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

[redacted]

V. Docket #: 26-3953

[redacted]

DECISION

INTRODUCTION

The Appellant, [redacted], initiated this matter to appeal the involuntary discharge from [redacted] ([redacted]). The Appellant is seeking to have the discharge overturned and to return to the nursing home. A Microsoft Teams hearing in this matter occurred on Monday, June 29, 2026, at 2:00 PM. The Appellant did not elect the option of a video hearing. For the reasons discussed in more detail below, the Appellant's appeal is denied.

JURISDICTION

EOHHS is authorized and designated by R.I.G.L § 42-7.2-6.1 and 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 of whether they are on Medicaid or not. The administrative hearing was held in accordance with 210-RICR-10-05-2 and the Administrative Procedures Act (R.I.G.L. § 42-35-1 et. seq.).

ISSUE

The issue is whether there is sufficient evidence and compliance with administrative procedures to permit the involuntary discharge of the Appellant.

STANDARD OF PROOF

It is well settled that in adjudications modeled on the Federal Administrative Procedures Act a preponderance of the evidence is required to prevail. This means that for each element to be proven, the factfinder must believe that the facts asserted are more probably true than false. 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). 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).

PARTIES AND EXHIBITS

In attendance at the hearing were:

- The Appellant's Authorized Representative [redacted] – Director of Case Management for [redacted]
- Beth Mantia from the Ombudsman Office/The Alliance for Better Long-Term Care
- [redacted] – Administrator for [redacted]
- [redacted] – Director of Nursing for [redacted]

The following exhibits were presented as evidence:

- The Appeal
- Provider Response from [redacted] related to the readmission of the Appellant
- Email from the Ombudsman Office requesting an emergency hearing
- Various Progress Notes regarding the Appellant
- [redacted] Bed Hold Policy
- AI snippets of Rhode Island laws and regulations related to involuntary discharges

RELEVANT LAW/REGULATIONS

Facilities are not allowed to discharge patients involuntarily, except in certain cases. 210-RICR-50-00-7.4 (A). This includes cases when it is medically necessary for the resident. Written notice must be given to the resident 30 days in advance of the discharge. However, in cases where more immediate transfer or discharge is needed based on the patient's urgent medical needs, the notice can be sent as soon as practicable. 210-RICR-50-00-7.6 (C) & (E)(5).

FINDINGS OF FACT

The Appellant was admitted to [redacted]. Due to the Appellant's medical conditions, they have been on modified diets. This includes being on thicken water and having food pureed or minced and moist. The Appellant has also been on and off tube feeding either to supplement meals eaten or as a replacement of consuming food by mouth. The Appellant has also suffered from several aspiration episodes and requires supplemental oxygen to avoid going hypoxic (low oxygen levels). There is a documented history of the Appellant being difficult/resistant to the care plan, including refusing tube feeding, eating food that was not the proper texture (minced and moist), and removing their oxygen supply. Efforts by [redacted] have been unsuccessful in educating the Appellant and getting them to remain compliant with the care plan.

The Appellant was sent to the hospital due to medical concerns. [redacted] is ready to discharge the Appellant and [redacted] is refusing to take the Appellant back. [redacted] claims this is based on the Medical Director and the Attending Doctor who feel uncomfortable taking the Appellant back and being able to properly/successfully care for the Appellant.

DISCUSSION

The discharge in question here is the move from [redacted] to [redacted]. The record is unclear if the Appellant requested or consented/agreed to go to the hospital. If that was the case the

discharge would not be considered an involuntary discharge under 210-RICR-10-05-2.4.8 (A) & 210-RICR-50-00-7.1 and therefore not subject to the involuntary discharge rules.

Assuming arguendo that this was an involuntary discharge to [redacted], [redacted] is permitted to involuntarily discharge the Appellant to the hospital for urgent medical needs. Testimony and the Resident Bed Hold Notice both stress that this discharge was related to an emergency hospital transfer. The Appellant has a history of hospitalizations related to hypoxic and aspiration episodes. No evidence was presented substantiating that the discharge was not medically necessary or medically recommended. Under 210-RICR-50-00-7.6 (E)(5), the discharge notice can be sent as soon as practicable in this situation and therefore the failure to provide notice 30-days in advance is not an issue here.

The Ombudsman's office argues that because the discharge to the hospital was not properly preceded by a 30-day discharge notice, the Appellant should be allowed to return to [redacted] and then be issued a 30-day discharge notice from there. However, this suggestion relies on EOHHS having the authority to require [redacted] to readmit the Appellant. Regulations are clear that EOHHS handles involuntary discharge disputes. Other matters, such as admissions and voluntary discharges are outside the scope of EOHHS.

CONCLUSION OF LAW

After careful review of the testimony and evidence presented at the administrative hearing, this tribunal concludes:

1. If the Appellant agreed to go to the hospital, the discharge would not be an involuntary discharge and therefore not subject to the involuntary discharge rules.
2. If the Appellant did not agree to go to the hospital, [redacted] has established that the discharge was for an urgent medical need and therefore they could involuntarily discharge the Appellant without providing the full 30-day notice period.

3. It is beyond the authority of this tribunal to order or interfere with the admission decisions of a facility, including [redacted].

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 the discharge.

APPEAL DENIED

/s/ Shawn J. Masse

Shawn J. Masse

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], Beth Mantia at the Alliance for Better Long-Term Care, 422 Post Rd, Suite 204, Warwick, RI 02888, and [redacted]; copies were sent, via email, to Beth Mantia at beth@alliancebltc.org, [redacted], and to [redacted] on this 30th day of June, 2026.