STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

[redacted] Docket 26-4612

V.

[redacted]

ADMINISTRATIVE DECISION

I. INTRODUCTION

On July 22, 2026, [redacted] ("the Facility") issued [redacted] ("the Appellant") a DHS-200NF PRE-TRANSFER OR PRE-DISCHARGE 30 DAY NOTICE, ("30-day Notice"). In response, on July 27, 2026, the Appellant filed a DHS-121NF REQUEST FOR A HEARING FORM with the Executive Hearing Office ("EHO") to dispute the discharge notice.

An administrative hearing was conducted on August 27, 2026, the hearing was held telephonically, as the Appellant did not request a video hearing and 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 granted.

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 issue is whether the Facility has met the requirements of an involuntary discharge.

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. 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 failed to appear for the hearing despite agreeing to the date and being given notice of the hearing. The Appellant appeared and was represented by [redacted], Long Term Care Social Worker [redacted] and RI State Ombudsman Renee Miller. While [redacted] is an employee of the Facility, she was clear that she was attending the hearing on behalf of the Appellant, not the Facility. The Appellant presented the 30-day Notice, marked as exhibit A and the appeal request, marked as exbibit B. Included in the administrative record is also the notices sent from the EHO to the Appellant, correspondence between the parties and the Facility's 30-day Notice.

VI. RELEVANT LAW/REGULATIONS

The Code of Federal Regulations ("CFR") 42 CFR 483.15(c), sets forth the following requirements of involuntary transfer and/or discharge: A facility must permit each resident to

remain in the facility, unless the facility is able to show a valid reason for the discharge. One valid reason for discharge is 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.

Before a facility transfers or discharges a resident, the facility must 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. The facility *must* also send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman.

The written discharge notice must include the following 1) the reason for the discharge; 2) the effective date of the discharge; 3) the location to which the resident is being discharged; 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. (42 CFR 483.15(c)(5)).

VII. FINDINGS OF FACTS

1. The Appellant entered the Facility in March of 2026; he is working with the nursing home transition team and plans to return home when appropriate services are in place.

2. The 30-day Notice issued on July 22, 2026, and discharge letter stated:

   i. The reason for discharge is failure to pay.

ii. The Facility requested payment several times.

iii. The total outstanding balance is $8,429.38. On April 21, 2026, the Appellant agreed to pay $200.00 per month until the total outstanding balance is paid.

iv. The discharge location is the Appellant's home address, with an effective date of August 20, 2026.

v. The right to appeal, the Appeals Office and Ombudsman contact information is included.

vi. A copy of the discharge letter was sent to State Agency, State Ombudsman and [redacted] (No further details are provided as to which State Agency or who [redacted] is).

3. The Appellant submitted his appeal request on July 27, 2026.

4. After two rescheduled hearing dates, the parties agreed on the new date of August 27, 2026, at 1:00 PM.

5. The Appellant appeared with two authorized representatives, his request to go forward to a hearing, without the Facility present, was granted.

6. This appeal was requested by the Appellant to appeal the discharge because he does not have funds to pay, he is on a fixed income of $1,400.00 per month, most of which goes to maintain his residence.

VIII. DISCUSSION

42 CFR 483.15(c) requires facilities to permit residents to remain in the Facility, there are some circumstances that allow a facility to involuntarily discharge a resident. The

discharge notice in this case was issued because of the Appellant's failure to pay after reasonable and appropriate notice to pay or have paid, by Medicare or Medicaid, a stay at the Facility. The amount owed and the dates the Facility requested payment are included in the 30-day Notice, however, no documents were submitted in support of their claims. The evidence in the record does not satisfy the requirements of a discharge for non-payment, and the failure of the Facility to appear at the hearing suggests it does not intend to proceed with the discharge.

The Facility was not represented at the hearing. The only information provided by the social worker employed by the Facility was in opposition to the discharge. Accordingly, the Facility's failure to appear at the hearing is considered an abandonment of the 30-day Notice of discharge.

IX. CONCLUSION OF LAW

After a review of the administrative record, the Facility failed to present sufficient evidence, by a preponderance of the evidence, to support a discharge for non-payment in accordance with 42 CFR 483-15(c).

X. DECISION

Based on the foregoing Findings of Facts, Conclusion of Law, and testimony, it is found that an order be entered that the Appellant's request to rescind the 30-day Notice and this appeal is granted.

APPEAL GRANTED

/s/Holly Young

EOHHS 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]; [redacted] via email to [redacted] and to [redacted], on this 1st day of September, 2026.

[redacted]