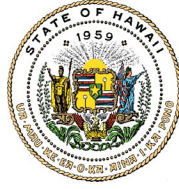


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE


STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Med-QUEST Division
Health Care Services Branch
P. O. Box 700190
Kapolei, Hawaii 96709-0190

May 19, 2023

MEMORANDUM

MEMO NO.
QI-2320
FFS 23-09

TO: QUEST Integration Health Plans

FROM: *for* Judy Mohr Peterson, PhD 
Med-QUEST Division Administrator

SUBJECT: PAYMENT SUSPENSION TO PROVIDER – LILIHĀ HEALTHCARE CENTER

This memo is to inform Health Plans that Liliha Healthcare Center did not meet the requirements for nursing homes participating in Medicare and Medicaid programs per CMS Notice dated April 5, 2023. On November 15, 2022, January 5, 2023, and February 14, 2023, a COVID-19 Focused Infection Control Survey, a COVID-19 Focused Infection Control Follow-up Survey, and a Health Recertification survey were completed at Liliha Healthcare Center by the Hawaii Department of Health (State Survey Agency (SSA)) to determine if Liliha Healthcare Center was in compliance with the Federal requirements for nursing homes participating in the Medicare and Medicaid programs. The SSA found that Liliha Healthcare Center was not in substantial compliance with the Federal requirements for nursing homes participating in the Medicare and Medicaid programs.

On May 18, 2023, the Hawaii Department of Health completed a revisit survey at Liliha Healthcare Center and determined that the facility had obtained substantial compliance with all cited deficiencies as of May 11, 2023.

Memo No. QI-2320, FFS 23-09

May 19, 2023

Page 2

Therefore, per 42 C.F.R. 488.406 (b)(2), and in accordance with the remedy imposed by CMS, Health Plans shall deny payment for any new Medicaid admissions to Liliha Healthcare Center from January 18, 2023, through May 10, 2023.

Should you have any questions, please contact Jon Fujii at jfujii@dhs.hawaii.gov.

Attachments:

CMS Notice, dated April 5, 2023

CMS Notice, dated May 18, 2023

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Clinical Standards and Quality
Survey & Operations Group
San Francisco and Seattle Survey & Enforcement Division
90 7th Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707



**THIS SERVES AS OFFICIAL NOTICE SENT VIA ELECTRONICALLY PURSUANT TO
42 CFR Part 488. NO HARD COPY TO FOLLOW**

Sent via E-MAIL to: jpeterson@lilihahhealthcare.com (Nursing Home Administrator)

nlopez@lilihahhealthcare.com (Business Office Manager)

April 5, 2023

CMS Certification Number (CCN): 125041

Administrator
Liliha Healthcare Center
1814 Liliha Street
Honolulu, HI 96817

SUBJECT: SURVEY FINDINGS AND IMPOSITION OF REMEDIES
Cycle Start Date: November 15, 2022

Dear Administrator:

On November 15, 2022, January 5, 2023, and February 14, 2023, a COVID-19 Focused Infection Control Survey, a COVID-19 Focused Infection Control Follow-up Survey, and a Health Recertification survey were completed at Liliha Healthcare Center by the Hawaii Department of Health (State Survey Agency (SSA)) to determine if your facility was in compliance with the Federal requirements for nursing homes participating in the Medicare and Medicaid programs. The SSA found that your facility was not in substantial compliance, with the most serious deficiencies at Scope and Severity (S/S) level L, cited on November 15, 2022, as follows:

- F0880 -- S/S: L -- 483.80(a)(1)(2)(4)(e)(f) -- Infection Prevention & Control
- F0882 -- S/S: L -- 483.80(b)(1)-(4) -- Infection Preventionist Qualifications/role

The survey team found two situations of immediate jeopardy (IJ) to resident health and safety with a last day of November 15, 2022.

