



State of New Jersey
 DEPARTMENT OF HEALTH
 PO BOX 358
 TRENTON, N.J. 08625-0358
www.nj.gov/health

PHILIP D. MURPHY
 Governor

SHEILA Y. OLIVER
 Lt. Governor

JUDITH M. PERSICILLI, RN, BSN, MA
 Commissioner

In Re Licensure Violation: :
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 Silver Healthcare Center : NOTICE OF ASSESSMENT OF
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 (NJ Facility ID# NJ60407) : PENALTIES
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TO: Chaim Aaron Hertz, Administrator
 Silver Healthcare Center
 1417 Brace Road
 Cherry Hill, New Jersey 08034

Dear Mr. Hertz:

Effective immediately, the Department of Health (hereinafter, "the Department") is assessing penalties pursuant to N.J.S.A. 26:2H-46.1 and N.J.A.C. 8:43E-3.4 upon Silver Healthcare Center (hereinafter "Silver") because the facility incurred two or more of the same or substantially similar F-level or higher-level deficiencies as defined by the federal Centers for Medicare and Medicaid Services (CMS) within the prior three years. N.J.S.A. 26:2H-46.1 requires the Department to impose an increased penalty upon a licensed nursing home for violations within a three-year period of the same or a substantially similar F-level or higher-level deficiency recognized by CMS.

The Health Care Facilities Planning Act (N.J.S.A. 26:2H-1 et seq.) (the Act) provides a statutory scheme designed to ensure that all health care facilities are of the highest quality. Pursuant to the Act and N.J.A.C. 8:43E-1.1 et seq., General Licensure Procedures and Standards Applicable to All Licensed Facilities, the Commissioner of Health is authorized to inspect all health care facilities and to enforce the Standards for Licensure of Long-Term Care Facilities set forth at N.J.A.C. 8:39-1.1 et seq.

LICENSURE VIOLATIONS:

Based on surveys conducted by Department staff on August 29, 2022, and May 31, 2023, the facility failed to comply with F689 at a scope and severity of an F-level or higher. The facts supporting these deficiencies are set forth in surveys dated August 29, 2022, and May 31, 2023, which are incorporated herein by reference.

The facility's failure to comply with F689 on May 31, 2023, was cited at a J-level because it was isolated and resulted in immediate jeopardy to resident health or safety.

MONETARY PENALTIES:

N.J.A.C. 8:43E-3.4(a) (10) allows the Department to impose a monetary penalty of \$2,500 per violation, which may be assessed for each day noncompliance is found for violations resulting in either actual harm to a patient or resident, or in an immediate and serious risk of harm.

In accordance with N.J.A.C. 8:43E-3.4(a) (10), the penalty assessed for each day noncompliance was found is \$2,500 per violation. The total penalty assessed for the violations (or days the facility was not in compliance) is \$2,500.

The total amount of this penalty is required to be paid within 30 days of receipt of this letter by certified check or money order made payable to the "Treasurer of the State of New Jersey" and forwarded to the Office of Program Compliance, New Jersey Department of Health, P.O. Box 358, Trenton, New Jersey 08625-0358, Attention: Lisa King. On all future correspondence related to this Notice, please refer to Control X23026.

INFORMAL DISPUTE RESOLUTION (IDR):

N.J.A.C. 8:43E-2.3 provides facilities the option to challenge factual survey findings by requesting Informal Dispute Resolution with Department representatives. Facilities wishing to challenge only the assessment of penalties are not entitled to IDR review, but such facilities may request a formal hearing at the Office of Administrative Law as set forth herein below. Please note that the facility's rights to IDR and administrative hearings are not mutually exclusive and both may be invoked simultaneously. IDR requests must be made in writing within ten (10) business days from receipt of this letter and must state whether the facility opts for an in-person conference at the Department, a telephone conference, or review of facility documentation only. The request must include an original and ten (10) copies of the following:

1. The written survey findings;
2. A list of each specific deficiency the facility is contesting;
3. A specific explanation of why each contested deficiency should be removed; and

4. Any relevant supporting documentation.

Any supporting documentation or other papers submitted later than 10 business days prior to the scheduled IDR may not be considered at the discretion of the IDR panel.

Send the above-referenced information to:

Nadine Jackman
Office of Program Compliance
New Jersey Department of Health
P.O. Box 358
Trenton, New Jersey 08625-0358

The IDR review will be conducted by professional Department staff who do not participate in the survey process. Requesting IDR does not delay the imposition of any enforcement remedies.

If IDR was offered and requested by your facility for the corresponding federal deficiency that was cited at the same survey and your facility requests another IDR for the corresponding State deficiency cited at the same survey and arising from the same set of facts, the Department will either consolidate the IDRs or treat the first IDR decision as binding. The Department does not offer a second IDR for the same set of disputed facts that were challenged in a prior IDR offered by the Department.

FORMAL HEARING:

Silver is entitled to contest the assessment of penalties pursuant to N.J.S.A. 26:2H-13, by requesting a formal hearing at the Office of Administrative Law (OAL). Silver may request a hearing to challenge any or all of the following: the factual findings and/or the assessed penalties Silver must advise this Department within 30 days of the date of this letter if it requests an OAL hearing.

Please forward your OAL hearing request to:

Attention: OAL Hearing Requests
Office of Legal and Regulatory Compliance, New Jersey Department of Health
P.O. Box 360
Trenton, New Jersey 08625-0360

Corporations are not permitted to represent themselves in OAL proceedings. Therefore, if Silver is owned by a corporation, representation by counsel is required. In the event of an OAL hearing regarding the penalty, Silver is further required to submit a written response to each, and every charge as specified in this notice, which shall accompany its written request for a hearing.

Failure to submit a written request for a hearing within 30 days from the date of this notice will render this a final agency decision. The final agency order shall thereafter have the same effect as a judgment of the court. The Department also reserves the right to pursue all other remedies available by law.

Thank you for your attention to this important matter and for your anticipated cooperation. Should you have any questions concerning this order, please contact Lisa King, Office of Program Compliance at (609) 376-7890.

Sincerely,



Lisa King, Program Manager
Office of Program Compliance
Division of Certificate of Need and Licensing

DATE: June 28, 2023
REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Control # X23026