

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

[REDACTED]

v.

Docket No. 26-1513

[REDACTED]

I. INTRODUCTION

The Appellant, [REDACTED], initiated this matter to appeal The Pre-Transfer or Pre-Discharge 30-Day Notice issued by [REDACTED] [REDACTED]). A Microsoft Teams hearing on this matter occurred on March 30, 2026, and the Appellant did not elect the option of a video hearing. 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

The Executive Office of Health and Human Services (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 involuntary transfers and discharges for all residents of assisted living facilities 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 EOHHS regulation 210-RICR-10-05-2.

III. ISSUE

The issue is whether there is sufficient evidence and compliance with procedures to permit the involuntary discharge of the Appellant.

IV. PARTIES AND EXHIBITS

Present for the hearing was [REDACTED] (Assistant Administrator), Renee Miller, Long-Term Care Ombudsman's Office (Ombudsman), and the Appellant. The record was held open until close of business on April 2, 2026, for the submission and review of the following submitted evidence:

1. Psychiatric notes covering dates May 19, 2025, through December 5, 2025.
2. Behavioral Contract signed by the Appellant on January 2, 2026.
3. House Rules signed by the Appellant on March 5, 2026.
4. Two Incident Reports dated February 28, 2026.
5. Medical Chart notes covering period March 1, 2026, through March 31, 2026.

V. RELEVANT LAW/REGULATIONS

Per Rhode Island General Law § 23-17.4-16(2)(xviii)(B and E) an Assisted Living Facility may discharge a resident if the resident does not meet the requirements for residency criteria stated in the residency agreement, and the facility makes a good faith effort to counsel the resident if the resident shows indications of no longer meeting the residence criteria.

When reasonable cause exists to believe a resident has been abused, exploited, neglected, or mistreated, a report must be submitted to the Director and the Office of the Long-Term Care Ombudsman. If there is no serious bodily injury, these reports must be submitted no later than 24 hours after the incident. If serious bodily injury is present, they should be reported no later than four hours after the incident occurred. 216-RICR-40-10-2.4.18(D).

VI. FINDINGS OF FACT

The Appellant is a resident at [REDACTED]. He received a 30-Day Pre-Transfer or Pre-Discharge Notice on March 2, 2026. The reasons given for the termination were alcohol abuse, violation of house rules his behavior agreement.

The Appellant had a hearing in due to non-payment December 2025 which was denied. Subsequent to that decision, [REDACTED] worked with the Appellant, creating a behavior contract which was signed by [REDACTED] and the Appellant on January 2, 2026. In addition to addressing the non-payment issue, the contract explicitly states the Appellant has the right to drink alcohol but will be responsible when doing so, and he will manage his behavior moving forward. Most significantly, the behavior contract states, "I understand that this is my second chance to redeem myself and if I don't comply with this contract, my residency could be in jeopardy at [REDACTED]".

On February 28, 2026, the Appellant became intoxicated, as a result he began vomiting excessively and was transported to the hospital by ambulance. The Appellant was adamant he did not drink excessively; it was a mixture of Clonopin and alcohol causing him to become sick. The Appellant stated the hospital discharge records showed he was not highly intoxicated; however the record was held open for discussed documents, including the discharge summary. The Appellant did not provide the discharge summary, thus there is no evidentiary documentation to verify this assertion.

Following the incident on February 28, 2026, and the subsequent behavior contract, the Appellant agreed to participate in treatment for alcohol issues and signed a release for a substance abuse agency. He also agreed to attend meetings. To date, the Appellant has not participated in any form of treatment.

VII. DISCUSSION

Per the Assistant Administrator, the Appellant was issued a 30-Day Discharge Notice due to noncompliance with his behavior contract, specifically that he would not become intoxicated or manage his behavior. She stated the Appellant needed to be taken to the hospital on February 28, 2026, due to being intoxicated.

Two incidents' reports dated February 28, 2026, state the Appellant was disrespectful and argumentative with staff during dinner seating, and left the area to de-escalate. Shortly after, the Appellant was found vomiting in the bathroom. He became argumentative with his wife (also a resident)

about not wanting to go to the hospital and fell out of his wheelchair. At that point the staff called for emergency services.

Additional medical charting notes show the Appellant began refusing his medication, mostly vitamins and minerals, and one anti-depressant, on or about February 13, 2026. The notes state the Appellant was refusing on the grounds that he was “going to be on the streets soon.” The Appellant affirmed this during the hearing, stating if he was going to be living on the streets he would need to remain focused in his head, not under the influence of medication.

The Appellant states he did consume alcohol the day he was taken to the hospital but added that he had Clonopin in his system still but thought it would not be as he tried to stop that medication two days prior. The Appellant further argues the change in policy regarding alcohol on the premises was effective April 1, 2026, therefore it was not in effect at the time of the incident. In response to this, the Assistant Administrator advised the rule has always been in place that there is no alcohol allowed, however, it was not enforced but will be now due to new administration.

The Appellant stated at the hearing he will participate in treatment if [REDACTED] assists in locating services as well as transportation if needed. [REDACTED] informed services have been offered, both at the facility and the community, however the Appellant consistently refused. The Appellant wavered several times during the hearing, stating he wanted to remain at [REDACTED], participate in treatment comply with the behavior plan; then stating he will be “on the streets” so why make attempts at [REDACTED]. Because of these contradicting statements, he is not found to be credible.

As noted above, the Appellant has already been counseled about his behavior and agreed to manage his behavior. He acknowledged this was his second chance to redeem himself, as indicated by initialing that statement and signing the behavior contract on January 2, 2026.

VIII. CONCLUSION OF LAW

After careful review of the testimony and evidence presented at the Administrative Hearing, it is clear by a preponderance of evidence that:

1. The Appellant signed an agreement stating he would manage his behavior.
2. The Appellant is in violation of his behavior contract.
3. Violation of the [REDACTED] house rules constitutes a failure to meet the requirements for residency criteria stated in the house and behavior contract.
4. [REDACTED] appropriately counseled the Appellant about his behavior and alcohol use.
5. There is sufficient evidence and demonstrated noncompliance with administrative procedures to permit the involuntary discharge of the Appellant.

6. IX. 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 the discharge of the Appellant.

[REDACTED] may discharge the Appellant when a reasonable alternative is located.

APPEAL DENIED

Jillian R. Rivers

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, 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], his Authorized Representative Renee Miller, c/o Alliance for Better Long Term Care, 422 Post Road, Suite 204, Warwick, RI 02888, and [REDACTED]; copies were sent, via email, to [REDACTED], Renee Miller at rmiller@alliancebltc.org, and [REDACTED] on this 6th day of April, 2016.

Samara Mendell