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

[redacted]

V. DOCKET No. 26-5446

[redacted]

DECISION

I. INTRODUCTION

A Microsoft Teams hearing on the above-entitled matter came before an Appeals Officer on September 29, 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] (Facility) on August 31, 2026. The Facility seeks to discharge the Appellant because they no longer meet the level of care required to remain at a 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 were Director of Social Services, [redacted], Administrator, [redacted], and Registered Nurse Unit Manager, [redacted]. The Facility submitted the following exhibit as evidence:

Exhibit #1 – August 31, 2026, Pre-Transfer or Pre-Discharge 30 Day Notice.

The Appellant attended the hearing as well as Beth Mantia (Ombudsperson Mantia) from the Rhode Island State Ombudsman's Office. The Appellant submitted the following exhibit as evidence:

Exhibit #2 – September 2, 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's health has improved sufficiently so the resident no longer needs the services provided by the long-term care facility. See 210-RICR-50-00-7.4(A)(2).

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.

VII. FINDINGS OF FACT

1. Prior to their admission to the Facility, the Appellant was living in a hotel.
2. The Appellant was admitted to the Facility on June 26, 2026.
3. The Appellant received skilled nursing services at the Facility until July 24, 2026, when they were granted a short-term custodial level of care determination until September 1, 2026.

4. The Facility then issued the August 31, 2026, Pre-Transfer or Pre-Discharge 30 Day Notice to the Appellant because they no longer met the requirements for a nursing home level of care determination.
5. The Facility testified that the Appellant is independent with all their activities of daily life.
6. The Appellant currently utilizes a walker to ambulate.
7. The Facility intends to discharge the Appellant to either a homeless shelter or a hotel.

VIII. DISCUSSION

As stated above, a nursing home resident can be involuntarily discharged if the resident's health has improved sufficiently so the resident no longer needs the services provided by the long-term care facility. The Facility asserts that the Appellant should be discharged because the Appellant no longer meets the level of care criteria to stay at a nursing home. The Facility also testified that Appellant's admission into the Facility was understood to be temporary, while the Appellant was recovering from a recent hospitalization.

Ombudsman Mantia conceded in their testimony that the Appellant does not meet the nursing home level of care. However, Ombudsman Mantia objects to the Facility's decision to discharge the Appellant to either a hotel or a homeless shelter. Ombudsman Mantia testified that a hotel is an unacceptable location for discharge because it is temporary in nature. Ombudsman Mantia further testified that a homeless shelter is an unsafe location for discharge because the Appellant would need to leave the shelter during the daytime while utilizing a walker, which would make it difficult for the Appellant to carry their belongings with them. Ombudsman Mantia did not offer any examples of what she believed to be an acceptable discharge location.

It is undisputed that the Appellant no longer meets the level of care required to remain in a nursing home. Therefore, there is a preponderance of evidence to show that the Facility is permitted to discharge the Appellant. While Ombudsperson Mantia takes issue with the potential discharge locations in this case, they did not cite any regulation to support their argument that they are medically unsafe or required to be permanent living locations for the Appellant. A discharge to either a hotel or a homeless shelter is certainly not ideal, however there is no evidence to show how such a discharge could be considered medically unsafe. Because the Appellant no longer meets the level of care required to remain in a nursing home there is sufficient evidence and compliance with administrative procedures to permit the involuntary discharge of the Appellant

IX. CONCLUSION OF LAW

After careful review of the testimony and evidence present at the administrative hearing, I conclude that:

1. A nursing home resident can be involuntarily discharged if the resident's health has improved sufficiently so the resident no longer needs the services provided by the long-term care facility.
2. The Appellant's health has improved sufficiently so the resident no longer needs the services provided by the long-term care facility.
3. 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.

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], Beth Mantia at C/O Alliance for Better Long Term Care, 422 Post Road, Suite 204, Warwick, RI 02888, and to [redacted]; copies were sent, via email, to [redacted] on this 1st day of October, 2026.

Relin [signature]