



MIDWEST DIVISION OF SURVEY AND CERTIFICATION

August 3, 2018

Dennis Coleman, Administrator
Timely Mission Nursing Home
109 Mission Drive
Buffalo Center, IA 50424

CMS Certification Number: 165586

Dear Mr. Coleman:

On June 6, 2018, a survey of your facility was completed by the Iowa Department of Inspections and Appeals (IDIA) to determine if your facility was in compliance with the Federal requirements for nursing homes participating in the Medicare and/or Medicaid programs. This survey found that your facility was not in substantial compliance with the participation requirements and the conditions in your facility constitute immediate jeopardy (IJ) to resident health and safety. The IDIA previously provided you with a detailed listing of the deficiencies that constituted IJ to resident health and safety.

Civil Money Penalty (CMP)

In determining the amount of the CMP that we are imposing, we have considered your facility's history, including any repeated deficiencies; its financial condition; and the factors specified in the Federal requirement at 42 CFR § 488.404. Additionally, on July 7, 2017, CMS revised its CMP policies in S&C Memorandum 17-37-NH, effective July 17, 2017. We are imposing the following CMP in accordance with these revisions:

- A per day CMP in the amount of **\$9,304.00** beginning May 24, 2018, for the deficiencies described at the following Federal citations:
 - ◆ F0684 -- S/S: J -- 483.25 -- Quality Of Care
 - ◆ F0697 -- S/S: G--483.25(k) -- Pain Management

As a result of the removal of the IJ, the CMP effective May 24, 2018 continued to accrue through May 31, 2018. The CMP was reduced to **\$505.00** per day, effective June 1, 2018, and continued to accrue until your facility made the necessary corrections to achieve substantial compliance on June 7, 2018.

The total amount of the CMP is **\$77,462.00**. We considered the seriousness and scope of the deficiencies, as well as the facility history, in determining the amount of the CMP for each day of noncompliance.

Financial Hardship

If you believe your facility's financial condition lacks the ability to support the amount of the CMP, you can request a financial hardship review. For CMS to consider whether payment of the CMP would create a financial hardship and allow your request for installment payments, the following documents should be submitted to this office (lisa.hauptman@cms.hhs.gov) within fifteen (15) days from the receipt of this notice:

- Written, dated request specifying the reason financial hardship is alleged

- If there is a Parent Company, provide names and addresses (please indicate in your written request if you have a Parent company)
- The following financial statements for the **Provider** and the **Parent Company (of note, we need consolidated financials for the Parent Company and complete financials for the subsidiary (not by facility))**:
 - For the most **current period** of financial statements completed (an example: if the CMP was communicated to the Provider in the month of May, then the most current period of financial statements completed would probably be March or April). Please ensure that all financial statements have Year to Date (YTD) amounts. Please submit audited statements if available. For the **prior fiscal year completed** (for most Providers this will be 12/31)
 - Current Balance sheet (**segregated by CURRENT assets and liabilities**)
 - Current Income statement or Statement of Operations or Profit and Loss Statement (**has to include NET INCOME**)
 - Current Statement of Cash Flows (**to include the total change in cash flow**)

Independent Informal Dispute Resolution (IIDR)

In accordance with §488.431, when a civil money penalty (CMP) is imposed and is subject to being collected and placed in an escrow account, you have one opportunity to question cited deficiencies through an Independent Informal Dispute Resolution (IIDR) process. You may also contest scope and severity assessments for deficiencies which resulted in a finding of substandard quality of care (SQC) or IJ. To be given such an opportunity, you are required to send your written request, along with the specific deficiencies being disputed, and an explanation of why you are disputing the deficiencies, including the scope and severity assessments of deficiencies which have been found to constitute SQC or IJ to:

Mindla White, Bureau Chief
 Iowa Department of Inspections & Appeals
 Health Facilities Division
 Lucas State Office Building
 321 East 12th Street
 Des Moines, IA 50319

This request must be sent within 10 calendar days of receipt of this notice. An incomplete Independent IDR process will not delay the effective date of any enforcement action.