The SSA advised you of the deficiencies that led to this determination and provided you with a copy of the Statement of Deficiencies for the surveys referenced above (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 SSA notified you of the imposition of the following remedies, as well as your appeal rights:

- Directed Plan of Correction for F880
- Discretionary Denial of Payment for New Admissions effective January 18, 2023

Based on the survey findings, the SSA notified you they were recommending that the CMS impose an additional remedy, as follows:

- Federal Civil Money Penalty

DENIAL OF PAYMENT FOR NEW ADMISSIONS

Based on the period of time your facility was not in substantial compliance, the following remedy has gone into effect, which was reflected in the Hawaii Department of Health's amended letter to your facility dated January 3, 2023:

- **Discretionary denial of payment for new Medicare and Medicaid admissions, which was imposed effective January 18, 2023. Thus, the remedy applies to any new Medicare and Medicaid admissions from January 18, 2023 and remains in effect until substantial compliance is achieved with all cited deficiencies in the enforcement cycle.**

Your Medicare Administrative Contractor will be notified of the date the denial of payment begins. Denial of payment for new Medicare and Medicaid admissions will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. Facilities are prohibited from billing Medicare/Medicaid residents or their responsible parties during the denial period for services normally billed to Medicare or Medicaid.

Note: This notice specifically supersedes any notice sent by the SSA reflecting a different denial of payment date in accordance with 42 C.F.R. § 488.452(a)(3) and imposes the denial of payment for all new Medicare and Medicaid admissions pursuant to 42 C.F.R. § 488.417(a) effective **January 18, 2023**.

In addition, the following remedy is being imposed:

Federal Civil Money Penalty, see below.

CIVIL MONEY PENALTY

In accordance with sections 1819(h)(2)(B)(ii) and 1919(h)(3)(C)(ii) of the Social Security Act and the enforcement regulations specified at 42 C.F.R. Part 488, we are imposing the following:

Federal Civil Money Penalty of \$12,845.00 per day for the one (1) day beginning November 15, 2022 and continuing through November 15, 2022 for a total of \$12,845.00

Federal Civil Money Penalty of \$585.00 per day for the ninety (90) days beginning November 16, 2022 and continuing through February 13, 2023 for a total of \$52,650.00

Federal Civil Money Penalty of \$1,870.00 per day beginning February 14, 2023 and will remain in effect until substantial compliance is achieved with all cited deficiencies in the enforcement cycle.

The CMP continues to accrue at the amount of \$1,870.00 per day beginning February 14, 2023 until you have made the necessary corrections to achieve substantial compliance with the participation requirements, or your provider agreement is terminated. However, the amount of the CMP may be increased or decreased if we find that the noncompliance changes.

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.

FINANCIAL HARDSHIP CONSIDERATION

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

Yvonne.Pon@cms.hhs.gov within **fifteen (15) calendar days** from the receipt of this notice:

- Written, dated request specifying the reason financial hardship is alleged
- List of the supporting documents submitted
- Current balance sheet
- Current income statements
- Current cash flow statements
- Most recent full year audited financial statements prepared by an independent accounting firm, including footnotes
- Most recent full year audited financial statements of the home office and/or related entities, prepared by an independent accounting firm, including footnotes
- 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.)
- If the nursing home requests an extended payment schedule of more than twelve (12) months duration, the provider must submit 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.

When the CMP is due and payable, it may be placed in an escrow account fifteen days after one of the following, whichever occurs first:

- The date on which an Independent IDR process is completed, if applicable or
- The date which is 90 calendar days after the date of the notice of imposition of the civil money penalty.

CMP CASE NUMBER

Please do not send payment now. 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. 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 CFR § 488.442 on the unpaid balance of the penalty beginning on the due date. The Federal rate of interest is **11.25%**. 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.**

Prior to the assignment of a CMP case number, you must ensure that your facility's name, CMS

Certification Number (CCN), and the enforcement cycle start date appear on any correspondence pertaining to this CMP.

- Your CMS Certification Number (CCN) is 125041.
- The start date for this cycle is November 15, 2022

CMP REDUCED IF HEARING WAIVED

If you waive your right to a hearing, **in writing**, within **60 calendar days** from receipt of this notice, the amount of your CMP will be reduced by thirty-five percent (35%). To receive this reduction, the written waiver should be sent to the Centers for Medicare & Medicaid Services, Division of Survey and Certification at Yvonne.Pon@cms.hhs.gov. **Please include your facility name, CCN and the Cycle Start Date in the subject line of your email.**

The failure to request a hearing within 60 calendar days from your receipt of this notice does not constitute a waiver of your right to a hearing for purposes of the 35% reduction.

