STATE OF RHODE ISLAND

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

ADMINISTRATIVE HEARING DECISION

[redacted] DOCKET: 26-2857

V.

[redacted]

I. INTRODUCTION

On May 4, 2026, [redacted] ("the Facility") issued [redacted] ("the Appellant") a PRE-TRANSFER/PRE-DISCHARGE 30 DAY NOTICE, with an effective date of June 2, 2026. On May 11, 2026, a "DHS-12INF REQUEST FOR A HEARING FORM" was filed on the Appellant's behalf with the Executive Hearing Office ("EHO") to dispute the 30-day Notice.

An administrative hearing was conducted on June 1, 2026, the hearing was held telephonically, as the Appellant declined the video option. The hearing was held in accordance with the Administrative Procedures Act R.I. Gen. Laws §42-35.1 and EOHHS Rhode Island Code of Regulations ("RICR") 210-RICR-10-05-2. For the reasons detailed below, the appeal is denied.

II. JURISDICTION

In accordance with R.I. Gen. Laws § 42-7.2-6.1, EOHHS is the entity responsible for publicly funded health and human services programs administered by the agencies operating under the EOHHS umbrella, including the appeal entity for transfers and discharges from licensed nursing facilities and assisted living residences for all payers.

III. ISSUES

The issues are whether or not the Appellant has failed to pay and is this involuntary discharge in accordance with rules and regulations.

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. (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. (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

The Facility was represented by Administrator [redacted] and Business Officer [redacted]. The following was marked as their evidence: exhibit 1 30-Day Notice and exhibit 2 Facility bill due by May 8, 2026. The Appellant did not appear but was represented by Dino Russo from the Office of the State Long-Term Care Ombudsman. The Appellant's Hearing Request Form was marked as exhibit A.

VI. RELEVANT LAW/REGULATIONS

The Code of Federal Regulations ("CFR") 42 CFR 483.15(c), sets forth the following requirements of involuntary transfer and discharge:

Facility requirements: a facility must permit each resident to remain in the facility, unless

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. Non-payment applies if the resident does not submit the necessary paperwork for third party payment or after the third party, including Medicare or Medicaid, denies the claim and the resident refuses to pay for his or her stay.

Documentation: When a facility transfers or discharges a resident for any of the reasons under this statute they must ensure it is documented in the resident's medical record and appropriate information is communicated to the receiving health care institution or provider. All necessary information, including a copy of the resident's discharge summary, and any other documentation, as applicable, to ensure a safe and effective transition of care.

Notice before transfer: Before a facility transfers or discharges a resident the facility *must* 1) Notify the resident and the resident's representative of the transfer or discharge and the reasons for the move in writing and in the language and manner they understand. 2) The facility *must* send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman. 3) Record the reasons for the transfer or discharge in the resident's medical record and include in the notice the items described in paragraph (c)(5).

Timing of the notice: Except in certain health and safety situations, the notice of transfer or discharge required under this section *must* be made by the facility at least 30 days before the resident is transferred or discharged.

Contents of the Notice: The written notice *must* include the following 1) the reason; 2) the effective date; 3) the location; 4) a statement of the residents appeal rights, including the name, address (mailing and email), and telephone number of the entity which 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 Ombudsman office, and two additional requirements for resident with intellectual and developmental disabilities or related disabilities.

Changes to the notice. If the information in the notice changes prior to affecting the transfer or discharge, the facility must update the recipients of the notice as soon as practicable once the updated information becomes available.

Orientation for transfer or discharge. A facility must provide and document sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility. The orientation must be provided in a form and manner that the resident can understand.

VII. FINDINGS OF FACTS

1. The Appellant entered the Facility on December 24, 2025, and currently resides in their long-term dementia unit.

2. Medicaid was denied due to excess resources of out-of-state property, after coinsurance paid for services through January 29, 2026, the Appellant has been required to private pay since January 30, 2026.

3. The 30-day Notice was issued for failure to pay. The Appellant made only one payment to the Facility since admission of $10,500.00 on February 10, 2026. A second payment was made since the issuance of the 30-day Notice of $14,897.00. The current outstanding balance is $37.682.00.

4. The Facility plans to discharge the Appellant to [redacted], the Appellant's sister, and where she resided prior to admission.

5. [redacted] is on record as the Appellant's "resident representative", although the Facility testified she is "MIA." The Facility sent [redacted] a certified copy of the 30-day Notice.

