



Western Division of Survey and Certification

December 19, 2017

Fircrest School PAT A  
15230 15TH NORTHEAST D  
SEATTLE, WA 98155

**Re:** Notice of Cancellation of Provider Agreement for Fircrest PAT A (a.k.a. The Fircrest School) CMS Certification Number: 50G046

Dear: Administrator

The Secretary of the United States Department of Health and Human Services, acting through the Centers for Medicare and Medicaid Services, now exercises his validation authority concerning the survey findings at the Fircrest School PAT-A. 42 U.S.C. §§ 1396a(a)(33)(b). By this letter CMS cancels the Fircrest School's approval because the facility has been non-compliant with the conditions of participation since August 26, 2016. *See* 42 C.F.R. §§ 483.400- 483.480, 498.3(b)(9). Please read this letter carefully because it explains the termination process and your appeal rights. We recommend that you seek the advice of legal counsel regarding this matter.

**Background**

On August 26, 2016, a team from the Washington State Department of Social and Health Services, Residential Care Services Division (RCS) surveyed the Fircrest School to recertify its compliance with Medicaid conditions of participation. RCS found the Fircrest School was not meeting the conditions of participation for Governing Body (42 CFR 483.410, a.k.a. W102), and Active Treatment (42 CFR 483.440, a.k.a., W195). In a December 2, 2016 letter, RCS notified the Fircrest School that it was imposing a denial of payment. The denial of payment was effective on December 16, 2016 and lasted through September 9, 2017. As a result of the surveys on August 26, 2016, November 22, 2016, and September 22, 2017, RCS determined the Fircrest School did not return to compliance during the denial of payment period. Based on these findings and the Fircrest School's inability to return to compliance before the denial of payment period ended, CMS is initiating this termination.

**Application for Readmission Following Cancellation**

In order to be reinstated to the Medicaid program, the Fircrest School must demonstrate compliance sufficient for CMS to be reasonably assured that it can maintain substantial compliance for at least sixty (60) consecutive days. Compliance with the applicable participation requirements at 42 CFR Part 483 will be verified by surveys conducted at the beginning and end of the reasonable assurance period. Additionally, to be readmitted to the Medicaid program, the Fircrest School must also demonstrate its compliance with all pertinent requirements of Title XIX of the Act. *See* 42 C.F.R. Part 483, Subpart I (Conditions of Participation for ICF/IID) in Title 42, Code of Federal Regulations

(CFR).

You must also establish that you have fulfilled, or have made satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of your previous provider agreement (including resolution of all outstanding financial obligations due the Medicaid program). 42 C.F.R. § 489.57(b). Assuming substantial compliance with participation requirements is documented at the beginning and end of the reasonable assurance period, and assuming all other federal requirements are met, Medicaid certification and reimbursement will begin following the conclusion of the reasonable assurance period in accordance with the terms of 42 C.F.R. § 489.13.

### **Appeal Rights**

If you disagree with this initial determination, 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 (DAB). The regulations governing this process are set out in 42 CFR § 498.40 *et seq.* You will find the DAB's e-filing procedures on the internet at the following URL:

<http://www.hhs.gov/dab/divisions/civil/procedures/filing-and-service.html>

A request for a hearing should identify the specific issues, the findings of fact, and conclusions of law with which you disagree. The request should also specify why you contend the findings and conclusions are incorrect. Evidence and arguments may be presented at the hearing and you may be represented by legal counsel at your own expense. **The Fircrest School must file its hearing request no later than 60 days after the date you receive this letter.**

If you do not have internet access and would prefer to file your appeal in writing, please contact the DAB office below:

<b>Chief, Civil Remedies Division Departmental Appeals Board MS 6132 Cohen Building, Room 637-D 330 Independence Avenue, SW Washington, D.C. 20201</b>	<b>Please also send a copy to:</b>	<b>Chief Counsel, DHHS Office of General Counsel 701 Fifth Avenue, Suite 1620 M/S RX-10 Seattle, WA 98104</b>
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If you timely file an appeal request, your participation in Medicaid will not be terminated during the pendency of an appeal, unless CMS finds that permitting the Fircrest School to continue participating in Medicaid during the pendency of an appeal would constitute immediate jeopardy to the health and safety of clients. *See* 42 C.F.R. § 498.5(j)(2).

If you need further assistance, please contact CMS\_RO10\_CEB@cms.hhs.gov Attn: Manuel Bravo.

Sincerely,



For

Steven Chickering,  
Associate Regional Administrator  
Western Division of Survey & Certification

cc: Washington State Department of Health  
Office of the General Counsel, DHHS