INFORMAL DISPUTE RESOLUTION (IDR)

The SSA offered you an opportunity for informal dispute resolution (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 (INDEPENDENT IDR)

Because we are now imposing a CMP that is subject to immediate collection and placement in escrow, 42 CFR § 488.431 requires us to notify you that you may also have a right to an Independent Informal Dispute Resolution (IIDR). Deficiencies for which you elect IDR are not also eligible for IIDR; therefore you will need to choose.

An IIDR allows you to present written arguments and documentation that explain why you believe the deficiencies are incorrect. You may also contest scope and severity assessments for deficiencies which resulted in a finding of Substandard Quality of Care or immediate jeopardy. IIDR also requires the SSA to notify the involved resident(s) or the appropriate resident representative(s), who were involved in the deficiency; as well as to notify the State Long Term Care Ombudsman. As part of the IIDR process, these parties will be given the opportunity to comment on the relevant deficiencies.

A request for an IIDR must be postmarked within **10 calendar days** of the date of this notice. Your IIDR request must identify which deficiencies are being disputed, and provide all documentation you will use to dispute the survey findings. To be given such an opportunity, you are required to send your written request, i.e. why you are disputing the scope and severity assessments of deficiencies which have been found to constitute SQC or immediate jeopardy, to the SSA to:

Keith Ridley, Chief
Hawaii Department of Health
Office of Health Care Assurance
601 Kamokila Blvd., Room 395
Kapolei, Hawaii 96707
Telephone: (808) 692-7420
Keith.Ridley@doh.hawaii.gov

Upon receipt of your IIDR request, the SSA will provide information on the next steps in the IIDR

process. If you request IIDR, the CMP may be collected on the day the IIDR is completed, or 90 days from the date of this letter, whichever is earliest.

TERMINATION PROVISION

Unless your facility achieves substantial compliance before **May 15, 2023**, CMS will terminate your facility's Medicare and Medicaid provider agreements in accordance with the Social Security Act 1819(h)(2)(A) and 1919(h)(3) and Federal regulations at 42 CFR § 488.456 and § 489.53.

CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will notify the appropriate State officials concerning the impending termination of your provider agreements.

Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

NURSE AIDE TRAINING PROHIBITION (NATCEP)

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 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 \$11,995.00; 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.

You were previously notified that, in accordance with Section 1819(f)(2)(B)(iii)(I)(b) of the Social Security Act, if you had not achieved substantial compliance by January 18, 2023, the remedy of denial of payment for new admissions would go into effect and this provision would apply to your facility. Therefore, your facility will be prohibited from offering or conducting a NATCEP for two years from January 18, 2023.

You will receive further details about the denial of approval of nurse aide training from the State. In light of the foregoing, you may finish any nurse assistant training class you are presently conducting; you may not, however, start another such class.

APPEAL RIGHTS

If you disagree with the determination to impose remedies made on the basis of noncompliance identified in this notice, you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board (DAB). The appeal rights are set forth at 42 C.F.R. § 498.5 and the procedures for requesting a hearing are set forth at §498.40, et seq. You must file your hearing request electronically by using the DAB's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov/>, unless you obtain a waiver from the DAB (*see* DAB Civil Remedies Division Procedures, § 6(a)(i)(1)). Your appeal must be filed no

later than 60 days from the date of receipt of this letter.

If you elect to dispute deficiencies through the Informal Dispute Resolution (IDR) process (see the state letter accompanying the CMS Form-2567 for additional details and deadlines), this will not extend the 60 day period to file your appeal before the Departmental Appeals Board. Filing an appeal will not stop the imposition of any enforcement remedy.

If you experience problems with, or have questions about DAB e-File, please contact e-File System Support at OSDABImmediateOffice@hhs.gov. If you have questions about using the DAB e-file System, please visit: https://dab.efile.hhs.gov/appeals/to_crd_instructions?locale=en.

