

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Western Division of Survey and  
Certification Seattle Regional Office  
701 Fifth Avenue, Suite 1600  
Seattle, WA 98104



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**Western Division of Survey & Certification**

June 25, 2018

Mr. David Holt  
Western State Hospital  
9601 Steilacoom Blvd SW  
Tacoma, WA 98498

**Re: CMS Certification Number: 50-4003  
Notice of Termination, Effective July 9, 2018**

Dear Mr. Holt:

By this letter, the Centers for Medicare and Medicaid Services (CMS) notifies Western State Hospital (Western) of its termination from the Medicare program, effective July 9, 2018.

Section 1866(b)(2) of the Social Security Act (SSA or the Act), authorizes the Secretary of the United States Department of Health and Human Services to terminate any provider that fails to comply substantially with the provisions of SSA Title XVIII and the regulations thereunder. Upon reasonable notice to the provider and the public, the Secretary is authorized to terminate the Medicare agreement with any provider the Secretary determines fails to comply substantially with the applicable provisions of SSA § 1861. *See* SSA § 1866(b)(2)(B). Furthermore, the Act limits the duration of payments to psychiatric hospitals the Secretary determines have deficiencies. *See, e.g.,* SSA § 1866(i). The Secretary's regulations authorize termination for any provider that fails to comply substantially with the provisions of SSA Title XVIII or no longer meets the conditions of participation. 42 CFR §§ 489.53(a)(1), 489.53(a)(3).

Under the terms of the Second Systems Improvement Agreement (Second SIA) that went into effect on November 2, 2017, the Washington Department of Social and Health Services, Washington Department of Health and CMS agreed that CMS and/or its designated representative would perform an unannounced survey to assess Western's compliance with Medicare conditions of participation (CoPs). As stated in paragraph 9(h) of the Second SIA, Western has waived any and all administrative and judicial appeal rights concerning the unannounced survey.

On May 25, 2018, surveyors from CMS's Seattle-Regional Office (SRO) accompanied by, Washington Department of Health (DOH), Washington State Fire Marshal and Acsellon Psychiatric Hospital Survey contractors (together "the Surveyors") completed an unannounced

full health survey of Western.

The Surveyors determined Western was not in compliance with Medicare CoPs. Based on the Survey, CMS made the following non-compliance findings:

- 42 CFR § 482.12 - Governing Body;
- 42 CFR § 482.21- Quality Assessment and Performance Improvement Program;
- 42 CFR § 482.23 - Nursing Services; and
- 42 CFR § 482.41- Physical Environment (Immediate Jeopardy abated May 23, 2018).

The Immediate Jeopardy designation, which was based on the failure to identify and mitigate all ligature risks in the patient care environment, was removed before the end of the survey. Removing IJ status, however, did not constitute a return to substantial compliance.

During the term of the Second SIA and its predecessor, Western made significant strides toward correcting its areas of non-compliance. After an extensive review of the Survey team's findings, however, CMS has determined that Western's progress did not constitute substantial compliance with the Medicare conditions of participation.

Under 42 CFR § 489.55, payment is available for up to 30 days after the effective date of termination for inpatient hospital services furnished to a beneficiary who was admitted before the effective date of termination. The Medicare program will not make payment for services furnished to patients who are admitted after July 8, 2018. For patients admitted prior to July 9, 2018, payment may continue to be made for a maximum of 30 additional days of inpatient services. You should submit to CMS as soon as possible, a list of names and the corresponding claim numbers of Medicare beneficiaries in your facility on July 8, 2018.

#### **PUBLIC NOTICE OF TERMINATION**

In accordance with 42 CFR § 489.53(d), CMS will publish Legal Notice of Western's termination on CMS's Survey & Certification (S&C) website at least fifteen (15) days before the termination goes into effect on **July 9, 2018**.

#### **REQUEST TO CMS FOR INFORMAL RECONSIDERATION**

In accordance with paragraph 9(h) of the Second SIA, Western may submit to CMS a request for informal reconsideration. If it elects to dispute any action taken by or on behalf of CMS under the terms of the Second SIA, Western must submit a written statement with supporting evidence to CMS within ten (10) days after receiving this letter. In any request for informal reconsideration, Western should state the specific issues, findings and conclusions with which it disagrees. The request should also specify the basis for contending that the determinations are incorrect. CMS will review any such request for informal

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reconsideration it receives and promptly issue a written final determination.

**DESIGNATED CMS CONTACT PERSON**

Western should direct all questions and correspondence in response to this notice to:

Julius Bunch  
Certification and Enforcement Manager CMS Region X  
Division of Survey and Certification  
Department of Health and Human Services  
701 Fifth Avenue, Suite 1600  
Seattle, WA 98104  
(206) 615-2432

Thank you for your cooperation.

Sincerely,

*Steven Chickering*

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

cc: Washington State Department of Health  
Office of General Counsel – DHHS