

Department of Health & Human Services
Centers for Medicare & Medicaid Services
Center for Clinical Standards and Quality
61 Forsyth Street, SW, Suite 4T20
Atlanta, Georgia 30303-8909



Refer to: 5144.IJ.AB.PD.02.22.22

IMPORTANT NOTICE – PLEASE READ CAREFULLY
SENT VIA INTERNET E-MAIL
(Receipt of this notice is presumed to be February 22, 2022– Date notice e-mailed)

February 22, 2022

Ms. Karen L. Rollenhagen, Administrator
Pine Ridge Health and Rehabilitation Center
706 Pineywood Road
Thomasville, North Carolina 27360-2799
E-mail: pin66-admin@pineridgenursing.com

Re: Amended Imposition Notice
CMS Certification Number: 34-5144

Dear Ms. Karen Rollenhagen:

A facility must meet the pertinent provisions of Sections 1819 and 1919 of the Social Security Act and be in substantial compliance with each of the requirements for long-term care facilities, established by the Secretary of Health and Human Services in 42 C.F.R. section 483.1 et seq., in order to qualify to participate as a skilled nursing facility in the Medicare program and as a nursing facility in the Medicaid program.

On February 2, 2022, a survey was completed at Pine Ridge Health and Rehabilitation Center by the North Carolina Nursing Home Licensure and Certification Section of the Division of Health Service Regulation to determine if your facility was in compliance with the Federal requirements for long-term care facilities participating in the Medicare and Medicaid programs. **The survey found that your facility was not in substantial compliance with the participation requirements, and that conditions in your facility constituted immediate jeopardy to residents' health and safety, actual harm and substandard quality of care. The immediate jeopardy was identified to exist on January 16, 2022, and was removed on January 18, 2022. While your facility removed the immediate jeopardy, the facility remains out of compliance with the Federal Participation requirements.** A statement of the deficiencies (Form CMS-2567) was furnished to you by the North Carolina State Survey Agency.

All references to regulatory requirements contained in this letter are found in Title 42, Code of Federal Regulations.

REMEDIES IMPOSED FOR THE FEBRUARY 2, 2022 SURVEY

Based on all findings of the February 2, 2022 survey, we are imposing the following mandatory and discretionary enforcement remedies on the dates indicated:

I. MANDATORY REMEDIES

- **Mandatory Termination**

In accordance with federal law at 42 C.F.R. 488.412(d), we must terminate the Medicare provider agreement of any facility that remains out of substantial compliance six (6) months after its initial survey identifying noncompliance. **Based on your facility's initial survey date of February 2, 2022 your facility's mandatory termination will become effective on August 2, 2022, if your facility remains out of compliance on the latter date.**

II. DISCRETIONARY REMEDIES

- **Discretionary Denial of Payment for New Admissions (DPNA)**

In accordance with federal law at 42 C.F.R 488.417, Denial of Payment for New Admissions is effective March 9, 2022, that continues until substantial compliance is achieved or your provider agreement is terminated.

Please note that filing of Medicare or Medicaid claims for new admissions after the denial of payment for new admissions (DPNA) is in effect could result in such claims being considered "false" claims under applicable federal statutes and thus potentially subjecting the filing entity to a referral to the appropriate authorities and possibly to the penalties prescribed under such statutes. An exception possibly applies where a timely appeal of the controlling certification/finding of noncompliance is filed (and remains pending) under 42 C.F.R. Part 498, and where your facility has made arrangements acceptable to your Medicare Administrative Contractor to submit the claim (or claims) with prominent flagging clearly indicating that the claim(s) is/are being filed not for current payment, but "under protest" and for the sole purpose of preserving a timely filing should the facility prevail on its administrative appeal under 42 C.F.R. Part 498.

Please note that the Denial of Payment for New Medicare Admissions includes Medicare beneficiaries enrolled in Medicare Advantage Plans. It is your obligation to inform Medicare Advantage Plans contracting with your facility of this denial of payments for new admissions.