6. The Ombudsman, who is in contact with [redacted] objects to the discharge location.

7. The 30-day Notice included the contact information of the EHO and the Ombudsman, and the residents' rights and appeal rights.

8. The Facility testified that although that although not reflected on the 30-day Notice it was given to the Resident, but she is unable to sign and therefore could not confirm receipt. They also sent it to the Ombudsman, and copy was placed in the clinical record.

9. The Hearing Request Form was signed and submitted by the Ombudsman, on behalf of the resident, it was noted the Appellant "does not have the mental capacity to do so."

10. The EHO accepted the request and scheduled a hearing for May 11, 2026.

11. The Ombudsman on behalf of the Appellant, disagrees with the notice, is requesting that the 30-day Notice be rescinded and that the Appellant be permitted to remain at the Facility.

12. The Facility stands by the 30-day Notice and is unable to allow the Appellant to stay without payment.

VIII. DISCUSSION

Regulations require facilities to permit residents to remain in the Facility, there are some circumstances that allow a facility to involuntarily discharge a resident. It must be decided first substantively if the Facility issued the 30-day Notice for a valid reason, if so, second if the Facility followed all procedural requirements of such a discharge.

The Facility maintains the Appellant has failed to pay. The Appellant was denied third party payment from Medicaid as they did not meet the resource limit. The Facility testified that each month a billing statement, as submitted as evidence, is issued to the Appellant. The statement includes a breakdown of each month's charges and the total balance due. While it is acknowledged that there have been two payments made, the payments are irregular and there is a

substantial outstanding balance. The Facility has been reasonable and has attempted to work with the Appellant's family as they are in the process of liquidating the Appellant's resources, but they have only received two payments in six months, and they cannot be expected to wait endlessly for payment. Residents are required to pay for their stay; after appropriate notice to pay the Appellant has failed to do so.

The Ombudsman objects to the Appellant the discharge location. As the Ombudsman has been in contact with [redacted] and testified that she is unable to care for the Appellant, and this is not a safe discharge plan. It is unknown why, [redacted] who is the Appellant's representative has failed to respond to the Facility. There is no direct evidence that this is not a safe discharge location. The circumstantial evidence of the fact that the Appellant resided at [redacted] prior to admission just six months ago, [redacted] was notified of the planned discharge and neither contacted the Facility, nor attended the hearing to object to this discharge, is more convincing than the testimony offered in opposition to it by the Ombudsman. The record is void of evidence that this is not an appropriate discharge location.

The Facility is aware that any planned discharges need to be documented in a resident's medical record. They testified this discharge plan has not been cleared by the Appellant's physician, nor has a discharge summary been completed. The Facility also has not completed any preparation and orientation with the Appellant to ensure a safe and orderly discharge. They must comply with these requirements, then they can they can proceed with their planned discharge of the Appellant. If the information in the notice changes prior to affecting the discharge, the Facility must update the recipients of the notice as soon as practicable once the updated information becomes available.

IX. CONCLUSION OF LAW

After a review of the administrative record, I conclude in accordance with 42 CFR 483-15(c) regarding the requirements of an involuntary discharge, the preponderance of evidence supports:

- The Appellant has failed after reasonable and appropriate notice, to pay.
- The Facility issued a regulatory 30-day Notice.
- The Facility failed to document the discharge in the Appellant's medical record and failed to complete discharge preparation and orientation, both of which are to ensure a safe and orderly discharge.

X. DECISION

Based on the foregoing Findings of Facts, Conclusion of Law, and testimony, it is found that an order be entered that:

- The Facility met substantive requirements of involuntary discharge.
- The Appellant's request to rescind the 30-day Notice is denied.
- The Facility did not meet procedural requirements of involuntary discharge.
- The Appellant may continue to reside at the Facility until such time as the Facility comply with proper requirements for a safe and orderly discharge.
- The Facility is then permitted to discharge the Appellant.

APPEAL DENIED

If you are aggrieved by this decision, please see attached time sensitive appellate rights.

/s/Holly Young | Appeals Officer | Executive Office of Health and Human Services

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] and via email to [redacted]; and to Dino Russo, c/o Alliance for a Better Long Term Care, 422 Post Road, Suite 204, Warwick RI 02888 and via email to drusso@alliancebltc.org, on this 4th day of June, 2026.