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

[redacted]

V. DOCKET No. 26-3143

[redacted]

DECISION

I. INTRODUCTION

A Microsoft Teams hearing on the above-entitled matter came before an Appeals Officer on June 16, 2026. The state Long-Term Care Ombudsman, representing the Appellant, [redacted], initiated this matter to appeal the Pre-Discharge 30-Day Notice (30-Day Notice) issued by [redacted] ([redacted] a nursing home, on May 15, 2026. The notice stated the Appellant's bill for services at the nursing home has not been paid after reasonable and appropriate notice to pay. The Appellant then filed a timely appeal that was received by the Executive Office of Health and Human Services (EOHHS) on May 26, 2026. The Ombudsman is seeking to have the discharge notice rescinded, and have the Appellant remain at the nursing home. For the reasons discussed in more detail below, the Administrative Hearing has been decided against the Appellant.

II. JURISDICTION

EOHHS is authorized and designated by Rhode Island General Laws (R.I.G. L.) § 42-7.2-6.1 and the Rhode Island Code of Regulations (RICR) 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 patients of nursing homes regardless if they are on Medicaid. The administrative hearing was held in accordance with the Administrative Procedures Act (R.I.G.L. § 42-35-1 et. seq.) and 210-RICR-10-05-2.

III. ISSUE

The issue before this Appeals Officer is whether there is sufficient evidence, along with 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. 2 Richard J. Pierce, Administrative Law Treatise § 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. *Narragansett Electric Co. vs. Carbone*, 898 A.2d 87 (R.I. 2006).

V. PARTIES AND EXHIBITS

Present for [redacted] were [redacted], business office manager (Business Office Manager), and [redacted], administrator (Administrator), who provided testimony regarding the case. The Appellant did not attend the hearing and was represented by Dino Russo, from the Alliance for Better Long-Term Care. The following exhibits were presented as evidence:

- 30-Day Notice with letter dated May 15, 2026, to the Appellant's spouse outlining the amount owed to [redacted]
- Admission agreement.
- Appeal filed May 26, 2026.

- 210-RICR-50-00-7, Chapter 50 Medicaid Long-Term Services and Supports, subchapter 00 – Long-Term Services, Part 7 – Involuntary Discharge from a Long-Term Care Facility

VI. RELEVANT LAW/REGULATIONS

Under 210-RICR-50-00-7, there is a set of requirements a nursing home must take to involuntarily discharge a patient. Facilities are not allowed to discharge patients involuntarily, except in certain cases, such as failure to pay (or to have paid under Medicare or Medicaid) for their stay after reasonable and appropriate notice. 210-RICR-50-00-7.4(A)(5).

Furthermore, 210-RICR-50-00-7.6 lays out several procedural requirements to discharge a patient from a nursing home involuntarily. These include:

1. Written notice being given to the patient and any representative they have. The notice must:
    a. be in a language and manner the patient understands.
    b. list the reason for the transfer/discharge.
    c. list the effective date of the transfer/discharge.
    d. list the location the patient is being transferred/discharged to.
    e. contain a statement of the patient's appeals rights including the name, mailing address, email address, and telephone number of the entity that receives such appeals, and contain information on how to obtain the appeal form and on how to get assistance in completing the appeal if needed.
    f. contain the name, mailing address, email address, and telephone number of the Office of the State Long-Term Care Ombudsman.
    g. be provided at least 30 days in advance of the transfer.
    h. For intellectually and/or developmentally disabled patients, the notice also needs to include the mailing address, email address, and telephone number of the Department of

Behavioral Healthcare, Developmental Disabilities, and Hospitals Division of Developmental Disabilities.

i. For patients with a mental disorder or related disability, the notice also needs to include the mailing address, email address, and telephone number of the Office of the Mental Health Advocate.

2. Notification of the pending discharge must be provided to the Office of the State Long-Term Care Ombudsman. The Ombudsman is part of and operates out of the Alliance for Better Long-Term Care.

In addition, the Code of Federal Regulations, 42 C.F.R.. § 483.15(c)(6) states if the information in the notice changes prior to effecting the transfer or discharge, the facility must update the recipients of the notice as soon as practicable once the updated information becomes available.

Finally, there is a requirement for the discharge to be a safe discharge. 42 C.F.R. § 483.15(c)(7) requires the facility must provide (and document) sufficient preparation and orientation to the patient to ensure a safe and orderly transfer or discharge. This must be in a form and manner that the patient can understand. On the state level, 210-RICR-50-00-7.5(B) outlines the requirements of a safe discharge. This includes 1) contact information for the practitioner responsible for the care of the patient, 2) the patient's 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. This includes a copy of the discharge summary.

Regarding payment: Medicaid LTSS beneficiaries are required by federal and state law and regulations to contribute income toward the Medicaid cost of care, irrespective of whether LTSS is provided in a health care institution or a home or community living arrangement. Only persons eligible for Medicaid LTSS on the basis of Modified Adjusted Gross Income – the Affordable Care Act – are not required to pay toward the cost of care under federal regulations. 210-RICR-50-00-8.1(A).

