DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Midwest Division of Survey and Certification
Chicago Regional Office
233 North Michigan Avenue, Suite 600
Chicago, IL 60601-5519

CMS Certification Number (CCN): 265490

AMENDED
June 18, 2015
By Certified Mail and Facsimile

Akeeta Jenkins, Administrator
Liberty Terrace Healthcare & Rehab.
2201 Glenn Hendren Drive
Liberty, MO 64068-3375

Dear Ms. Jenkins:

SUBJECT: TERMINATION OF MEDICARE AND MEDICAID PROVIDER AGREEMENTS
Cycle Start Date: 4/16/2015

This notice amends our June 12, 2015 letter.

SURVEY RESULTS
The Missouri Department of Health and Senior Services (MO DHSS) completed a complaint investigation and recertification survey at your facility on May 27, 2015. That visit revealed that your facility was not in substantial compliance and found the most serious deficiency to place the health and safety of your patients in immediate jeopardy. This deficiency was cited as follows, including scope and severity (S/S) level:

- F0225 -- S/S: J – 483.13(c)(1)(ii-iii), (c)(2)-(4) – Investigate/Report Allegations/Individuals

The following cited deficiencies constituted substandard quality of care (SQC):

- F0225 -- S/S: J – 483.13(c)(1)(ii-iii), (c)(2)-(4) – Investigate/Report Allegations/Individuals
- F0241 -- S/S: H – 483.15(a) – Dignity and Respect of Individuality

In addition, the complaint investigation and recertification survey on May 27, 2015 found that your facility was not in substantial compliance with the following cited deficiencies:

- F0465 -- S/S: F -- 483.70(h) – Safe/Functional/Sanitary/Comfortable Environment
- F0246 – S/S: E – 483.15(e)(1) – Reasonable Accommodation of Needs/Preferences
- F0312 – S/S: E –483.25(a)(3) – ADL Care Provided for Dependent Residents
- F0315 – S/S: E – 483.25(d) – No Catheter, Prevent UTI, Restore Bladder
- F0323 – S/S: E – 483.25(h) – Maintain Nutritional Status Unless Unavoidable
- F0332 – S/S: E – 483.25(m)(1) – Free of Medication Error Rates of 5% or More
- F0363 – S/S: E – 483.35(c) – Menus Meet Res Needs/Prep in Advance/Followed
- F0431 – S/S: E – 483.60(b), (d), & (e) – Drug Records, Label/Store Drugs & Biologicals
- F0252 – S/S: D – 483.15(h)(1) – Safe/Clean/Comfortable/Homelike Environment

- F0281 – S/S: D – 483.20(k)(3)(i) – Services Provided Meet Professional Standards
- F0441 – S/S: D – 483.65 – Infection Control, Prevent Spread, Linens

Surveyors found a situation of immediate jeopardy to patient health and safety that was removed on May 27, 2015. However, they also found that your facility continued not to be in substantial compliance with Federal requirements with the most serious deficiencies at a severity level 3.

A Life Safety Code survey was also completed on May 27, 2015. This survey found that your facility was not in substantial compliance, with the most serious deficiencies at Scope and Severity (S/S) level E, cited as follows:

- K29 -- S/S: E -- NFPA 101 -- Life Safety Code Standard
- K147 -- S/S: E -- NFPA 101 -- Life Safety Code Standard

SUMMARY OF ENFORCEMENT REMEDIES

As a result of your facility's continued noncompliance, we are imposing the following remedies:

- Discretionary denial of payment for new Medicare and Medicaid admissions effective July 1, 2015.
- Termination of your Medicare and Medicaid provider agreements effective August 7, 2015.

The authority for the imposition of remedies is contained in §§1819(h) and 1919(h) of the Social Security Act ("Act") and Federal regulations at 42 CFR § 488.

DENIAL OF PAYMENT FOR NEW ADMISSIONS

The authority for this remedy is contained in the Social Security Act at §§ 1819(h)(2)(B)(i) and 1919(h)(2)(A)(i) and Federal regulations at 42 CFR §488.417(a). We are notifying Wisconsin Physician Services that the denial of payment for all new Medicare admissions is effective on July 1, 2015. We are further notifying the State Medicaid agency that they must also deny payment for all new Medicaid admissions effective July 1, 2015.

You should notify all Medicare and Medicaid residents admitted on or after this date of the restriction. The remedy must remain in effect until your facility has been determined to be in substantial compliance or your provider agreement is terminated. Please note that the denial of payment for new Medicare admissions includes Medicare beneficiaries enrolled in managed care plans. It is your obligation to inform Medicare managed care plans contracting with your facility of this denial of payment for new admissions.

TERMINATION

We have determined that the deficiencies limit the capacity of your facility to render adequate care and ensure the health and safety of your patients.