CONTACT INFORMATION

If you have any questions, please contact Yvonne.Pon@cms.hhs.gov

Sincerely,

Yvonne
Pon -S

Digitally signed
by Yvonne Pon -S
Date: 2023.04.05
13:43:39 -

for

Stephanie Magill, Acting Manager
Long-Term Care Branch 2
San Francisco Survey and Enforcement Division
Survey & Operations Group

Copies via e-mail to:

State Survey Agency
State Medicaid Agency
USDOJ
MAC



THIS SERVES AS OFFICIAL NOTICE SENT VIA ELECTRONICALLY PURSUANT TO
42 CFR Part 488. NO HARD COPY TO FOLLOW.

Sent via E-MAIL to: glau@nuuanuhale.com and JPeterson@lilihahealthcare.com

May 18, 2023

CMS Certification Number (CCN): 125041

Administrator
Liliha Healthcare Center
1814 Liliha Street
Honolulu, HI 96817

SUBJECT: SUBSTANTIAL COMPLIANCE & DISPOSITION OF REMEDIES
Cycle Start Date: November 15, 2022

Dear Administrator:

PRIOR NOTICE

On April 5, 2023, the Centers for Medicare and Medicaid Services (CMS) informed you that we were imposing remedies due to the failure of your facility to be in substantial compliance with the applicable Federal requirements for nursing homes participating in the Medicare and Medicaid programs based on surveys of your facility that were completed on November 15, 2022, January 5, 2023, and February 14, 2023. Please refer to the previous notice for remedies imposed and appeal rights.

SUBSTANTIAL COMPLIANCE AND DISPOSITION OF REMEDIES

The Hawaii Department of Health (State Survey Agency (SSA)) completed a revisit survey at your facility and determined that your facility had obtained substantial compliance with all cited deficiencies within this enforcement cycle as of May 11, 2023. As a result, the final status of remedies is as follows:

- Termination **will not** be effectuated on May 15, 2023.
- Discretionary Denial Payment for New Admissions, which was imposed effective January 18, 2023 is no longer in effect as of May 11, 2023. **Thus, the remedy applies to any new Medicare and Medicaid admissions from January 18, 2023 through May 10, 2023.**
- Civil Money Penalty was imposed as indicated below:

Federal Civil Money Penalty of \$12,845.00 per day for the one (1) day beginning November 15, 2022 and continuing through November 15, 2022 for a total of \$12,845.00;

Signature:

Email: rstarr@dhs.hawaii.gov

Federal Civil Money Penalty of \$585.00 per day for the ninety (90) days beginning November 16, 2022 and continuing through February 13, 2023 for a total of \$52,650.00;

Federal Civil Money Penalty of \$1,870.00 per day beginning February 14, 2023 and continuing through May 10, 2023 for a total of \$160,820.00

The total CMP imposed is: \$226,315.00.

FINANCIAL HARDSHIP CONSIDERATION

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

Yvonne.Pon@cms.hhs.gov within fifteen (15) calendar days from the receipt of this notice:

- Written, dated request specifying the reason financial hardship is alleged
- List of the supporting documents submitted
- Current balance sheet
- Current income statements
- Current cash flow statements
- Most recent full year audited financial statements prepared by an independent accounting firm, including footnotes
- Most recent full year audited financial statements of the home office and/or related entities, prepared by an independent accounting firm, including footnotes
- 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.)
- If the nursing home requests an extended payment schedule of more than twelve (12) months duration, the provider must submit 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.

CONTACT INFORMATION

If you have any questions, you may contact Yvonne Pon of my staff at yvonne.pon@cms.hhs.gov.

Sincerely,

Yvonne Pon -S
Digitally signed
by Yvonne Pon -
S
Date: 2023.05.18
10:12:30 -0700

for
Stephanie Magill
Acting Manger Long Term Care Branch 2
San Francisco Survey and Enforcement Division
Survey & Operations Group

Cc: State Survey Agency
State Medicaid Agency
MAC