



MIDWEST DIVISION OF SURVEY AND CERTIFICATION

CMS Certification Number (CCN): 260137

April 10, 2023

Via electronic mail: PFBaker@freemanhealth.com

RE: NOTICE OF EMTALA VIOLATION-IMMEDIATE JEOPARDY

Paula Baker, President & CEO
Freeman Health System
1102 W. 32nd Street
Joplin, Missouri 64804

Dear Ms. Baker:

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 to participate in the Medicare program. Further, §1866(b) of the Act authorizes the Secretary to terminate the provider agreement of a hospital that fails to meet these provisions.

The Missouri Department of Health and Senior Services (MO DHSS) concluded a survey at your hospital on October 26, 2022 based on a reported allegation of noncompliance with the requirements of 42 Code of Federal Regulations (CFR) §489.24, titled Responsibilities of Medicare Participating Hospitals in Emergency Cases, and non-compliance with other Essentials of Provider Agreements at 42 CFR §489.20. The deficiencies identified are as follows:

- 42 CFR §489.24(d)(1): Necessary Stabilizing Treatment for Emergency Medical Conditions (Tag A2407); and
- 42 CFR §489.20(l): Policies and Procedures Which Address Anti-Dumping Provisions (Tag A2400).

These deficiencies are further set out on the enclosed Form CMS-2567, Statement of Deficiencies and Plan of Correction. We have determined that the deficiencies are so serious that they constitute an immediate and serious threat to the health and safety of any individual who comes to the emergency department and requests examination or treatment for an emergency medical condition. Further, under 42 CFR §489.53, a hospital that violates the provisions of 42 CFR §489.24 is subject to termination of its

provider agreement. Consequently, unless these deficiencies are addressed as described below, Freeman Health System – Freeman West's participation in the Medicare program will be terminated. This preliminary determination letter serves to notify you of the violation.

You may avoid termination action by providing either an acceptable plan of correction (PoC) of the deficiencies, or credible evidence that the deficiencies did not exist, by **April 20, 2023**.

An acceptable PoC must contain the following elements:

1. The plan for correcting the specific deficiency. The plan should address the processes that lead to the deficiency cited;
2. The procedure for implementing the acceptable plan of correction for the specific deficiency cited;
3. The monitoring procedure to ensure that the plan of correction is effective and that the specific deficiency cited remains corrected and/or in compliance with the regulatory requirements;
4. The title of the person responsible for implementing the acceptable plan of correction.

Please note that we may resurvey the hospital to verify that your PoC is acceptable. If we verify your PoC, or determine that the findings contained in this letter were in error, you will not be terminated from the Medicare program.

Copies of the Form CMS-2567, including copies containing the hospital's PoC, are releasable to the public in accordance with the provisions of Section 1864(a) of the Act and 42 CFR §401.133(a). As such, the PoC should not contain personal identifiers, such as patient names, and you may wish to avoid the use of staff names. It must, however, be specific as to what corrective action the hospital will take to achieve compliance, as indicated above.

Please forward a copy of your PoC (or evidence that the deficiencies did not exist) to the attention of Joyce Danner at KansasCityNLTCPOC@cms.hhs.gov; joyce.danner@cms.hhs.gov and to the MO DHSS at:

Rebeka.Stone@health.mo.gov, Bureau Administrator; and

Melodie.Brumbach@health.mo.gov, Assistant Bureau Administrator

Paula Baker, President & CEO
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In the event that you elect not to submit a timely PoC (or evidence that the deficiencies did not exist), you would receive a "notice of termination letter" on **May 1, 2023**. That final notice would be sent to you concurrently with notice to the public, in accordance with regulations at 42 CFR §489.53, and would include a projected termination date of **May 3, 2023**. Note, however, that any final decision terminating your participation in the Medicare program would be appealable to the Departmental Appeals Board and then to federal district court.

If you have any questions concerning this preliminary determination letter, please contact Joyce Danner in our Kansas City office by email at Joyce.Danner@cms.hhs.gov.

Sincerely,

CDR Dianna Wardlow-Dotter
Division Director, CMS Kansas City & Denver
Survey & Operations Group,
Center for Clinical Standards & Quality

Enclosures:

❖ Form CMS-2567 Statement of Deficiencies

C: ACTS # MO 208694
MO DHSS, MO Medicaid, QIO