

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

V.

DOCKET No. 26-1560

DECISION

I. INTRODUCTION

A Microsoft Teams hearing on the above-entitled matter came before an Appeals Officer on April 23, 2026, and the Appellant declined the option of a video hearing. The Appellant, [REDACTED] (hereinafter the "Appellant"), initiated this matter to appeal the Pre-Transfer or Pre-Discharge 30-Day Notice issued by [REDACTED] (hereinafter the "Facility") on March 4, 2026. The Facility seeks to discharge the Appellant due to his failure to pay for his stay at the Nursing Home. The Appellant's Authorized Representative [REDACTED] (hereinafter "Authorized Representative"), asserts that the Appellant was not properly notified of his outstanding balance, therefore, he should be permitted to stay at the Facility. For the reasons discussed in more detail 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 transfers and discharges for all residents of assisted living and nursing

home facilities. The Administrative Hearing was held in accordance with the Administrative Procedures Act (R.I.G.L. § 42-35-1 et seq.) and BOHHS regulation 210-RICR-10-05-2.

III. ISSUE

Is there sufficient evidence and compliance with administrative procedures 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. 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

Present for the Facility was Administrator, [REDACTED], and Regional Business Officer, [REDACTED]. The Facility submitted the following exhibits as evidence:

Exhibit #1 – Pre-Transfer or Pre-Discharge 30 Day Notice.

Exhibit #2 – Facility Billing Statement, Date: April 10, 2026.

The Appellant did not attend the hearing. The Authorized Representative attended the hearing as well as the Long-Term Care Ombudsman, Charline Scanlon. The Authorized Representative and Charline Scanlon submitted the following exhibits as evidence:

Exhibit #3 – Appeal Form.

Exhibit #4 – Benefit Decision Notice for Long-Term Services and Support Medicaid (LTSS).

Exhibit #5 – Facility Billing Statement from July 28, 2025.

Exhibit #6 – Facility Billing Statement from February 9, 2026.

Exhibit #6 – Check to the Facility for \$500.00.

VI. RELEVANT LAW/REGULATIONS

There is a set of requirements, both procedural and substantive, an institution, such as a nursing home, must take to involuntarily discharge a patient. This process is not limited to Medicaid patients. See 210-RICR-50-00-7.1. A resident can be involuntarily discharged if the resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. (See 210-RICR-50-00-7.4(A)(5)).

LTSS beneficiaries are required by Federal law and Regulations, the State Plan, and the Section 1115 waiver to contribute income toward the Medicaid cost of care. See 210-RICR-50-00-8.1(A). Post-Eligibility Treatment of Income (PETI) is the amount of an LTSS beneficiary's income that is applied to the LTSS cost of care after the deduction of all available allowances. See 210-RICR-50-00-8.9(A). The PETI process is conducted by the State with verified information subsequent to the determination of income and resource eligibility, the assessment of clinical need, and the pre-authorization of services. Only the amounts set aside for the purposes set forth in this Rule may be protected. All the beneficiary's remaining income must be used to reduce the Medicaid payments for LTSS coverage. A beneficiary's income, protected amounts, and allocation to the cost of care are computed monthly to account for changes in income, the scope of services provided, and the cost of care, as appropriate. See 210-RICR-50-00-8.2(C). Health coverage and expenses can be deducted from the PETI for beneficiaries living in a nursing facility to reduce the beneficiary's cost of care. See 210-RICR-50-00-8.5(C).

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 resident to ensure a safe and orderly transfer or discharge. See 42 C.F.R. § 483.15(c)(7) (2024). 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 patients 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. See 210-RICR-50-00-7.5(B)(1-6).

VII. FINDINGS OF FACT

1. The Appellant has been a resident at the Facility since at least 2024.
2. The Appellant is approved for LTSS.
3. The Authorized Representative manages the Appellant's finances.
4. The Facility Billing Statement from July 28, 2025, shows that the Appellant has had a significant outstanding balance for his stay at the Facility since at least July 2025.
5. The Facility testified that the Appellant has an outstanding balance of \$3,953.74. This balance is from the Appellant's 2024 cost of care liability for LTSS.
6. The Authorized Representative testified that she disputes the Facility's calculation of the outstanding balance because she believes that the Appellant's health coverage expenses should be deducted from his 2024 cost of care.
7. The Facility testified that they initially lowered the Appellant's 2024 cost of care and requested verification to show that DHS had recalculated the Appellant's 2024 cost of care to accommodate the Authorized Representative so that she would continue to pay down the Appellant's outstanding balance.

