



**[Receipt of This Notice Is Presumed to Be June 18, 2019 – Date Notice Is Emailed]
Important Notice - Please Read Carefully**

June 18, 2019

CMS Certification Number: 03G008

Administrator, Hacienda HealthCare
d/b/a Hacienda De Los Angeles
1402 East South Mountain Avenue
Phoenix, Arizona 85040

SUBJECT: Revisit Survey Findings and Notice of Termination Regarding Hacienda HealthCare's Intermediate Care Facility for Individuals with Intellectual Disabilities

Dear Administrator,

Prior Notice

On February 27, 2019, CMS informed you of the findings from the February 8, 2019 survey conducted by representatives of the Arizona Department of Health Services (ADHS) at Hacienda HealthCare's Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID). Based on the findings, your facility failed to meet the requirements contained in section 1905(d) of the Social Security Act (The Act) and all of the applicable Conditions of Participation (CoPs) for ICFs/IID at 42 C.F.R. Part 483, Subpart I. In our prior notice, CMS informed you that it would initiate a process that, absent further written notice to the contrary from this office, would result in cancellation of approval of Hacienda HealthCare to participate in Medicaid. *See* 42 U.S.C. § 1396i(b)(1), Social Security Act § 1910(b)(1) (authority of the Secretary of HHS to cancel approval of an ICF/IID to participate in Medicaid); 42 C.F.R. §§ 442.15(a); 442.101(e); 442.117; 498.3(b)(9).

Subsequent Visits and Survey Results

On May 8, 2019, ADHS completed a Post Certification Revisit survey to the February 8, 2019 Health Recertification and Complaint survey at your facility. This revisit survey was to determine if your facility was in compliance with federal participation requirements as an ICF/IID in the Medicaid program. The May 8, 2019 survey determined that your facility, Hacienda HealthCare, failed to meet the requirements contained in 42 U.S.C. § 1396d(d) (section 1905(d) of the Social Security Act (Act)), and other statutory and regulatory requirements applicable to ICFs/IID

participating in the Medicaid program under Title XIX of the Act. *See* 42 C.F.R. Part 483, Subpart I¹ (Conditions of Participation for ICFs/IID).

Although you were able to correct some of the previously cited deficiencies, the May 8, 2019 revisit survey documented that your facility remained out of compliance with other requirements of Section 1905(d) of the Social Security Act [42 U.S.C. § 1396d(d)], as noted in the attached Statement of Deficiencies (Form CMS-2567). As you know, to participate in the Medicaid program, ICFs/IID must meet the statutory requirements in sections 1902(a)(31) and 1905(d) of the Act (42 U.S.C. §§1396a(a)(31) and 1396d(d), respectively) and be in compliance with each of the applicable regulatory CoPs for ICF/IIDs found at 42 C.F.R. Part 483, Subpart I (and other applicable statutory and regulatory requirements). As detailed below and in the enclosed Statement of Deficiencies (Form CMS-2567), the contents of which are incorporated by reference herein, the May 8, 2019 survey documented serious deficiencies at Hacienda HealthCare. Specifically, the survey documented deficiencies that, on balance, reasonably support a conclusion that Hacienda HealthCare fails to meet the following CoPs:

- **42 C.F.R. § 483.410 Governing Body and Management**
- **42 C.F.R. § 483.420 Client Protections**

We further have determined that, based on these deficiencies, Hacienda HealthCare fails to meet the requirements contained in section 1905(d) of the Act.

Cancellation of Approval of Eligibility to Participate in Medicaid

Because Hacienda HealthCare failed to meet the requirements contained in section 1905(d) of the Act and all of the applicable CoPs for ICFs/IID at 42 C.F.R. Part 483, Subpart I, as determined by the attached Statement of Deficiencies (Form CMS-2567) for the May 8, 2019 survey, CMS is initiating a process that, absent further written notice to the contrary from this office, will result in cancellation of approval of Hacienda HealthCare to participate in Medicaid. *See* 42 U.S.C. § 1396i(b)(1), Social Security Act § 1910(b)(1) (authority of the Secretary of HHS to cancel approval of an ICF/IID to participate in Medicaid); 42 C.F.R. §§ 442.15(a); 442.101(e); 442.117; 498.3(b)(9).

