



E-Mailed: kfouts@mt.gov
CMS Certification Number: 274086

Amended Letter
February 18, 2022

Kyle Fouts, Administrator
Montana State Hospital
100 Grant Way
Warm Springs, Montana 59756

IMPORTANT NOTICE - PLEASE READ CAREFULLY
23 Day NOTICE OF INTENT TO TERMINATE MEDICARE PROVIDER AGREEMENT

Regarding: Condition(S) of Participation Not Met-Creating an Immediate and Serious Threat to the Health and Safety of Patients
Notice of Intent to Termination of Medicare Provider Agreement-Effective: March 13, 2022

Dear Administrator:

The purpose of this letter is to amend the CMS letter sent earlier today, February 18, 2022 to correct the regulatory body that conducted the survey at Montana State Hospital.

To participate in the Medicare program, a hospital must meet the requirements established under title XVIII of the Social Security Act (the Act) and the regulations established by the Secretary of Health and Human Services under the authority contained in §1861(e) of the Act. Further, §1866(b) of the Act authorizes the Secretary to terminate the provider agreement of a hospital that fails to meet these provisions.

Centers for Medicare and Medicaid Services (CMS) surveyors conducted a survey at Montana State Hospital on February 8-10, 2022. Based on the survey findings, it has been determined that Montana State Hospital is **not** in compliance with all of the Medicare Conditions of Participation for Hospitals. These deficiencies substantially limit the Hospital's capacity to render adequate care and constitute an immediate and serious threat to the health and safety of patients. After a careful review of the findings, we have determined that your Hospital violated:

1. 42 C.F.R. §482.13 – Patient Rights, Tag A0115
2. 42 C.F.R. §482.42 – Infection Prevention Control & Antibiotic Stewardship, Tag A0747

CMS has determined that these deficiencies are so serious that they constitute an immediate and serious threat to the health and safety (**Immediate Jeopardy-IJ**) of any individual who comes to your hospital to receive emergency services. These violations are identified and listed on the enclosed CMS Form 2567, Statement of Deficiencies. Information was provided regarding the failures that were identified during the survey and the need for a written plan of action to remove or abate this serious situation. The hospital at that time was unable to provide a written plan of action and was unable to implement sufficient corrective actions to remove the IJ situation by the end of the survey (February 10, 2022).

This is a preliminary determination letter and serves to notify Montana State Hospital of the violations and CMS' intent to terminate the hospital's provider agreement effective Sunday March 13, 2022. In accordance with 42 C.F.R. §489.53 (d)(2), a legal notice of CMS actions will be published at least 2 calendar days prior to the effective date of termination.

A credible allegation that the immediate jeopardy has been removed by the hospital requires a resurvey prior to the projected termination date. Please note that an onsite confirmation and verification of the hospital's actions to remove the immediate jeopardy is required to satisfy a determination that the immediate jeopardy has been successfully removed. **Termination can only be averted by correction of these violations by March 13, 2022.**

Appeal Rights

If you disagree with the finding of noncompliance, 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. Procedures governing this process are set out in Federal regulations at 42 C.F.R. §498.40, et seq. You must file the 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 sixty (60) days from the date of receipt of this letter.

Also, you **must** send a complete copy of the hearing request, all written communications concerning this survey and any other supporting documentation to CDR Dianna Wardlow-Dotter, Manager; Survey Operations Branch; Centers for Medicare and Medicaid Services; Denver Regional Office; 1961 Stout Street, Room 08-148; Denver, Colorado 80294, or via e-mail to dianna.wardlow-dotter@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 from the date of receipt of this letter**, to the 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 and the 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. You may be represented by counsel at a hearing at your own expense.

If you have questions concerning this preliminary determination letter, please contact Benton Williams at email at benton.williams@cms.hhs.gov.

Sincerely,

CDR Mutiu Okanlawon
Acting Division Director, CMS Kansas City & Denver
Survey & Operations Group

Enclosures: CMS Form 2567

Copies via e-mail to:

Montana Department of Public Health and Health Services, Quality Assurance Division, Certification Bureau
Noridian Healthcare Solutions, LLC
CMS Denver Regional Office, Office of the Regional Administrator
CMS Denver Regional Office, Medicaid
CMS Denver Regional Office, OPOLE
Office of the General Counsel, Denver Office