

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

V.

DOCKET No. 26-2424

DECISION

I. INTRODUCTION

A telephonic hearing on the above-entitled matter came before an Appeals Officer on May 19, 2026, at 9:00 am. The Appellant, [REDACTED] (Appellant) declined the option of a video hearing. The Appellant initiated this matter to appeal a thirty (30) day discharge notice issued by [REDACTED] [REDACTED] (Facility). The Appellant was issued a Pre-Transfer or Pre-Discharge 30-Day Notice (30-Day Notice), dated April 14, 2026, with an effective discharge date of May 14, 2026. The Appellant then exercised her right to appeal and filed a timely hearing request, received by the Executive Office of Health and Human Services (EOHHS) on April 21, 2026. The Appellant sought to have the discharge overturned and remain at the facility. For the reasons discussed in detail below, the Appellant's appeal is denied.

II. JURISDICTION

EOHHS is authorized and designated by RIGL 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 of all residents of assisted living and nursing homes, regardless of if they are on Medicaid or not. The administrative hearing was held in accordance with the Administrative Procedures Act, RIGL 42-35-1 et. Seq. and EOHHS regulation 210-RICR-10-05-2

III. ISSUE

The issue before this Appeals Officer was whether there was sufficient evidence and compliance with 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, the initial burdens of production and persuasion rest with the moving party. (2 Richard J. Pierce, Administrative Law Treaties 10.7(2002)). Unless otherwise specified, a preponderance of evidence is generally required in order to prevail. (Id. & 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

Present at hearing were [REDACTED], Administrator at [REDACTED], Dino Russo, from the Rhode Island State Ombudsman’s Office (Ombudsman), and the Appellant.

The Appellant provided the following evidence at hearing:

- Appellant Exhibit #1 – Rhode Island Department of Human Services Pre-Transfer or Pre-Discharge 30 Day Notice, dated April 14, 2026.
- Appellant Exhibit #2 – 210-RICR-Executive Office of Health and Human Services 210-RICR-50-00-7.

VI. RELEVANT LAW/REGULATIONS

EOHHS rules and regulations set forth requirements, both procedural and substantive, that an institution, such as an assisted living residence, must take to involuntarily discharge a patient. According to (210-RICR-50-00-7.6), before transferring or discharging a resident, a long-term care facility must notify the resident (and, if known, a resident representative) of the transfer or discharge and 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 the following:

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, address (mailing and email), 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, address (mailing and email) and telephone number of the Office of the State Long-Term Care Ombudsman.

The Department of Health (DOH) rules and regulations set forth Professional Licensing and Facility Regulation for assisted living residences (216-RICR-40-10-2.4.19), which include the RI General Laws 23-17.4-16, "Rights of Residents" (xviii)(A)(D), states in part, to have the residence discharge a resident only for the following reasons and within the following guidelines: (A) Except in life threatening emergencies and for nonpayment of fees and costs, the residence gives thirty (30) days' advance written notice of termination of residency agreement with a statement containing the reason, the effective date of termination, and the resident's right to an appeal under state law; (D) For failure to pay all fees and costs stated in the contract, resulting in bills more than thirty (30) days outstanding. A resident who has been given notice to vacate for nonpayment of rent has the right to retain possession of the premises, up to any time prior to eviction from the premises, by tendering to the provider the entire amount of fees for

services, rent, interest, and costs then due. The provider may impose reasonable late fees for overdue payment, provided that the resident has received due notice of those charges in accordance with the residence's policies. Chronic and repeated failure to pay rent is a violation of the lease covenant. However, the residence must make reasonable efforts to accommodate temporary financial hardship and provide information on government or private subsidies available that may be available to help with costs.

According to RI General Laws 23-17.4-16(2)(xix) "Rights of Residents", the resident has the right to have the residence provide for a safe and orderly move out, including assistance with identifying a resource to help locate another setting, regardless of reason for move out.

VII. FINDINGS OF FACT

The Appellant has been a resident of the facility since October 10, 2022. This is an assisted living facility. The Appellant is not eligible for Medicaid and is not on Medicare, she is privately paying for her residence at the facility. She has failed to pay the facility since January and currently has an outstanding balance of \$17,365.00. The Appellant conceded that she has failed to pay. Administrator [REDACTED] testified that she has attempted to assist the Appellant with obtaining funds from the bank, however; the Appellant has not accepted any assistance offered.

On April 14, 2026, the Facility issued a 30-Day Notice, according to the 30-Day Notice, the Appellant failed to pay rent since January. The following are the details of the notice: A.) A pre-filled reason of discharge or transfer: "Your bill for service at this facility has not been paid after reasonable and appropriate notice to pay" is indicated as the discharge reason. B.) Effective date of discharge is May 14, 2026. C.) A discharge location is not identified. The Ombudsman testified that the 30-Day Notice is not valid as it does not include a location for discharge.

VIII. DISCUSSION

It was undisputed that the Appellant failed to pay rent after reasonable and appropriate notice had been provided to her. The Appellant is required to pay for services she received, which she did not.

After further review of 216-RICR-40-10-2.4.19(B)(5), and R.I. General Law 23-17.4-16(a)(2)(xviii), in cases of nonpayment of fees and costs, the residence gives (30) days' advance written notice of termination of residency agreement with a statement containing the reason, the effective date of termination, and the resident's right to an appeal under state law. In subpart (xix), the residents of assisted living also have the right to have the residence provide for a safe and orderly move out, including assistance with identifying a resource to help locate another setting, regardless of reason for moving out.

In conclusion, the undersigned Appeals Officer found this involuntary discharge was initiated in accordance with applicable federal and state laws. It was not disputed that the Appellant failed to pay rent. The 30-Day Notice was issued within R.I. General Law guidelines due to nonpayment for a minimum period of thirty days. Although the Ombudsman argued that the 30-Day notice was invalid as it lacked a location for discharge, this is not applicable for Assisted Living Facilities, as outlined in RIGL 23-17.4-16(a)(2)(xviii)

This involuntary discharge was made in accordance with regulations, the Appellant's request for relief is therefore denied.

IX. CONCLUSION OF LAW

After careful review of the Administrative Record, as a whole, in accordance with the Administrative Procedures Act, there was a preponderance of evidence to involuntary discharge the Appellant.

1. It is clear that the Appellant failed to pay her rent at the facility for three months, exceeding the thirty days delinquency requirement.

X. DECISION

Based on the foregoing findings of fact, conclusions of law, regulations, evidence, and testimony it is found that a final order be entered that there are sufficient grounds to involuntary discharge the Appellant at this time, however; pursuant to the aforementioned RIGL, the residence must provide for a

safe and orderly move out, including assistance with identifying a resource to help locate another setting, regardless of reason for move out.

APPEAL DENIED

/s/ Jenna Vilardo

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]; Dino Russo c/o

Alliance for Better Long Term Care at 422 Post Road, Suite 204, Warwick RI 02888, [REDACTED]

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

Russo at drusso@alliancebltc.org, and [REDACTED], on this

20th day of MAY, 2026.

Danica McIndell