thirty days advance notice of pre-transfer or discharge is not required where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs. See 210-RICR-50-00-7.6(E)(3).

**VII. FINDINGS OF FACT**

1. The Appellant has been a resident of the Facility since 2023.
2. The Appellant experienced a urinary tract infection which led to rapid physical and cognitive decline.
3. The Appellant recently stopped eating and drinking and began to develop wounds caused by her poor nutrition.
4. The Facility testified that they were unable to properly hydrate the Appellant because she was pulling out her IV and refusing oral medications. The Facility also testified that they are unable to provide daily lab work to properly monitor the Appellant's condition.
5. The Facility testified that because of the Appellant's recent cognitive decline she is now unable to make her own decisions, and she does not have a guardian to make decisions for her.
6. The Facility testified that they need the ability to change the Appellant's code status to properly care for the Appellant as this would allow the Facility to either to provide all the medical treatment available as a nursing facility to keep the Appellant alive or to provide hospice level services.

7. The Facility testified that because the Appellant cannot make her own decisions nor does she have a guardian who can consent to the changing of the Appellant's code status, they are unable to change the Appellant's status to properly care for her.
8. The Facility testified that they discharged the Appellant to a hospital on February 3, 2026, without issuing a Pre-Transfer or Pre-Discharge 30 Day Notice.
9. [REDACTED] testified that the Appellant was initially admitted into the intensive care unit (ICU) with a diagnosis of severe metabolic derangements.

#### **VIII. DISCUSSION**

As stated above, a long-term care facility may transfer or discharge a resident if it is necessary for the resident's welfare and the resident's needs cannot be met in the long-term care facility and thirty days advance notice of pre-transfer or discharge is not required where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs.

The Facility testified that they discharged the Appellant to the hospital because they could no longer meet her medical needs and the Alliance did not dispute this decision. The hospital's decision to admit the Appellant into the ICU shows that there was an urgent need which necessitated an immediate transfer or discharge without thirty days advance notice. Because the hospital admitted the Appellant into the ICU, there is a preponderance of evidence to show that the Facility properly discharged the Appellant to the hospital when the Facility could no longer meet the Appellant's medical needs. The Alliance testified that this Appeal was filed to dispute the Facility's decision not to readmit the Appellant, however, they were unable to cite any regulations showing that the EOHHS Appeals Office has jurisdiction over readmissions to long-term care facilities, nor was I able to find any such regulations. Consequently, there is not a preponderance of evidence to show that the EOHHS Appeals Office has jurisdiction over the Facility's decision not to readmit the Appellant.

**IX. CONCLUSION OF LAW**

After careful review of the testimony and evidence present at the administrative hearing, this Appeals Officer concludes that:

1. The Facility properly discharged the Appellant without thirty days advance notice of pre-transfer or discharge because a more immediate transfer or discharge was necessitated by the resident's urgent medical needs.
2. The Alliance filed this Appeal to challenge the Facility's decision not to readmit the Appellant.
3. There is not a preponderance of evidence to show that the EOHHS Appeals Office has jurisdiction over the Facility's decision not to readmit the Appellant.

**X. 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 insufficient evidence to show that the EOHHS Appeals Office has jurisdiction over the Facility's decision not to readmit the Appellant.

**APPEAL DENIED**

*/s/ Jack Peloquin*

Jack Peloquin

Appeals Officer

**NOTICE OF APPELLATE RIGHTS**

This decision is a final order under R.I.G.L. § 42-35-12. Under R.I.G.L. § 42-35-15, this Order may be appealed to court within thirty (30) days of the mailing of this decision. Such

appeal, if taken, must be completed by filing a complaint in 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.

Appeals are generally filed in the Providence County Superior Court. However, appeals affecting or concerning children under the age of eighteen (18) and/or appeals of a DCYF action may need to be filed in Providence Family Court. If you have any questions about which court a complaint for appeal should be made, you should seek the advice of an attorney, Rhode Island Legal Services, or the clerk of the court where you wish to file your appeal. The courts' contact information can be found on the judiciary's website (<https://www.courts.ri.gov>). Copies of the appeal must be served upon all parties in your case within ten (10) days of the filing of your appeal.

If you exercise any of these appellate rights, please inform the EOHHS appeals office of this so we can prepare a copy of the record for the court. You can contact the Appeals Office at [OHHS.AppealsOffice@ohhs.ri.gov](mailto:OHHS.AppealsOffice@ohhs.ri.gov), 401.462.2132 (Phone), 401.462.0458 (Fax), or at 3 West Road, Virks Building, Cranston, RI 02908.

**CERTIFICATION**

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to [REDACTED] C/o Charline Scanlon C/o Alliance for Better Long Term Care, 422 Post Road, Suite 204 Warwick, RI 02888 and to [REDACTED]; copies were sent, via email, to Charline Scanlon at [charline@alliancebltc.org](mailto:charline@alliancebltc.org) and to [REDACTED] on this 18<sup>th</sup> day of February, 2026.

Rebecca Allen