Nurse Aide Training and Competency Evaluation Program (NATCEP)

Please note that Federal law, as specified in the Social Security Act at §§1819(f)(2)(B) and 1919(f)(2)(B), prohibits approval of Nurse Aide Training and Competency Evaluation Programs (NATCEP) and nurse aide Competency Evaluation Programs (CEP) offered by or in a facility which within the last two years has operated under a §§1819(b)(4)(C)(ii)(II) or 1919(b)(4)(C)(ii)(II) waiver; has been subject to an extended or partial extended survey; has been assessed a CMP of not less than \$10,483.00; or, has been subject to a denial of payment; the appointment of a temporary manager; termination; or, in the case of an emergency, been closed and/or had its residents transferred to other facilities. If any of these provisions are applicable to your facility, you will receive further notification from the State.

Appeal Rights

The following remedies are being imposed:

- CMP

If you disagree with this action imposed on your facility, you or your legal representative may request a hearing before an administrative law judge of the Department of Health and Human Services, Departmental Appeals Board (DAB). Procedures governing this process are set out in 42 C.F.R. 498.40, et seq. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than sixty (60) days after receiving this letter. Specific instructions on how to file electronically are attached to this notice. A copy of the hearing request shall be submitted electronically to:

IA_KS_LTCEnforcement@cms.hhs.gov

Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted as of October 1, 2014, unless you do not have access to a computer or internet service. In those circumstances you may call the Civil Remedies Division to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than sixty (60) days after receiving this letter, by mailing to the following address:

Department of Health & Human Services
Departmental Appeals Board, MS 6132
Director, Civil Remedies Division
330 Independence Avenue, S.W.
Cohen Building – Room G-644
Washington, D.C. 20201
(202) 565-9462

A request for a hearing should identify the specific issues, findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. At an appeal hearing, you may be represented by counsel at your own expense.

Waiver

If you would like to waive your right to a hearing, you must do so in writing to this office (lisa.hauptman@cms.hhs.gov) within 60 calendar days of the date of the notice of imposition. If you waive your right to a hearing in accordance with the requirements specified at 42 CFR 488.436, the amount of the **CMP will be reduced by 35 percent**. After you submit a timely written waiver of your right to a hearing, CMS will send you a letter with instructions on how to remit the adjusted amount of the CMP.

Denial of Payment for New Admissions (DPNA)

As a result of the survey findings, the IDIA notified you in a letter dated June 8, 2018, a denial of payment for new Medicare and Medicaid admissions (DPNA) will be imposed effective July 10, 2018.

The revisit survey conducted by IDIA on July 11, 2018 established your facility achieved substantial compliance on June 7, 2018. Therefore, a denial of payment for new Medicare and Medicaid admissions (DPNA) will not be effectuated.

Please feel free to contact Lisa Hauptman, Health Insurance Specialist, in our Kansas City Office at (816) 426-2011 if you have additional comments or concerns.

Sincerely,



Diana Moran
Acting Long Term Care Branch Manager
Midwest Division of Survey & Certification

cc:
IDIA
Wisconsin Physicians Service

PHASE TWO ENFORCEMENT MORATORIUM NOTICE

Based on concerns from stakeholders that some facilities may need additional time to come into compliance with the new Phase 2 requirements, CMS will not impose civil money penalties, discretionary denial of payment, and/or discretionary termination for cited noncompliance with certain Phase 2 provisions for 18 months (Nov. 28, 2017 – May 28, 2019). Further, CMS will hold constant Nursing Home Compare's health inspection ratings for one year.

Therefore, if this notice includes the imposition of civil money penalties, discretionary denial of payment for new or all admissions or discretionary termination, those remedies are being imposed only as a result of violations of Phase 1 or non-exempt Phase 2 deficiencies. For more information, see S&C Memo 18-04-NH, available at:

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-18-04.pdf>.

CMS is conducting a review of these and all other requirements of participation to look for ways to reduce burden on providers while ensuring patient safety. We will assess the appropriateness and necessity of these requirements in protecting the health, safety, welfare and rights of residents, and determine which may be streamlined or eliminated (See 82 Fed. Reg. 21014, 21089 (May 4, 2017) at Section VI. C.). As the CMS standards are under review, any party using CMS survey reports should be cognizant of this fact.