8. The Facility never received any verification that the Appellant's 2024 cost of care had changed to reflect the Appellant's health coverage expense, so they raised the Appellant's 2024 cost of care back to the original amount. The Facility testified that they based the Appellant's final 2024 cost of care calculation on the information provided to them by DHS.
9. The Authorized Representative did not offer any evidence to show that she verified the Appellant's health coverage expenses for 2024 with DHS so that they could recalculate the Appellant's 2024 cost of care nor did she offer any evidence to show that she provided such verification to the Facility.
10. The Facility testified that they notified the Authorized Representative that the Appellant could be discharged for his failure to pay for his outstanding balance in January 2026, and that the Facility had conversations with the Authorized Representative about the disputed 2024 cost of care calculations prior to January 2026.

VIII. DISCUSSION

As stated above, a nursing home resident can be involuntarily discharged if the resident has failed, after reasonable and appropriate notice, to pay for a stay at the Facility. LTSS beneficiaries are required by Federal law and Regulations, the State Plan, and the Section 1115 waiver to contribute income toward the Medicaid cost of care. PETI is the amount of an LTSS beneficiary's income that is applied to the LTSS cost of care after the deduction of all available allowances. Health coverage and expenses can be deducted from the PETI for beneficiaries living in a nursing facility to reduce the beneficiary's cost of care and all the beneficiary's remaining income must be used to reduce the Medicaid payments for LTSS coverage.

The Facility testified that they properly issued the Pre-Transfer or Pre-Discharge 30 Day Notice to the Appellant because he has failed to pay for his stay at the Facility after receiving reasonable and appropriate notice. As stated above, the Appellant has an outstanding balance of \$3,953.74, due to the Appellant's unpaid 2024 cost of care. The Authorized Representative does not dispute that the Appellant

has an outstanding balance, but she does not agree that the Appellant should have to pay the outstanding balance because his health coverage expenses from 2024 were never deducted from his cost of care for that year.

The Authorized Representative testified that she first became aware of the outstanding balance from the Appellant's 2024 cost of care on April 10, 2026, when the Facility issued the Facility Billing Statement, Date: April 10, 2026. The Facility testified that there were several conversations with the Authorized Representative about the disputed 2024 cost of care going back to at least 2025, when the Facility temporarily lowered their calculation of the Appellant's 2024 cost of care to allow the Authorized Representative time to prove that she verified the Appellant's health coverage expenses from 2024 with DHS so that they could recalculate his 2024 cost of care. The Facility Billing Statement from July 28, 2025, clearly shows that since at least July 28, 2025, the Appellant and the Authorized Representative were made aware of the Appellant's outstanding balance due to his unpaid 2024 cost of care as it shows an accruing balance that grows every month in 2024, starting on April 1, 2024. Because the Authorized Representative's testimony that she first became aware of the Appellant's outstanding balance for his 2024 cost of care on April 10, 2026, conflicts with the Facility's testimony and the Facility Billing Statement from July 28, 2025, the Authorized Representative's testimony is not credible.

The Facility's testimony and billing notices show that it provided the Appellant with reasonable and appropriate notice to pay for his stay before issuing the Pre-Transfer or Pre-Discharge 30 Day Notice. The Facility testified that that the Appellant is responsible for his outstanding balance from his 2024 cost of care because it is based off the information it received from DHS. While the Authorized Representative testified that she does not believe that the Facility's calculation of the Appellant's 2024 cost of care is correct because it does not take the Appellant's health coverage expenses into consideration, she did not provide any evidence to show that DHS ever recalculated the Appellant's 2024 cost of care nor that she ever verified the health coverage expenses for 2024 with DHS so that they could recalculate the 2024 cost of care. It is more likely than not that the Facility provided the Appellant with time to verify his 2024

health coverage expenses with DHS so that they could recalculate his 2024 cost of care and he failed to do so. Because the Appellant has an outstanding balance and the Facility provided the Appellant with reasonable and appropriate notice to pay for his stay at the facility, there is sufficient evidence and compliance with administrative procedures to permit the involuntary discharge of 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 Authorized Representative is not credible.
2. A nursing home resident can be involuntarily discharged if the resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility.
3. There is a preponderance of evidence to show that the Facility provided the Appellant with reasonable and appropriate notice, to pay for his stay at the Facility.
4. The Appellant has an outstanding balance of \$3,953.74 for his stay at the Facility.
5. There is sufficient evidence and compliance with administrative procedures to permit the involuntary discharge of 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 sufficient evidence and compliance with administrative procedures to permit the involuntary discharge of the Appellant. The Facility may discharge the Appellant once a safe and orderly discharge plan is established.

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, 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]

[REDACTED]

[REDACTED]

[REDACTED]; copies were sent, via email, to [REDACTED]

[REDACTED]

[REDACTED] on this 28th day of APRIL,

2026.

Rehman Khan