

Survey, Certification and Credentialing
Commission
New England Building
612 South Kansas Avenue
Topeka, KS 66603-3404



Phone: (785) 296-4986
Fax: (785) 296-0256
wwwmail@kdads.ks.gov
www.kdads.ks.gov

Timothy Keck, Interim Secretary
Codi Thumess, Commissioner

Sam Brownback, Governor

IMMEDIATE JEOPARDY ABATED

10/21/2016

Provider No. 17E210

Bonita Robinson-Bradley, Administrator
Franklin Healthcare Of Peabody, Llc
500 Peabody
Peabody, KS 66866-0142

LICENSURE AND CERTIFICATION SURVEY- NO OPPORTUNITY TO CORRECT

On October 20, 2016, an abbreviated survey was concluded at your facility by the Kansas Department for Aging & Disability Services (KDADS) to determine if your facility was in compliance with Federal participation 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 constituted immediate jeopardy to resident health or safety from September 26, 2016 through and including October 18, 2016 for F309, "J", CFR 483.25.

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

Based on the deficiencies cited on this survey your facility will not be given an opportunity to correct deficiencies before remedies are imposed.

Enforcement Remedies

Informal dispute resolution for the cited deficiencies will not delay the imposition of the enforcement actions recommended. Based on the deficiencies cited during your survey and in accordance with sections 1819(h) and 1919(h) of the Social Security Act and 42 Code of Federal Regulations 488.417(b), your facility will be subject to the following remedies:

- Based on the deficiencies cited during your abbreviated survey and the finding of Immediate Jeopardy, we are imposing a per instance Civil Money Penalty (CMP) for CFR 483.25(h) in the amount of \$5,000.00 in accordance with CFR 488.430.
- Denial of payment for new Medicare/Medicaid admissions effective **November 10, 2016** if substantial compliance is not achieved by that time.
- Termination of your provider agreement effective April 20, 2017, if substantial compliance is not achieved by that time.

NOTE: The above remedies are subject to change if substantial compliance is not achieved following subsequent visits per CMS Revisit Policy dated May 3, 2001.

CMS will notify your facility of any additional remedies to be imposed.

Appeal Rights

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 60 (sixty) 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 the Kansas City Regional Centers for Medicare & Medicaid services at:

[IA_KS \(IA_KS_LTCEnforcement@cms.hhs.gov\)](mailto: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.

If you have any questions regarding this matter, please contact Lisa Hauptman, CMS by phone at (816) 426-2011.

Plan of Correction

At the conclusion of the survey, you were provided a CMS-2567L (Statement of Deficiencies) which listed the deficiencies found at this survey. You should submit your Plan of Correction online at www.kdads.ks.gov. An acceptable Plan of Correction will constitute a credible allegation of compliance. The Plan of Correction must contain the following in order to be acceptable:

1. Address how corrective action will be accomplished for those residents found to have been affected by the deficient practice.
2. Address how the facility will identify other residents having the potential to be affected by the same deficient practice
3. Address what measures will be put in place or systemic changes made to ensure that the deficient practice will not recur
4. Indicate how the facility plans to monitor its performance to make sure that solutions are sustained: (the facility must develop a plan for ensuring that correction is achieved and sustain) and,
5. Include the dates corrective action was completed.

Substandard Quality of Care

Your facility's noncompliance with F309, "J", CFR 483.25 has been determined to be Substandard Quality of Care as defined at CFR 488.301. Sections 1819(G)(5)(C) and 1919(G)(5)(C) of the Social Security Act and 42 CFR 488.325(H) require that we notify the State Board responsible for licensing the facility's administrator of the substandard quality of care. Your facility's Medical Director and the attending physician of each resident who was found to have received substandard quality of care should be notified.

Please note that Federal law, as specified in the Social Security Act 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 previous two years has operated under an 1819(B)(4)(C)(ii)(II) or 1919(b)(4)(C)(ii) waiver, has been subject to the following: an extended or partial extended survey; assessment of a Civil Money Penalty of not less than \$5,000; or, a denial of payment, or termination. If any of these situations occur, NATCEP is to be denied, and you will be so advised in a separate notification. NATCEP will be prohibited since an extended or partial extended survey was conducted at your facility. You will be provided further information regarding this matter from Health Occupations Credentialing with KDADS.

Informal Dispute Resolution (IDR)

In accordance with CFR 488.331, you have one opportunity to question newly identified deficiencies or a different example of a previously cited deficiency through an informal dispute resolution (IDR) process. You may also contest scope and severity assessments for deficiencies that resulted in a finding of substandard quality of care or immediate jeopardy. To be given such an opportunity, you are required to send five copies of your written request with all supportive documents, 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 substandard quality of care or immediate jeopardy) to:

Codi Thurness, Commissioner
Survey, Certification and Credentialing Commission
Kansas Department for Aging & Disability Services
612 South Kansas Avenue
Topeka, KS 66603

KDADS must receive your written request with all supportive documents for IDR within 10 **calendar** days of your receipt of the statement of deficiencies. An incomplete IDR process will not delay the effective date of any enforcement action.

If you have any questions concerning the instructions contained in this letter, please contact me at (785) 785-296-1265 .



Sincerely,
Caryl Gill, RN BSN
Complaint Coordinator
Survey, Certification, and Credentialing Commission
Kansas Department for Aging & Disability Services
cmg
c:

Sue Hine, KDADS, Regional Manager
Lisa Hauptman, Survey & Certification Branch, CMS Regional Office, Kansas City, MO
Codi Thurness, Commissioner, KDADS
Denise German, Director, KDADS
LaNae Workman, KDADS
MAC
Benton Williams, CMS Regional Office, Kansas City, MO