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

[redacted]

V. DOCKET No. 26-4452

[redacted]

DECISION

I. INTRODUCTION

A Microsoft Teams hearing on the above-entitled matter was held on August 17, 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) for non-payment issued by [redacted]) on July 21, 2026. The Appellant then filed a timely appeal that was received by the Executive Office of Health and Human Services (EOHHS) on July 21, 2026. The Appellant is seeking to have the discharge overturned and 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 R.I. General Laws § 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 or not. 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 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 Administrator [redacted] (Administrator), Social Services Director [redacted] (Social Services Director), and Business Office Manager [redacted] (Business Office Manager), who provided testimony regarding the case. The Appellant represented herself. Present for the Alliance for Better Long-Term Care was Long-Term Care Ombudsman Beth Mantia (Ombudsman). The following exhibits were presented as evidence:

- [redacted] Exhibits:
  - 30-Day Notice filed July 21, 2026.
  - Insurance Verification form.
- Appellant Exhibit:

- Appeal filed July 21, 2026.

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 for their stay (or to have paid under Medicare or Medicaid) after reasonable and appropriate notice. 210-RICR-50-00-7.4(A)(5).

Furthermore, 210-RICR-50-00-7.6 lays out 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.
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 residents 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 documentation 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.

Eligibility requirements for Long-Term Services and Supports (LTSS): There is a $4,000 resource limit for Medicaid LTSS eligibility except for Affordable Care Act (ACA) expansion adults. 210-RICR-50-00-6.5(A) During the penalty period, the State does not pay for LTSS provided in a health institution such as a nursing facility. The penalty is a period of Medicaid LTSS ineligibility. 210-RICR-50-00-6.6.1(A).

VII. FINDINGS OF FACT

The Appellant has resided at [redacted] since September 2019. As a Medicaid recipient, she was responsible for paying her share, also known as a cost of care, to the facility to live there. The Appellant signed an Insurance Verification form upon admission to [redacted] outlining her responsibility for payment to the facility.

[redacted] was notified by the Department of Human Services (DHS) in March 2026 about the Appellant's Medicaid Recertification, the Business Office Manager testified. [redacted] representatives

tried contacting the Appellant's son, who controls her money and is responsible for the Appellant's payment to the facility, but had difficulty reaching him until May 18, 2026, when they informed him that DHS needed bank statements as part of the Recertification process.

DHS discovered home sale proceeds of $184,107 during the Recertification process, denying the Appellant on June 15, 2026, and giving her a penalty period from April 1, 2026, until May 8, 2027, in which she would be responsible for privately paying the nursing home, instead of paying her Medicaid share of $1,610 a month. The Business Office Manager testified that the private pay rate for the Appellant is $400 a day and that the Appellant currently owes $48,000 to [redacted]. The Appellant's son is continuing to only pay her Medicaid share of $1,610, despite being made aware of the Medicaid denial and the private pay amount owed, the Business Office Manager testified. The Business Office Manager testified that the Appellant does not have access to her money. The 30-Day Notice states the reason for the discharge as "your bill for services at this facility has not been paid after reasonable and appropriate notice to pay."

The Appellant's son submitted more documents to DHS since the denial, and the Administrator testified that they were notified on Thursday that as a result of that information, the penalty period has been extended to October 2027.

The Social Services Director testified that the 30-Day Notice was issued July 21, 2026; it does not list a location to which the Appellant would be transferred or discharged, stating "To Be Determined." The Appeal of the discharge also was filed on July 21, 2026, by the Ombudsman on the Appellant's behalf. The Ombudsman testified that her office is concerned about a safe discharge as there is no discharge location listed on the 30-Day Notice.

The Appellant's son did not attend the hearing, despite being informed of it by [redacted] representatives and the Ombudsman, they testified. Neither the Appellant nor her representative disputed the amount owed to the facility.

The Administrator called the discharge an unfortunate situation for the Appellant "with the way the family misappropriated her money," stating they are concerned about how they are going to move forward. The Administrator testified that the Appellant has two sons, and the Social Services Director testified that the other son also is difficult to reach.

The Ombudsman asked the Appellant if she felt that her son spent her money without her knowledge. The Appellant replied that he told her that he used the money to pay the bills, and the bank took $52,000 from the house sale.

VIII. DISCUSSION

The record consists of evidence and testimony from [redacted] representatives, the Ombudsman and the Appellant. The Appellant, due to the house sale, exceeded the $4,000 resource limit for LTSS Medicaid recipients per 210-RICR-50-00-6.5(A), and incurred a penalty period that began April 1, 2026, and will last until October 2027. During the penalty, the State does not pay for LTSS at a nursing facility as it is a period of Medicaid LTSS ineligibility. 210-RICR-50-00-6.6.1(A). Instead, the resident must pay the private pay amount, which, in this case, is $400 a day.

While the Appellant's son controls her money and is continuing to pay her $1,610 cost of care to the facility, she still owes $48,000, according to the Business Office Manager, because she is now a private pay resident due to the penalty. [redacted] representatives testified he is aware of the bill, but has not paid it, so the 30-Day Notice was issued. The son also failed to attend the hearing to explain what happened with the house sale. The Appellant testified that he told her he used the money for bills, adding the bank also took $52,000.

The 30-Day Notice does not meet the requirements outlined in 210-RICR-50-00-7.6 because it lacks the required discharge location. The timeline of the discharge also is unclear as it states July 2026 as the date notice was given and August 2026 as the effective date without specific dates written. During hearing, the Social Services Director testified the notice was given to the Appellant on July 21, 2026, which would make the effective date of the notice August 21, 2026.

Paying for one's stay at a nursing home is not negotiable. The Appellant signed the Insurance Verification form upon admission to [redacted] in September 2019, acknowledging what is expected regarding payment from residents who privately pay or have Medicaid coverage.

IX. CONCLUSION OF LAW

After careful review of the testimony and evidence presented at the Administrative Hearing, it is clear that:

1. Due to selling her home and netting proceeds from the sale, DHS has determined the Appellant no longer qualifies for Medicaid.
2. Due to the transfer penalty from DHS, the Appellant is now a private pay resident at [redacted] and owes $48,000.
3. The 30-Day Notice does not list a location to which the Appellant can be transferred and states "to be determined." 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 she is concerned about a safe discharge as no discharge location is listed on the 30-Day Discharge Notice.
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 because she is not paying the full private pay amount owed to the facility. The Appellant's request to rescind the 30-Day Notice is thereby denied. However, the Appellant's discharge must be safe and orderly, and she cannot be discharged until an appropriate location is identified.

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 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 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]; and Beth Mantia, c/o Alliance for Better Long Term Care, 422 Post Road, Suite 204, Warwick, RI 02888; copies were sent, via email, to [redacted] and Beth Mantia at beth@alliancebltc.org on this 20th day of August, 2026.

Rebecca Partington