- **Civil Money Penalty (CMP)**

As a result of your facility's noncompliance as evidenced by the findings of the February 2, 2022 survey, and in accordance with sections 1819 (h) and 1919 (h) of the Social Security Act and the enforcement regulations specified at 42 C.F.R. Part 488, **we are imposing the following Per Day CMP amount:**

- A CMP in the amount of \$ 1,365.00 effective November 22, 2021 through January 15, 2022; then
- A CMP in the amount of \$ 16,845.00 effective January 16, 2022 through January 17, 2022; then
- A CMP in the amount of \$ 1,365.00 effective January 18, 2022 that continues until substantial compliance is achieved, or the provider agreement is terminated.

We considered factors identified at 42 CFR 488.438(f) in setting the amount of the CMP being imposed for each day of your facility's noncompliance. The daily amount of your facility's CMP may be changed in the future, if we find that conditions worsen and noncompliance continues.

NOTICE OF INTENT TO HOLD YOUR FACILITY'S CMP IN ESCROW

In accordance with federal law at 42 C.F.R. 488.431 and based on the scope/severity of noncompliance identified during your facility's survey, we have decided to collect your facility's CMP and place it in an escrow account. If you wish to dispute the findings of noncompliance upon which we have made this decision, you may request an Independent Informal Dispute Resolution (Independent IDR) proceeding in accordance with 42 C.F.R. sections 488.331 and 488.431. **If you would like to request an Independent IDR, you must do so in writing within ten (10) days of receiving this notice.** Your written request should identify the specific findings of noncompliance you are disputing, as well as an explanation of why you are disputing them and/or why you are disputing the scope/severity of noncompliance constituting immediate jeopardy or substandard quality of care. Your request for an Independent IDR should be sent to this office and the following address:

Elizabeth Schneider, IDR Coordinator
Nursing Home Licensure and Certification
952 Old US Highway 70
Black Mountain, NC 28711
Elizabeth.schneider@dhhs.nc.gov
 Telephone: (828)-432-7592

Please note that an incomplete Independent IDR process will not delay the effective date of any enforcement remedy imposed on your facility, and it will not delay our collection of your facility's CMP for more than ninety (90) days. We are authorized by federal law at 42 C.F.R. 488.431(b) to collect your CMP in 90 days and place it in escrow, or to do so when a decision is issued from an Independent IDR proceeding, whichever is earlier.

Please note, furthermore, that an incomplete IDR or Independent IDR process will not delay any deadline listed below under "Appeal Rights" for requesting a hearing, or for requesting a waiver of hearing rights.

NOTICE OF RIGHT TO REQUEST A HEARING

As explained more fully below under “Appeal Rights,” you have the right to request a hearing before the Departmental Appeals Board (DAB) if you wish to dispute the basis and amount of your facility’s CMP. You also may decide to waive your right to a hearing, in accordance with regulations at 42 C.F.R. 488.436.

NOTICE OF RIGHT TO WAIVE HEARING RIGHTS FOR THE FEBRUARY 2, 2022 SURVEY

If you would like to waive your right to a hearing, you must do so in writing within sixty (60) calendar days of this notice. If you waive your right to a hearing, the amount of your CMP will be reduced by thirty-five percent (35%); on the other hand, if you request a hearing or miss the deadline for requesting a waiver, your CMP will not be reduced by 35 percent.

You must submit your waiver request directly to our Atlanta Regional Office by certified mail or via Internet e-mail to the CMP Waiver mail box. The Atlanta Regional Office does not accept CMP waivers via facsimile. CMP waivers on company letterhead may be submitted via Internet e-mail to the CMP Waiver mail box. The Internet e-mail address is:

CMPTWaversATL@cms.hhs.gov

SUBSTANDARD QUALITY OF CARE (SQC)

Your facility's noncompliance with 42 C.F.R. 483.10, 483.12, 483.24 and 483.25 has been determined to constitute substandard quality of care (SQC) as defined at 42 C.F.R. 488.301. Sections 1818(g)(5)(C) and 1919 (g)(5)(C) of the Social Security Act, as well as implementing regulations at 42 C.F.R. 488.325(h), require the State Survey Agency to send written notice of your facility’s SQC to the attending physician of each resident, as well as the state board responsible for licensing the facility's administrator. In order to satisfy these notification requirements, you are required to provide the State Survey Agency with the name and address of the attending physician for each resident found to have received SQC. The State Survey Agency will advise you of the deadline for providing this information.

Please note that, in accordance federal law at 42 C.F.R. 488.325(g), your failure to provide this information in a timely fashion will result in the termination of your facility’s Medicare provider agreement, or the imposition of alternative remedies.

