

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

[REDACTED]

V.

DOCKET No. 26-4294

[REDACTED]

DECISION

I. INTRODUCTION

A Microsoft Teams hearing on the above-entitled matter came before an Appeals Officer on August 12, 2026, and the Appellant declined the option of a video hearing. The Appellant, [REDACTED], initiated this matter to appeal the Pre-Transfer or Pre-Discharge 30-Day Notice issued by [REDACTED] [REDACTED] (hereinafter the "Facility") on July 13, 2026. The Facility seeks to discharge the Appellant due to their failure to pay their outstanding balance at the Nursing Home. 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

Present for the Facility was Administrator, [REDACTED], and Director of Social Services, [REDACTED]

[REDACTED] The Facility submitted the following exhibit as evidence:

Exhibit #1 – July 13, 2026, Pre-Transfer or Pre-Discharge 30 Day Notice.

The Appellant attended the hearing as well as Renee Miller (hereinafter “Ombudsperson Miller”) from the Rhode Island State Ombudsman’s Office. The Appellant submitted the following exhibit as evidence:

Exhibit #2 – July 15, 2026, Appeal Form.

VI. RELEVANT LAW/REGULATIONS

There is a set of requirements, both procedural and substantive, an institution, such as a nursing home, must take to involuntarily discharge a patient. This process is not limited to Medicaid patients. See 210-RICR-50-00-7.1. A resident can be involuntarily discharged if the resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility. See 210-RICR-50-00-7.4(A)(5).

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. This must be in a form and manner that the patient can understand. On the state level, 210-RICR-50-00-7.5(B)(1-6) 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. 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. See 42 C.F.R. § 483.15(c)(6).

VII. FINDINGS OF FACT

1. The Appellant has been a resident of the Facility since 2025.
2. The Facility testified that since January 1, 2026, the Appellant has had an outstanding balance of \$1,162.00.
3. The Facility testified that they tried to accommodate the Appellant, but they ultimately issued the July 13, 2026, 30 Pre-Transfer or Pre-Discharge 30 Day Notice because the Appellant was unable to pay off their outstanding balance. As of July 13, 2026, the Appellant's outstanding balance was \$2,065.00.
4. The Facility testified that as of August 12, 2026, the Appellant has an outstanding balance of \$6,189.00.
5. The Facility testified that the Appellant's outstanding balance has grown significantly because of the charges incurred for holding the Appellant's bed when they go on overnight visits. The

Facility also testified that the Appellant has gone on more than 15 overnight visits since their admission to the Facility.

6. The Appellant has not made any payments to the Facility since July 7, 2026.
7. The Appellant did not dispute that they have an outstanding balance, and they testified that they would be unable to pay it.
8. The Facility testified that there is no location for discharge listed on the July 13, 2026, 30 Pre-Transfer or Pre-Discharge 30 Day Notice because they are still working with the Appellant and the Nursing Home Transition Team to identify a suitable discharge location. The Facility further testified that their current plan is to discharge the Appellant to a hotel, but they are also working with the Nursing Home Transition Team to aid the Appellant in completing applications to assisted living facilities.
9. The Appellant is insulin dependent and a double amputee. The Appellant testified that they have a wound on the side of their leg that is caused by their prosthetic.
10. The Facility testified that the Appellant is independent with all their activities of daily life, including removing and replacing the bandage over their wound site and cleaning the wound.

VIII. DISCUSSION

As stated above, a nursing home resident can be involuntarily discharged if the resident has failed, after reasonable and appropriate notice, to pay for a stay at the Facility. The Facility asserts that the Appellant should be discharged because they have consistently had an outstanding balance since at least January 1, 2026, despite having been given reasonable and appropriate notice to pay. The Appellant does not dispute that they have an outstanding balance, but they do dispute the calculation of that balance. The Appellant testified that they do not agree with the Facility's calculation because they disagree with the number of absences calculated by the Facility, however, the Appellant offered no evidence to show how the Facility miscalculated their outstanding balance.

The Facility's testimony shows that it provided the Appellant with reasonable and appropriate notice to pay for their stay before issuing the Pre-Transfer or Pre-Discharge 30 Day Notice, as the Appellant has had an outstanding balance since January 1, 2026, and it has now grown to \$6,189.00. Because the record shows that the Appellant has failed to pay for their stay after reasonable and appropriate notice there is sufficient evidence and compliance with administrative procedures to permit the involuntary discharge of the Appellant.

Ombudsperson Miller testified that they do not agree that a hotel is a safe location for discharge due to the Appellant's medical conditions. The Facility testified that the Appellant has been working with the Nursing Home Transition Team for ten months and they have been unable to identify a suitable location for discharge, therefore, they believe that a hotel appears to be the only suitable location for discharge at this present moment. The Facility also testified that the Appellant was able to go on more than 15 overnight visits, including overnight stays at a hotel room, without any complications as the Appellant is independent with their activities of daily life. While the Appellant voiced concerns about being discharged to a hotel due to the wound on their leg, they did not offer any evidence nor testimony to show that they were dependent upon the Facility to manage the wound. The Facility testified that they are still working with the Appellant to identify a suitable location for discharge and that they are willing to pay for a hotel stay if necessary. Because the Appellant is independent with all their activities of daily life, including wound care, there is a preponderance of evidence to show that a hotel could be a safe location for discharge if necessary. The Facility's decision not to indicate a specific location for the Appellant's discharge does not render the notice invalid as the Pre-Transfer or Pre-Discharge 30 Day Notice can be amended at any time before the discharge occurs. If a safe and orderly discharge plan is established by the date of discharge, the lack of a specific discharge location at this juncture is not fatal to the Pre-Transfer or Pre-Discharge 30 Day Notice.

IX. CONCLUSION OF LAW

After careful review of the testimony and evidence present at the administrative hearing, this Appeals Officer concludes that:

1. The Pre-Transfer or Pre-Discharge 30 Day Notice is procedurally sufficient.
2. Failure to pay after reasonable and appropriate notice is a valid reason for an involuntary discharge from a nursing facility.
3. The Appellant has had an outstanding balance since January 1, 2026, and currently has an outstanding balance of \$6,189.00.
4. The Appellant has failed to pay for their stay after reasonable and appropriate notice.
5. There is sufficient evidence and compliance with administrative procedures 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 to support the involuntary discharge of the Appellant. The Facility is permitted to 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], Renee Miller at Alliance for Better Long Term Care, 422 Post Road, Suite 204, Warwick, RI 02888, and to [REDACTED]; copies were sent, via email, to Renee Miller at rmiller@alliancebltc.org and to [REDACTED] on this 14th day of August 2026.

/s/ Rebecca L. Abramson