



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

Office of Health Care Quality

Spring Grove Center • Bland Bryant Building

55 Wade Avenue • Catonsville, Maryland 21228-4663

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

November 20, 2012

Mr. Zachary Gray,
St Thomas More Medical Complex
4922 Lasalle Road
Hyattsville, MD 20782-3302

PROVIDER # 215145

**RE: NOTICE OF SUBSTANDARD QUALITY OF CARE,
CURRENT DEFICIENCIES, RECOMMENDATION FOR
THE IMPOSITION OF A PER INSTANCE CIVIL MONEY
PENALTY UNDER FEDERAL REGULATIONS AND
POSSIBLE IMPOSITION OF OTHER REMEDIES**

Dear Mr. Gray:

On October 17, 18, 19, 22, 23, 24, 25, 26, November 1, 2, 7, 8, 9, and 15, 2012, a recertification survey was conducted at your facility by the Office of Health Care Quality (OHCQ) to determine if your facility was in compliance with Federal requirements for nursing homes participating in the Medicare and/or Medicaid programs. On October 25, 2012, immediate jeopardy was identified, related to the use of an unnecessary medication. The tasks of an extended survey were initiated on October 26, 2012. On November 15, 2012, an exit conference was conducted.

All references to regulatory requirements contained in this letter are found in Title 42, Code of Federal Regulations (C.F.R.), COMAR Title 10, and the State Government Article.

I. SURVEY RESULTS

The results of this survey are reflected on the enclosed Statement of Deficiencies and Plan of Correction, CMS-2567. This survey found that your facility was not in substantial compliance with the participation requirements. During this survey, an Immediate Jeopardy was called at 3:30 PM. on October 25, 2012, related to unnecessary medication due to lack of monitoring. The Immediate Jeopardy was abated by 8:00 p.m. on October 25, 2012 with the submission of an acceptable plan of correction.

Due to the Substandard Quality of Care (SQC) related to the Immediate Jeopardy, an extended survey was initiated on October 26, 2012. Further investigation and OHCQ administrative review resulted in a second Immediate Jeopardy being called on November 1, 2012 for the facility's failure to promptly notify a physician regarding a critical elevated blood potassium level. The Immediate Jeopardy

was called at 6:30 PM on 11/1/2012 and an acceptable plan of correction was provided at 8PM.

Ongoing investigations and conference calls between facility and OHCQ resulted in a third Immediate Jeopardy being called on 11/9/2012 at 1:15 PM related to unnecessary medications, as the facility continued to administer a potentially dangerous medication without a clear indication for its use. An acceptable plan of correction was provided by 5:20 PM on 11/9/2012.

Additionally, an actual harm (F 309, S/S G) deficiency was also identified.

II. PLAN OF CORRECTION (PoC)

A PoC for the deficiencies must be submitted within 10 days after the facility receives its Form CMS 2567. Failure to submit an acceptable PoC within the above time frames may result in the imposition of a civil money penalty twenty (20) days after the due date for submission of the PoC.

Your PoC must contain the following:

- What corrective action will be accomplished for those residents found to have been affected by the deficient practice;
- How you will identify other residents having the potential to be affected by the same deficient practice and what corrective action will be taken;
- What measures will be put into place or what systemic changes you will make to ensure that the deficient practice does not recur;
- How the corrective action(s) will be monitored to ensure the deficient practice will not recur, i.e., what quality assurance program will be put into place.
- Specific date when the corrective action will be completed; and
- **References to a resident (s) by Resident # only** as noted in the attached Resident Roster. This applies to the PoC as well as any attachments to the PoC. It is unacceptable to include a resident(s) name in these documents since the documents are released to the public.

III. AUTOMATIC CONSEQUENCES AS A RESULT OF PROVIDING SUBSTANDARD QUALITY OF CARE

Your facility's noncompliance with the following:

42 CFR 483.25(I) - Unnecessary Drugs

constitutes substandard quality of care as defined at §488.301, Sections 1819(g)(5)(C) and 1919(g)(5)(C) of the Social Security Act and 42 CFR 488.325(h) of the Code of Federal Regulations. As a result of providing substandard care, your facility is prohibited from operating a nurse aide training program for two years from the last day of the survey. See §483.151.

You have the right to appeal to CMS the loss of your nurse aide training program as a result of a finding of Substandard Quality of Care (SQC); however, your nurse aide training program must cease to operate pending an appeal.

If you disagree with this determination, 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. Procedures governing this process are set out in 42 CFR 498.40, et seq. A written request for a hearing must be filed no later than 60 days from the date of receipt of this letter. Such a request may be made to:

Department of Health & Human Services
Departmental Appeals Board, MS 6132
Civil Remedies Division
Attention: Karen Robinson, Division Director
330 Independence Avenue, SW
Cohen Building, Room G-644
Washington, DC 20201

A request for a hearing should identify the specific issues, and the 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. You may be represented by counsel at a hearing at your own expense.