LOSS OF NURSE AIDE TRAINING PROGRAM (NATCEP)

Please note that federal law in the Social Security Act at sections 1819 (f)(2)(B) and 1919 (f)(2)(B), prohibits approval of Nurse Aide Training and Competency Evaluation Programs (NATCEP) offered by a facility which within the previous two years has operated under a section 1819 (b)(4)(c)(ii)(II) or section 1919 (b)(4)(ii) waiver; has been subject to an extended or partial extended survey; has been assessed a civil money penalty of \$11,292.00 or more; or, has been subject to denial of payment, the appointment of a temporary manager, termination or, in the case of an emergency, has been closed and/or had its residents transferred to other facilities. As a result of your facility's noncompliance, these NATCEP provisions are applicable to your facility. You will receive further notification from the State agency responsible for such matters.

APPEAL RIGHTS FOR THE FEBRUARY 2, 2022 SURVEY

If you disagree with the enforcement remedies 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 is outlined in 42 C.F.R. 498.40, et seq. A written request for a hearing must be filed no later than sixty (60) days after receiving this letter. The request should be directed 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

Alternatively, you may file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab/.efile.hhs.gov>. Specific instructions on how to file electronically are attached to this notice. A copy of the hearing request shall be submitted electronically to:

Region4_DAB_HearingRequest@cms.hhs.gov

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

If you have any questions regarding this notice, please contact Stephanie M. Davis by phone at (404) 562-7471 or by e-mail at Stephanie.Davis@cms.hhs.gov

Sincerely,

Linda D. Smith, Director
Atlanta Survey and Enforcement Division
Centers for Medicare & Medicaid Services

cc: State Survey Agency
State Medicaid Agency
Long Term Care Branch 2 – Enforcement Branch Manager
Medicare Administrative Contractors
HUD, Office of Healthcare Programs
Division of Drug Health Plans Operations (DHPO)
Department of Justice (DOJ)

How to Use the Departmental Appeals Board's Electronic Filing System (DAB E-File) **<https://dab.efile.hhs.gov>**

To file a new appeal using DAB E-File, you first must register a new account by: (1) clicking **Register** on the DAB E-File home page; (2) entering the information requested on the "Register New Account" form; and (3) clicking **Register Account** at the bottom of the form. If you have more than one representative handling your appeal, each representative must register separately to use DAB E-File on your behalf.

How to log-in to DAB E-File. To access DAB E-File, the e-mail address and password provided during the registration process must be entered on the **Login** screen at **https://dab.efile.hhs.gov/user_sessions/new**. A registered user's access to DAB E-File is restricted to the appeals for which s/he is a party or authorized representative.

How to file an appeal (request for hearing) in DAB E-File. After you have registered and logged-in to DAB E-File, you may file an appeal by: (A) clicking the **File New Appeal** link on the **Manage Existing Appeals** page, then at the next page clicking the **Civil Remedies Division** button; then (B) entering and uploading the requested information and documents on the form labeled "File New Appeal – Civil Remedies Division."

Basic requirements for using DAB E-File. At a minimum, the DAB's Civil Remedies Division (CRD) requires a party filing an appeal to submit the following: (1) a signed hearing request; and (2) a copy of the underlying notice letter from CMS which sets forth CMS's adverse action and the party's appeal rights. All documents must be submitted in Portable Document Format (PDF). Any document, including a hearing request, will be deemed to have been filed on the date it is submitted via DAB E-File (through 11:59 p.m. EST on the date of submission). A party filing a hearing request via DAB E-File will be deemed to have consented to receiving and accepting electronic service of appeal-related documents which CMS subsequently submits via DAB E-File and/or which the CRD subsequently submits via DAB E-File on behalf of an Administrative Law Judge. CMS also will be deemed to have consented to electronic service.

Detailed information regarding DAB E-File. More detailed instructions for using DAB E-File in cases before the DAB's Civil Remedies Division can be found by clicking the button marked **E-Filing Instructions** after logging-in to DAB E-File.

For general questions regarding the DAB E-File System, you may call the Civil Remedies Division main telephone line at 202-565-9462. If you experience any technical issues with the DAB E-File System, please contact E-File System Support at **OSDABImmediateOffice@hhs.gov**.