Therefore, your Medicare agreement is being terminated effective **August 7, 2015** due to your facility's failure to attain substantial compliance with the participation requirements. This action is mandated by §1819(h)(2)(C) of the Social Security Act and Federal regulations at 42 CFR §§ 488.412 and 488.456.

The Medicare program will not make payment for services furnished to patients admitted on or

after July1, 2015. For residents admitted prior to July 1, 2015 payment may continue to be made for up to 30 days of services after August 7, 2015, the date of termination. A list showing the names and health insurance claim numbers of Medicare beneficiaries who were being served by your facility on August 7, 2015 should be forwarded to the Centers for Medicare & Medicaid Services, Division of Survey and Certification, 233 North Michigan Avenue, Chicago, Illinois 60601-5519. Note that the termination of payments for Medicare includes Medicare beneficiaries enrolled in Medicare managed care plans. It is your obligation to inform Medicare managed care plans contracting with your facility of this action.

Since your facility also participates in the Medicaid program, termination of your Medicaid provider agreement will also be necessary in light of your noncompliance with the participation requirements. This action is mandated by § 1919(h)(3)(D) of the Act. The date of termination of your Medicaid provider agreement is August 7, 2015. Federal Financial Participation (FFP) will be continued for up to 30 days of covered services after August 7, 2015 for those qualified residents admitted prior to July 1, 2015. This continued payment is based on the condition that the Medicaid agency is making reasonable efforts to transfer the residents to other facilities.

We are required to provide the general public with notice of an impending termination and will publish a notice in a local newspaper prior to the effective date of termination. If termination goes into effect, you may take steps to come into compliance with the Federal requirements for long term care facilities and reapply to establish your facility's eligibility to participate as a provider of services under Title XVIII of the Social Security Act. Should you seek re-entry into the Medicare program, the Federal regulation at 42 CFR § 489.57 will apply.

In cases such as this when CMS terminates a provider agreement, Federal regulations 42 CFR §§ 488.426(b) and 483.75(r)(3) require the safe and orderly transfer of all Medicare and Medicaid residents to the most appropriate facility or other setting in terms of quality, services, and location, taking into consideration the needs, choice, and best interests of each resident. You must provide written notice to MO DHSS, the State Long-Term Care Ombudsman, residents of the facility, and legal representatives of such residents or other responsible parties no later than July 7, 2015. As Administrator you are also responsible for submitting a comprehensive Transfer and Relocation Plan to CMS for CMS approval by July 7, 2015. Please contact MO DHSS for assistance in developing an acceptable Transfer and Relocation Plan. Elements of the Transfer and Relocation Plan should include:

- Resident Name; Payer source (Medicare or Medicaid);
- Identification of the location/facility where the resident will be transferred or relocated (the most appropriate facility or other setting)
- Notation that the receiving facility/setting has been notified and will accept the resident
- Provision for transfer of each affected resident’s complete medical record including archived files, Minimum Data Set (MDS) discharge assessment, and, all orders, recommendations or guidelines from the resident’s attending physician provided to the receiving facility or other provider at the time of the resident’s discharge or relocation.
- Assurance that no new Medicare or Medicaid residents will be admitted to Liberty Terrace Healthcare and Rehabilitation on or after July 7, 2015.
- Primary contacts(s) responsible for daily operation and management of the facility during the transfer and relocation process until it is completed.

- Primary contact(s) responsible for the oversight of those managing the facility operations during the transfer and relocation process until it is completed.
- Roles and responsibilities of the facility's owner(s), administrator, or their replacement(s) or temporary managers/monitors during the transfer and relocation process until it is completed.
- Provisions for ongoing operations and management of the facility and it's affected residents including ongoing assessment of care needs and provision of necessary services and care including medications, services and supplies and treatments as ordered by the resident's physician/practitioner; ongoing accounting, maintenance and reporting of resident personal funds; provision of appropriate resident care information to the receiving facility to ensure continuity of care; and labeling, safekeeping and appropriate transfer of residents' personal belongings, such as clothing, medications, furnishings, etc. at the time of transfer or relocation
- Identification of any and all sources of supplemental funding, if available, to assist in maintaining the facility's daily operations until all affected residents are safely relocated and/or transferred.
- Process and procedures for providing timely written notification of the transfer and relocation process to the Missouri LTC Ombudsman and MO DHSS, residents, their legal representatives or other responsible parties and the residents' primary physicians.

APPEAL RIGHTS

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 CFR § 498.40, et. seq.

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 EFile, 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 EFile 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** or at 202-565-0146.

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
Attention: Karen R. Robinson, Director
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. It is important that you send a copy of your request to our Chicago office to the attention of Gregg Brandush.

CONTACT INFORMATION
If you have any questions regarding this matter, please contact Katie Lavin at (312) 886-5355 or me at (312) 353-1567.

Sincerely,

Gregg Brandush
Deputy Associate Regional Administrator
Midwest Division of Survey & Certification

cc: MO DHSS
MO HealthNet
WPS