



Refer to: WDSC-R8-kh

E-Mailed: rick.sorensen@ihs.gov

CMS Certification Number: 430082

Telephone Number: 605-355-2500

May 23, 2016

Rick Sorensen, Administrator
PHS Indian Hospital at Rapid City- Sioux San
3200 Canyon Lake Dr.
Rapid City, SD 57702

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 (Immediate Jeopardy-IJ)
Notice of Intent to Termination of Medicare Provider Agreement-Effective: June 15, 2016

Dear Mr. Sorensen:

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.

Federal surveyors conducted the following survey at PHS Indian Hospital at Rapid City –Sioux San: Emergency Medical Treatment and Labor Act (EMTALA) on May 10-12, 2016. Based on the survey findings, the Centers for Medicare and Medicaid Services (CMS) has determined that PHS Indian Hospital at Rapid City – Sioux San is **not** in compliance with all of the EMTALA requirements 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, CMS has determined that your hospital violated:

- 42 C.F.R. §489.24 – Appropriate Medical Screening Examination (A2406)

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 this serious situation. The hospital was unable to provide a written plan of action and unable to implement sufficient corrective actions to remove the IJ situation by the end of the survey (May 12, 2016).

This is a preliminary determination letter and serves to notify PHS Indian Hospital at Rapid City-Sioux San of the violations and CMS' **intent to terminate the hospital's provider agreement effective: June 15, 2016**. Further, and in accordance with 42 C.F.R. §489.53 (c), a legal notice of CMS actions will be published concurrently in the *Rapid City Journal*. Public notice must be made at least 2 calendar days prior to the effective date of termination. (See 42 CFR 488.456(c)).

A credible allegation that the immediate jeopardy has been removed by the hospital requires a revisit prior to the projected 23 Day termination date. Please submit your written plan of correction for removal of the IJ within 5 calendar days (May 28, 2016) on the enclosed CMS Form 2567. This plan of correction will be reviewed for its content by Denver Regional Office staff. 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 June 15, 2016.**

Please send your plan of correction (POC) to the following address:

**CMS- Denver Regional Office
Attn: CAPT Linda Bedker/CDR Kimmine Hudson
1961 Stout Street, Room 08-148
Denver, CO 80294**

If CMS Denver Regional Office does not hear back from PHS Indian Hospital at Rapid City-Sioux San, CMS will assume that the situation has not been corrected and termination remains on **June 15, 2016**.

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 Linda Bedker RN, MN, MPH, CAPTAIN, U.S.P.H.S., Manager; Certification and Enforcement Branch; Centers for Medicare and Medicaid Services; Denver Regional Office; 1961 Stout Street, Room 08-148; Denver, Colorado 80294, or via e-mail to Linda.Bedker@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 CMS letter, please contact Kimmine Hudson at 303-844-7127 or email at kimmie.hudson@cms.hhs.gov.

Sincerely,

CAPT. Lynda Bedke

For:

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

Enclosures:

CMS Form 2567

Copies via e-mail to:

IHS Great Plains Area Office
South Dakota Department of Health, Office of Health Care Facilities, Licensure & Certification
Novitas Solutions, Inc
CMS Denver Regional Office, SB & CEB
CMS Denver Regional Office, Office of the Regional Administrator
Office of the General Counsel, Denver Office
CMS Denver Regional Office, Medicaid Program Management Branch
CMS Denver Regional Office, Medicaid Financial Management Branch