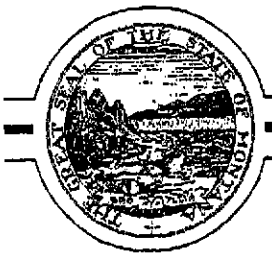
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
DIVISION OF QUALITY ASSURANCE
CERTIFICATION BUREAU

SENATE PUBLIC HEALTH, WELFARE & SAFETY
EXHIBIT NO. 2
DATE: 4-1-05
BILL NO. HB 704



BRIAN SCHWEITZER
GOVERNOR

ROBERT E. WYNIA, M.D.
DIRECTOR

STATE OF MONTANA

(406) 444-2099
FAX: (406) 444-3456

2401 Colonial Dr., 2nd Floor
PO Box 202953
HELENA, MT 59620-2953

January 7, 2005 * Shd have been informed Nov. 18

IMPORTANT NOTICE - PLEASE READ CAREFULLY

Provider No. 27-5122

Eileene Stevens, Administrator
Crest Nursing Home
3131 Amherst Ave
Butte MT 59701

Dear Ms. Stevens:

On 11-04-04 a Health revisit was conducted to verify that your facility had achieved and maintained compliance as per our survey of 8-12-04. We had presumed, based on your allegation of compliance, that your facility was in substantial compliance. However, based on our revisit, we found that your facility is not in substantial compliance with the following participation requirement(s):

F246 483.15(e)(1) Quality of Life, newly cited at s/s = E
F323 483.25(h)(1) Quality of Care, recited, s/s remains at E.

As a result of our finding that your facility is not in substantial compliance, the following remedy **is being recommended** to the Regional Office as authorized by the SECRETARY (SOM 7314).

Denial of Payment for New Admissions

If you do not achieve substantial compliance within 3 months **(11-12-04)** after the last day of the survey identifying noncompliance, the CMS Regional Office must deny payments for new admissions.

If substantial compliance has not been achieved by **02-12-05**, your provider agreement will be terminated on that date.

Enclosed is a form CMS-2567B indicating deficiencies found to be corrected at the time of the follow-up. Also enclosed is form CMS-2567 with the new, and re-cited deficiencies at a scope and severity level that require a plan of correction. Your facility must provide a plan of correction (POC) to this office for these deficiencies. The POC must be submitted within 10 days after your receipt of the CMS-2567.

Your POC must contain the following:

- What corrective action(s) will be accomplished for those residents found to have been affected by the deficient practice;
- How you will identify other residents having the potential to be affected by the same deficient practice and what corrective action will be taken;
- What measures will be put into place or what systemic changes you will make to ensure that the deficient practice does not recur; and,
- How the corrective action(s) will be monitored to ensure the deficient practice will not recur, i.e., what quality assurance program will be put into place.
- Date when corrective action will be completed for each deficiency.

Informal Dispute Resolution

In accordance with 42CFR§488.331 and ARM 37.5.601 et seq., you have **one** opportunity to question cited deficiencies (or recited deficiencies at follow-up with new examples/facts) through an Informal Dispute Resolution process. Informal Dispute Resolution is in no way to be construed as a formal evidentiary hearing. This is an informal internal process to review additional information submitted by your facility.

- Your request for informal dispute resolution must be in writing and either received by the department or postmarked within 10 calendar days of your receipt of the Department's written deficiency citations. The Department will accept timely requests by fax to the attention of the Office of Fair Hearings at (406) 444-3980.
- Your failure to submit a timely request for informal dispute resolution shall be deemed a waiver of your right to request informal dispute resolution. The Department shall be entitled to deny any request for informal dispute resolution which is either not received by the Department or postmarked within 10 calendar days following your receipt of the Department's written deficiency citations.
- Your request for an informal dispute resolution must be mailed or delivered to the Department of Public Health and Human Services, Office of Fair Hearings; (Attn: Mary Rose Heller, Presiding Official) 2401 Colonial Drive, P.O. Box 202953; Helena, MT 59620-2953, (Telephone: (406) 444-2470).

- Your written request for an informal dispute resolution must: (a) list the specific survey deficiency citation(s) being disputed and briefly summarize your objections to each survey deficiency citation; (b) specify whether you desire a record review, or a telephone conference, or an in-person conference; (c) provide the name, address and telephone number of the person who is coordinating the informal dispute resolution for you; and (d) specify whether legal counsel will represent you at the informal dispute resolution conference.

- You may request in writing, at the same time you request the informal dispute resolution, supporting documentation for a disputed deficiency citation from the Department. The department may charge you $.20 per page to cover the cost of retrieving, copying and mailing this information if more than 20 pages are produced.

The informal dispute resolution conference will be cancelled and rescheduled if you do not notify the presiding official in your request for informal dispute resolution that you will be represented by legal counsel, but subsequently appear at the informal dispute resolution conference with legal counsel. All in-person conferences will be held in Helena, Montana. An incomplete Informal Dispute Resolution process will not delay the effective date of any enforcement action. You will be advised of the presiding official's recommendation(s).

If you have any questions concerning this letter, please contact this office.

Sincerely,

Carla Black for

Marjorie Vander Aarde RN, MSHA, CHE
Certification Bureau
Quality Assurance Division

MVA/cb

Encl.

cc: FF-A
Regional Office
Medicaid
NATP
FI
VA - M.Burtch

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*

01/07/2005 ← Dec. 22 shd have rec'd notice

IMPORTANT NOTICE - PLEASE READ CAREFULLY

Provider #: 275125

Eva Sharp, Administrator
Bitterroot Valley Living Cente
63 Main
Stevensville, MT 59870

Dear Ms. Sharp:

On 12/08/2004 a Health Survey revisit was conducted at your facility by representatives of the Montana Department of Public Health & Human Services, Quality Assurance Division, Certification Bureau to verify that your facility had achieved and maintained compliance as per our survey of 10-07-04. We had presumed, based on your allegation of compliance, that your facility was in substantial compliance. However, based on our revisit, we found that your facility is not in substantial compliance with the following participation requirement(s):

F0221 -- S/S: D -- 483.13(a) -- Physical Restraints, recited, s/s remains at D.

As a result of our finding that your facility is not in substantial compliance, we are **recommending to the Regional Office** that the following remedy be imposed:

Denial of Payment for New Admissions

If you do not achieve substantial compliance within 3 months (January 7, 2005) after the last day of the survey identifying noncompliance, the CMS Regional Office must deny payments for new admissions.

If substantial compliance has not been achieved by April 7, 2005, your provider agreement will be terminated on that date.

Enclosed is form CMS-2567B indicating deficiencies found to be corrected at the time of the follow-up. Also enclosed is the form CMS-2567 with the re-cited deficiency at a scope and severity level that require a plan of correction. Your facility must provide a plan of correction (POC) to this office for this deficiency. The POC must be submitted within 10 days after your receipt of the CMS-2567.

Your POC must contain the following:

What corrective action(s) will be accomplished for those residents found to have been affected by the deficient practice;

How you will identify other residents having the potential to be affected by the same deficient practice and what corrective action will be taken;

What measures will be put into place or what systemic changes you will make to ensure that the deficient practice does not recur; and,

How the corrective action(s) will be monitored to ensure the deficient practice will not recur, i.e., what quality assurance program will be put into place.

Date when corrective action will be completed for each deficiency.

If you have any questions concerning this letter, please contact this office.

Sincerely,

Carla Black, for

Marjorie Vander Aarde, MSHA, CHE
Certification Bureau
Quality Assurance Division

MVA/cb

Encl.

cc: FF-A
Regional Office
Medicaid
NATP
FI
VA - M.Burtch