

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
CMS-Chicago, Survey & Operations Group
John C. Kluczynski Federal Building
230 South Dearborn Street, Suite 330F
Chicago, IL 60604-1505



CMS Certification Number (CCN): 525681

April 18, 2024
By Email/ Fax Only
REVISED

Nazareth Health and Rehab Center
814 Jackson St
Stoughton, WI 53589

Dear Administrator:

SUBJECT: SURVEY FINDINGS/ IMPOSITION/DISPOSITION OF REMEDIES
Cycle Start Date: 7/20/23

This revises the previous notice sent March 29, 2024.

SURVEY RESULTS

On July 20, 2023, a Health Survey was completed at Nazareth Health and Rehab Center by the Wisconsin Department of Health Services (WDHS) to determine if your facility was in compliance with the Federal requirements for nursing homes participating in the Medicare and Medicaid programs. This survey found that your facility was not in substantial compliance, with the most serious deficiency at Scope and Severity (S/S) level J, cited as follows:

- F686 -- S/S: J -- 483.25(b)(1)(i)(ii) -- Treatment/svcs To Prevent/heal Pressure Ulcer.

In addition, the following cited deficiency constitute Substandard Quality of Care (SQC) and a Partial Extended survey was performed:

- F686 -- S/S: J -- 483.25(b)(1)(i)(ii) -- Treatment/svcs To Prevent/heal Pressure Ulcer

The WDHS also advised you of the deficiencies which led to this determination and provided you with a copy of the survey report (CMS-2567).

SUMMARY OF ENFORCEMENT REMEDIES

As a result of the survey findings, and as authorized by the Centers for Medicare & Medicaid Services (CMS), the WDHS notified you of the imposition of the following remedy, as well as your appeal rights:

- Mandatory Three Month Denial of Payment For New Admissions Effective October 20, 2023

CMS is imposing the following remedy:

- Federal Civil Money Penalty

The WDHS found that your facility was in substantial compliance as of August 4, 2023. As a result, the final status of remedies is as follows:

- Denial of Payment for New Admissions did not go into effect.
- Mandatory termination did not go into effect.
- Federal Civil Money Penalty is being imposed, see below.

The authority for the imposition of remedies is contained in subsections 1819(h) and 1919(h) of the Social Security Act ("Act") and Federal regulations at 42 CFR § 488 Subpart F, Enforcement of Compliance for Long-Term Care Facilities with Deficiencies.

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. We are imposing the following CMP:

- Federal Civil Money Penalty of \$25,847.00 per instance for the instance of noncompliance at F686 (S/S: J) identified in the CMS-2567 survey ending July 20, 2023

If you believe that you have documented evidence that should be considered in establishing the amount of the CMP, the following documents should be submitted electronically to Steven.Delich@cms.hhs.gov within fifteen (15) days from the receipt of this notice:

- Written, dated request specifying the reason(s) financial hardship is alleged
- Brief summary listing the supporting documents being submitted
- Current balance sheet
- Current income statement
- Current cash flow statement
- Most recent, full-year audited financial statements prepared by an independent accounting firm (including footnotes). If audited financial statements are not available, tax returns may be substituted.
- Most recent full-year audited financial statements of the home office and/or related entities (including footnotes). If audited financial statements are not available, tax returns may be substituted.
- Disclosure of expenses and amounts paid/accrued to the home office and/or related entities
- Schedule showing amounts due to/from related companies, or individuals, included in the balance sheets. The schedule should list the names of related organizations, or persons, and indicate where the amounts appear on the balance sheet (e.g., Accounts Receivable, Notes Receivable, etc.).
- A letter from a financial institution denying the provider's loan request for the amount of the CMP. This does not apply to CMPs to be held in escrow.
- Copy of tax returns for the preceding two years
- Documentation of any/all financing arrangements including mortgages, long term debt, and lines of credit
- Organizational chart with an explanation/description concerning the related entities, and

- Signed copy of attestation statement by the Administrator, CFO, CEO, and Owner

CMP REDUCTION IF NO APPEAL IS FILED

If CMS does not receive a request for a hearing from a facility, the facility will be deemed to have waived its right to a hearing 60 days from the date of this notice. CMS will then reduce the CMP by 35%.

CMP PAYMENT

In accordance with 42 C.F.R. §§ 488.331 and 488.431, CMS may collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- The date on which an Independent Informal Dispute Resolution ("Independent IDR" or "IIDR") process is completed, if applicable; or
- The date that is 90 calendar days after the date of the notice of imposition of the CMP.

The CMP is due 75 days after the notice of the penalty when CMS has not received a hearing request from the facility or 15 days after the determination of noncompliance is upheld after a final administrative decision.

You can make payments directly from a bank account through the CMP Pay.gov portal: <https://www.pay.gov/public/form/start/998675240>. We encourage the use of payment through Pay.gov to avoid delay in processing payment. It is an easy and convenient system that is available 7 days a week - 24 hours a day. You will be asked to provide your CCN and the CMP Case Number.

A CMP Case Number will be assigned to your case only when the final CMP is due and payable. At that time, you will receive a notice from this office with the CMP case number and payment instructions. Prior to the assignment of a CMP case number, you must ensure that your facility's name, CCN, and the enforcement cycle start date appear on any correspondence pertaining to this CMP.

- Your CCN is: 525681
- The start date for this cycle: 7/20/23

If the total amount of the CMP is not received by the due date, interest will be assessed in accordance with the regulations at 42 C.F.R. § 488.442 on the unpaid balance of the penalty beginning on the due date. The unpaid balance of the CMP, and any interest accrued after the due date, will be deducted from sums owing to you **without any further notification from this office**.