VII. FINDINGS OF FACT

1. The Appellant has been a resident of [redacted] since February 14, 2025. The admission agreement was signed by the Appellant's representative, [redacted], on February 21, 2025, and includes the payment policy.
2. The Appellant has never paid anything to [redacted] since he moved in. He owes the facility $23,119.22. The Appellant is approved for Medicaid Long-Term Care through the R.I. Department of Human Services and therefore responsible for paying a $1,447.00 monthly cost of care to [redacted] based on his income.
3. [redacted] issued the 30-Day Notice on May 15, 2026, to the Appellant due to non-payment. The 30-Day Notice lists [redacted] as the location where he would be discharged, but that facility will no longer take him, according to the Administrator.
4. The Administrator testified they are seeking other facilities that will accept the Appellant, but once they explain the payment problem, they refuse to accept him.
5. The Administrator testified that the person responsible for payment, the Appellant's spouse, refuses to cooperate with the facility. A letter was sent to her on May 15, 2026, telling her that full payment must be made within 30 days or the resident would either be discharged to another facility, home, home of a family member, or a legal representative.
6. [redacted] representatives testified at hearing about their attempts to obtain payment from the Appellant's spouse; they did not mention reaching out to [redacted], who signed the admissions packet on the Appellant's behalf.
7. The Business Office Manager testified that the spouse wanted the Appellant's cost of care reduced by the state. The spouse thought she was entitled to a spousal allowance (SA), but because she works full-time, she was denied as her gross income exceeds the limit to qualify. The case was reviewed again, but the Long-Term Care Department maintained that the spouse exceeded the limit, and that unless she stopped working, she would not qualify for the SA.

8. The Ombudsman testified that he talked to the spouse who told him that the Appellant's social security check is set up so that it is deposited directly to the landlord for rent.
9. The Ombudsman testified that the Appellant is not in charge of his social security check. The Ombudsman tried to talk to the Appellant about the [redacted] payment issue, but he said there is a language barrier and the Appellant could not understand him when he tried to explain that [redacted] needs to be paid.
10. The Ombudsman testified that the spouse told him she cannot afford to live without the Appellant's social security check, and while he explained that [redacted] is entitled to that money and that she could potentially face consequences for not turning it over, she was not receptive and uncooperative.
11. The Administrator testified the spouse will not discuss bringing the Appellant home.
12. The Ombudsman testified that discharging the Appellant to his home would not be safe due to his medical needs – he needs help with toileting, and sometimes needs assistance from 1-2 people to ambulate. The Ombudsman's position is that the discharge of the Appellant is not safe, and he needs to remain in a nursing home.

VIII. DISCUSSION

Medicaid LTSS beneficiaries are required by federal and state law to contribute their income toward their cost of care. 210-RICR-50-00-8.1(A). As a Medicaid LTSS recipient, the Appellant's cost of care – the amount he is to pay to [redacted] – was calculated by DHS at $1,447.00 a month. To date, the Appellant owes [redacted] $23,119.22. He has never paid anything to the facility since he was admitted in February 2025. The Appellant's spouse is responsible for payment according to [redacted] representatives, but is uncooperative and refuses to pay because she says she needs the Appellant's social security check to pay her rent.

The Appellant's spouse's claim that she cannot afford her expenses without the Appellant's social security check may be true, but the non-payment led [redacted] to file the 30-Day Discharge Notice. The

30-Day Notice was issued correctly until the discharge destination – [redacted] – told [redacted] it would no longer take the Appellant. The Administrator testified they are having difficulty finding a new placement because once they reveal the payment issue, nursing facilities do not want to take the Appellant.

Because the Appellant refuses to pay, it is a valid reason for discharge. Facilities can discharge patients involuntarily if there is a failure to pay for their stay after reasonable notice. 210-RICR-50-00-7.4(A)(5).

There is a requirement for the discharge to be safe and orderly, per 42 C.F.R. § 483.15(c)(7). At present, the discharge is not safe as there is no current discharge destination.

IX. CONCLUSION OF LAW

After careful review of the testimony and evidence presented at the Administrative Hearing, this Appeals Officer concludes:

1. The Appellant's resident representative signed the admission agreement, which includes the payment policy, on the Appellant's behalf, in February 2025.
2. The Appellant, a Medicaid LTSS recipient, owes $23,119.22 to the facility. Medicaid LTSS beneficiaries are required by law to contribute income toward their cost of care. 210-RICR-50-00-8.1(A).
3. The original discharge location listed on the 30-Day Notice for the Appellant – [redacted] – is not available because it will no longer accept him, and [redacted] does not have a safe alternative. The Appellant cannot be discharged if the discharge is not safe, according to 42 C.F.R. § 483.15(c)(7).
4. The Ombudsman did meet the burden of proof by explaining that the proposed discharge is not safe because there is no longer a specific destination as to where the Appellant can be moved.

5. Once a safe discharge plan has been created and a destination secured for the Appellant, [redacted] must send an updated notice as soon as it is practicable. 42 C.F.R., § 483.15(c)(6).

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 to support [redacted] discharge of the Appellant due to non-payment. However, the Appellant's discharge must be safe and orderly. The Appellant's request to rescind the 30-Day Notice is thereby denied.

APPEAL DENIED

/s/ Lori Stabile

Lori Stabile

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 Dino Russo, c/o Alliance for Better Long Term Care, 422 Post Road, Suite 204, Warwick, RI 02888, and [redacted];

copies were sent, via email, to Dino Russo at drusso@alliancebltc.org and [redacted] at [redacted] on this 22nd day of June, 2026.

Tamara McKendall