

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

█

V.

DOCKET No. 26-2607

DECISION

I. INTRODUCTION

A Microsoft Teams hearing on the above-entitled matter came before an Appeals Officer on May 18, 2026, and the Appellant declined the option of a video hearing. The Appellant, █ (hereinafter the "Appellant"), initiated this matter to appeal the Pre-Transfer or Pre-Discharge 30-Day Notice issued by █ (hereinafter the "Facility") on April 15, 2026. The Facility seeks to discharge the Appellant due to their failure to pay for their stay at the Facility. The Appellant is seeking to have the discharge overturned and remain 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 EOHHS 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

Executive Director, [REDACTED], and Business Office Manager, [REDACTED], attended the hearing on behalf of the Facility. The Facility entered the following exhibit as evidence:

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

The Appellant did not attend the hearing. The Authorized Representative, [REDACTED], attended the hearing on the Appellant’s behalf as well as Long-Term Care Ombudsman, Charline Scanlon. The Authorized Representative submitted the following exhibit as evidence:

Exhibit #2 – Appeal Form.

VI. RELEVANT LAW/REGULATIONS

Every assisted living residence for adults licensed under this chapter shall observe the following standards and any other appropriate standards as may be prescribed in rules and regulations promulgated by the licensing agency with respect to each resident of the residence. See R.I. General Laws § 23-17.4-16(a). Residents of assisted living have the right to be discharged only for certain reasons and within certain guidelines. Residents may be discharged for failure to pay all fees and costs stated in the contract,

4. The Appellant began to accrue an unpaid balance shortly after their admission to the Memory Care Unit.
5. The Authorized Representative made some payments towards the Appellant's outstanding balance; however, the total outstanding balance is \$60,232.00.
6. The Authorized Representative does not dispute the calculation of the Appellant's total outstanding balance.
7. The Appellant was placed in collections with the Facility's internal financial group in October 2025, but this was terminated in January 2026 due to a lack of response from the Appellant and the Authorized Representative.
8. The Facility issued the Appellant a Pre-Transfer or Pre-Discharge 30 Day Notice on April 15, 2026, for failing to pay for services after reasonable and appropriate notice.

VIII. DISCUSSION

As stated above, residents of assisted living facilities may be discharged for failure to pay all fees and costs stated in the contract, resulting in bills more than 30 days outstanding. The Facility must make reasonable efforts to accommodate temporary financial hardship, and it must make a good faith effort to counsel the resident when service with a termination notice is anticipated. The Facility testified that they first informed the Authorized Representative that the Appellant could be discharged for their failure to pay their outstanding balance in June 2025. While the Appellant began to accrue an outstanding balance during the Summer of 2025, the Facility did not issue a Pre-Transfer or Pre-Discharge 30 Day Notice until April 15, 2026. Because the Facility provided the Appellant with at least eight months to pay their outstanding balance before issuing the Pre-Transfer or Pre-Discharge 30 Day Notice, there is a preponderance of evidence to show that the Facility made reasonable efforts to accommodate the Appellant's temporary financial hardship. Because the Appellant has an outstanding balance that is more than 30 days outstanding and because the Facility made a good faith effort to counsel the Authorized

resulting in bills more than 30 days outstanding. 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. The residence must also make a good faith effort to counsel the resident when service with a termination notice is anticipated. See R.I. General Laws § 23-17.4-16 (a)(2)(xviii)(D&E).

There is a requirement for the discharge to be a safe discharge. Federally, 42 C.F.R. § 483.15(c)(7) requires the facility to 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 Facility is an assisted living facility.
2. The Appellant was admitted to the Facility's Memory Care Unit during the summer of 2025.
3. When the Appellant was admitted to the Memory Care Unit, the Authorized Representative was informed that the Facility did not have a Medicaid contract for the Memory Care Unit, therefore, Medicaid coverage could not cover the Appellant's stay at the Facility. The Authorized Representative was also informed that the Appellant would be required to pay their balance in full to remain at the Facility.

Representative when service with a termination notice was anticipated, there is a preponderance of evidence 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 Appellant has an outstanding balance of \$60,232.00.
2. The Facility made a good faith effort to counsel the Authorized Representative when service with a termination notice was anticipated.
3. The Facility made reasonable efforts to accommodate the Appellant's temporary financial hardship.
4. There is a preponderance of evidence 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], Charline Scanlon at c/o Alliance for Better Long Term Care

422 Post Road, Suite 204, Warwick RI 02888, and to [REDACTED]

[REDACTED]; copies were sent, via email, to Charline Scanlon at

charline@alliancebltc.org and [REDACTED] on this 18th

day of May, 2020.

Jonathan McKeon