Should you choose to exercise your right to appeal, please forward a copy of that appeal to:

Mr. James C. Newman, Chief Counsel
Office of the General Counsel
Public Ledger Building, Suite 418
150 South Independence Mall West
Philadelphia, PA 19106

In addition, Sections 1819(g)(5)(C) and 1919(g)(5)(C) of the Social Security Act and 42 CFR 488.325(h) require that the attending physician of each resident who was found to have received substandard quality of care as well as the State board responsible for licensing the facility's administrator be notified of the substandard quality of care. In order for us to satisfy these notification requirements, and in accordance with §488.325(g), you are required to provide the following information to this agency within 10 working days of your receipt of this letter (see the attached form to be used to provide this information). Residents affected include: Resident #s 517 and 483. Please refer to the attached Roster/Sample Matrix for resident names.

Please note that, in accordance with §488.325(g), your failure to provide this information timely will result in termination of participation or imposition of alternative remedies.

IV. RECOMMENDED REMEDIES

Based upon the fact that "actual harm" deficiencies were cited during the survey that ended

August 14, 2012, this facility has "no opportunity to correct" prior to the imposition of remedies.

Under Subpart F of 42 CFR Part 488, we are recommending the immediate imposition of a per instance civil money penalty of \$5,000 for F tag 309 at G level, \$20,000 for F 329 at L level, and \$10,000 for F 505 at L level by the Centers for Medicare and Medicaid Services (CMS) Regional Office.

The imposition of the civil money penalty arises from the deficiencies cited during the survey that ended November 15, 2012. We also took into consideration the fact that the survey ending August 14, 2012 found "actual harm" deficiencies.

In addition, the following remedies will be recommended for imposition by the CMS Regional Office if your facility has failed to achieve substantial compliance by January 7, 2013. Informal dispute resolution for the cited deficiencies will not delay the imposition of the recommended enforcement actions recommended. A change in the seriousness of the noncompliance, may result in change in the remedy selected. When this occurs, you will be advised of any change in remedy. If you do not achieve substantial compliance within 3 months after the last day of the survey identifying non-compliance (i.e., February 15, 2013), the CMS Regional Office and/or State Medicaid Agency must deny payments for new admissions. (§488.417(a)).

We are also recommending to the CMS Regional Office and/or the State Medicaid Agency that your provider agreement be terminated on May 15, 2013, if substantial compliance is not achieved by that time.

Please note that this notice does not constitute formal notice of imposition of alternative remedies or termination of your provider agreement. Should CMS determine that termination or any other remedy is warranted, CMS will provide you with a separate formal notification of that determination.

V. ALLEGATION OF COMPLIANCE

If you believe the deficiencies identified in CMS form 2567 have been corrected, you may contact me at the Office of Health Care Quality, Bland Bryant Building, Spring Grove Center, 55 Wade Avenue, Catonsville, MD 21228 with your written credible allegation of compliance (i.e. attached lists of attendance at provided training and/or revised statements of policies/procedures and/or staffing patterns with revisions or additions). If you choose and so indicate, the PoC may constitute your allegation of compliance. We may accept the written allegation of compliance until substantiated by a revisit or other means.

If, upon the subsequent revisit, your facility has not achieved substantial compliance, we will recommend that additional remedies as previously mentioned in this letter be imposed by the CMS Regional Office or the State Medicaid Agency beginning on November 15, 2012 and continue until substantial compliance is achieved. Additionally, the CMS Regional Office or State Medicaid Agency may impose a revised remedy(ies), based on changes in the seriousness of the noncompliance at the time of the revisit, if appropriate.

VI. INFORMAL DISPUTE RESOLUTION

In accordance with §488.331, you have one opportunity to question cited deficiencies through an informal dispute resolution process. To be given such an opportunity, you are required to send your written request, along with the specific deficiency(ies) being disputed, and an explanation of why you are disputing those deficiencies, to **Ms. Nancy Grimm, Director, Office of Health Care Quality, Bland Bryant Building, Spring Grove Center, 55 Wade Avenue, Catonsville, MD 21228, Fax (410) 402-8234**. This request must be sent during the same 10 days you have for submitting a PoC for the cited deficiencies. An incomplete informal dispute resolution process will not delay the effective date of any enforcement action.

VII. LICENSURE ACTION

As you are aware, the cited Federal deficiencies have a counter part in State regulations. These deficiencies are cited on the enclosed State Form. Please provide a plan of correction and credible evidence of compliance for these deficiencies within 10 days of receipt of this letter. In the event a revisit determines that substantial compliance has not been achieved, appropriate administrative action may be taken against your State license.

If you have any questions concerning the instructions contained in this letter, please contact me at 410-402-8201 or by fax at 410-402-8234.

Sincerely,



Nancy Grimm, Executive Director
Office of Health Care Quality

Enclosures: CMS 2567
State Form
Physician's Form

cc: Tim Hoek
Pat Hannigan
Jane Sacco
Ruby Potter
Alice Hedt
Paul Ballard
File II