NURSE AIDE TRAINING PROHIBITION

Please note that Federal law, as specified in the Act at §§ 1819(f)(2)(B) and 1919(f)(2)(B), prohibits approval of nurse aide training and competency evaluation programs and nurse aide competency evaluation programs offered by, or in, a facility which, within the previous two years, has operated under a § 1819(b)(4)(C)(ii)(II) or § 1919(b)(4)(C)(ii) waiver (i.e., waiver of full-time registered professional nurse); has been subject to an extended or partial extended

survey as a result of a finding of substandard quality of care; has been assessed a total civil money penalty of not less than \$11,995; has been subject to a denial of payment, the appointment of a temporary manager or termination; or, in the case of an emergency, has been closed and/or had its residents transferred to other facilities.

Because the facility was subject to a partial extended survey, this provision is applicable to your facility. Therefore, Nazareth Health and Rehab Center is prohibited from offering or conducting a Nurse Aide Training and/or Competency Evaluation Program (NATCEP) for two years from July 20, 2023. You will receive further information regarding this from the State agency. This prohibition remains in effect for the specified period even though other actions relating to remedies are being taken, as indicated above. However, under Public Law 105-15, you may contact the State agency and request a waiver of this prohibition if certain criteria are met.

APPEAL RIGHTS

This formal notice imposed:

- Civil Money Penalty

If you disagree with the findings of noncompliance which resulted in this imposition, 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 Federal regulations at 42 C.F.R Part 498.

You are required to file your appeal electronically at the Departmental Appeals Board Electronic Filing System Web site (DAB E-File) at <https://dab.efile.hhs.gov/>. To file a new appeal using DAB E-File, you first need to 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, each representative must register separately to use DAB E-File on your behalf.

The e-mail address and password provided during registration must be entered on the login screen at https://dab.efile.hhs.gov/user_sessions/new to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he is a party or authorized representative. Once registered, you may file your appeal by:

- Clicking the **File New Appeal** link on the Manage Existing Appeals screen, then clicking **Civil Remedies Division** on the File New Appeal screen.
- Entering and uploading the requested information and documents on the "File New Appeal-Civil Remedies Division" form.

At minimum, the Civil Remedies Division (CRD) requires a party to file a signed request for hearing and the underlying notice letter from CMS that sets forth the action taken and the party's appeal rights. A request for a hearing should identify the specific issues and the findings of fact and conclusions of law with which you disagree, including a finding of substandard quality of care, if applicable. It should also specify the basis for contending that the findings and conclusions are incorrect. The DAB will set the location for the hearing. Counsel may represent you at a hearing at your own expense.

All documents must be submitted in Portable Document Format ("PDF"). Any document, including a request for hearing, will be deemed to have been filed on a given day, if it is uploaded to DAB E-File on or before 11:59 p.m. ET of that day. A party that files a request for hearing via DAB E-File will be deemed to have consented to accept electronic service of appeal-related documents that CMS files, or CRD issues on behalf of the Administrative Law Judge, via DAB E-File. Correspondingly, CMS will also be deemed to have consented to electronic service. 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 questions regarding the E-Filing system, please contact E-File System Support at **OSDABImmediateOffice@hhs.gov**.

Please note that **all** hearing requests must be filed electronically unless you have no access to the internet or a computer. In those circumstances, you will need to provide an explanation as to why you are unable to file electronically and request a waiver from e-filing with your written request. Such a request should be made to:

Department of Health and Human Services
Departmental Appeals Board, MS 6132
Civil Remedies Division
330 Independence Avenue, SW
Cohen Building, Room G-644
Washington, D.C. 20201

A request for a hearing must be filed no later than 60 days from the date of receipt of this notice.

INFORMAL DISPUTE RESOLUTION (IDR)

The WDHS offered you an opportunity for IDR following its survey visits. A request for IDR will not delay the effective date of any enforcement action. However, IDR results will be considered when applicable.

INDEPENDENT INFORMAL DISPUTE RESOLUTION (IIDR)

In accordance with 42 CFR § 488.431, when a CMP subject to being collected and placed in an escrow account is imposed, you have one opportunity to question cited deficiencies through an Independent IDR process. You may also contest scope and severity assessments for deficiencies which resulted in a finding of SQC or immediate jeopardy. 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 those deficiencies (or why you are disputing the scope and severity assessments of deficiencies which have been found to constitute SQC or immediate jeopardy).

Please send the information to MPRO through their secure IDR portal www.mpro.org/idr. As an alternative, supporting documentation can be mailed to:

MPRO
Attention: IDR Department
22670 Haggerty Road, Suite 100

Farmington Hills, MI 48335

Questions can be directed to IIDRgroup@mpro.org or call 248-465-7405.

This request must be sent within 10 calendar days of receipt of this offer. This request must be sent within 10 calendar days of receipt of this offer. However, a facility may not use both IDR and independent IDR for the same deficiency citation(s) arising from the same survey unless the IDR process was completed prior to the imposition of the CMP. An incomplete Independent IDR process will not delay the effective date of any enforcement action.

CONTACT INFORMATION

If you have any questions regarding this matter, please contact Steven Delich, at (312) 886-5216 or email at Steven.Delich@cms.hhs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Delich", is positioned below the word "Sincerely,".

Steven Delich
Acting Long Term Care Branch Manager
CMS-Chicago, Survey & Operations Group

cc: Wisconsin Department of Health Services
Wisconsin Division of Medicaid Services
Wisconsin LTC Ombudsman
MetaStar