As such, the cancellation of approval of your Medicaid participation agreement is scheduled to take effect on or before **12:01 a.m. PDT, July 3, 2019**.

Public Notice

Federal regulations require public notice of this decision. Public notice of termination will be published on the CMS Website at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html> on or before July 3, 2019. *See Agreement Termination Notices Final Rule* (CMS-1677-F).

¹ All references to regulatory requirements contained in this letter are found in Title 42, Code of Federal Regulations (C.F.R.).

Reinstatement of Approval Following Cancellation

When CMS cancels approval to participate in Medicaid, the approval of your facility's eligibility to participate in Medicaid may not be reinstated unless CMS finds that the reason for the cancellation has been removed and there is reasonable assurance that it will not recur. Social Security Act § 1910(b)(1); 42 U.S.C. § 1396i(b)(1). Therefore, once canceled you must demonstrate through a reasonable assurance period that you can maintain compliance with all of the statutory and regulatory requirements for at least sixty (60) consecutive days. CMS or the State Survey Agency will verify compliance with the applicable participation requirements at 42 C.F.R. Part 483, Subpart I by surveys conducted at the beginning and end of this period. Additionally, before readmission, your facility must demonstrate its ability to comply with all pertinent requirements of Title XIX of the Social Security Act and the implementing regulations. Assuming these surveys at the beginning and end of the reasonable assurance period establish Hacienda HealthCare's compliance with statutory and regulatory participation requirements, and assuming Hacienda HealthCare meets all other Federal requirements, CMS will reinstate Hacienda HealthCare's Medicaid eligibility following the conclusion of the reasonable assurance period.

Appeal Rights

If you disagree with this determination, you or your legal representative may request a hearing before administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 C.F.R. §498.40. 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 have counsel represent you at a hearing at your own expense. **Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. 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 days from the date of receipt of this letter.**

When using DAB E-File for the first time, you will need to create an account by (a) clicking Register on the DAB E-File home page; (b) entering the requested information on the Register New Account form; and (c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given 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 E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by (a) clicking the File New Appeal link on the Manage Existing Appeals screen; then (b) clicking Civil Remedies Division on the File New Appeal screen; and (c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted

documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59 p.m. EST will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: https://dab.efile.hhs.gov/appeals/to_crd_instructions. Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at OSDABImmediateOffice@hhs.gov or call (202) 565-0146 before 4:00 p.m. EST.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 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 60 days from the date of receipt of 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

If you choose to file your appeal to the Departmental Appeals Board, please also send a hard copy of the hearing request (excluding any supporting documents or exhibits) to:

Steven D. Chickering
Associate Regional Administrator
Western Division of Survey and Certification
Centers for Medicare and Medicaid Services
90 7th Street, Suite 5-300 (5W)
San Francisco, California 94103-6707

If a hearing request does not fully comport with the timing and specificity requirements referenced above at 42 C.F.R. § 498.40, CMS will promptly move, as appropriate, for summary judgment on certain issues and/or dismissal of your entire filing.

If your hearing request is not dismissed, you will have an opportunity to present evidence and further argument at an in-person hearing or on the record, where you may be represented by counsel at your own expense.

Finally, please be advised that if an appeal request is timely filed, the effective date of the cancellation of your eligibility to participate in the Medicaid program will be held in abeyance pending the decision of an Administrative Law Judge's ruling. *See* 42 C.F.R. § 498.5(j).

Contact

If you have any questions, please contact Paula Perse, Manager, CMS San Francisco Certification and Enforcement Branch, at (415) 744-3746.

Sincerely,

for *Julius P. Bunch Jr.*

Steven D. Chickering
Associate Regional Administrator
Western Division of Survey and Certification

Enclosures: CMS-2567 (Health revisit survey), and Client Identifier List

cc: Arizona Department of Health Services (ADHS)
Arizona Health Care Cost Containment System (AHCCCS)