



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

JUN 26 2007

The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate
Washington, DC 20510-6200

Dear Mr. Chairman:

Thank you for your letter regarding the tragic events at Martin Luther King, Jr.-Harbor Hospital (MLK-Harbor) in South Los Angeles.

The Centers for Medicare & Medicaid Services (CMS) has taken significant measures and has allocated Federal resources to help correct the deficiencies in quality of care at MLK-Harbor. Following a full survey of the hospital in September 2006, we issued a notice to terminate the Medicare provider agreement effective November 30, 2006. Prior to that time, we had worked extensively with Los Angeles County, State, and hospital officials as they sought to improve the safety and quality of care at the hospital. But by September 2006, we concluded that the hospital still fell far short of meeting Medicare's Conditions of Participation (CoPs) for hospitals. The CoPs express the basic quality of care requirements for a health care entity to participate in the Medicare program.

In November 2006, County officials made substantial commitments to undertake additional and serious reform efforts, including downsizing the hospital from about 250 to 48 inpatient beds, transferring many services to other hospitals, and retaining but improving, emergency services. Only after such commitments did we agree to the County's request to reset the termination effective date to March 31, 2007. We subsequently received a request for a further extension of the termination date to August 15, 2007. The request was based on the expressed belief of County officials that the hospital was not ready to pass a full survey before March 2007, but would be able to do so by August 2007. We communicated to County officials that we would not continue Federal funding for hospital services that continue to be deficient.

We replied that the State and County would need to take full financial responsibility for hospital services once the downsizing of the hospital had been completed and until the hospital could demonstrate full compliance with Medicare requirements. We entered into a legally binding "Extension Agreement" with the hospital, specifying that the hospital would not bill, nor would the Federal Government pay, for any Medicare or Medicaid services after May 1, 2007, and until such time as the hospital demonstrated full compliance. We continued Federal funding for qualified emergency services to ensure the immediate health care crises of Medicare and Medicaid beneficiaries in the area could be met. We also left the Medicare provider agreement.

technically in place until August 15, 2007, but essentially "in name only," given the lack of payment to Medicare and Medicaid beneficiaries. Under the terms of the Extension Agreement CMS has reserved the right to move to termination of the provider agreement at an earlier date, if the hospital does not comply with the CoPs.

With regard to the most recent and tragic events, prompt investigations led to a finding of "immediate jeopardy" at the hospital and a move by CMS to terminate the provider agreement as of June 30, 2007. When a CMS survey identifies immediate jeopardy in a hospital, we act quickly (through both formal and informal means) to communicate the seriousness of the problems and CMS' intention to terminate the Medicare provider agreement unless the immediate jeopardy is abated quickly. The termination date is usually scheduled to occur within 15-23 days, with the timing affected by whether the hospital has an emergency department (per Federal regulations at 42 CFR 489.53(c)).

The letter we issued to the hospital on June 12, 2007, states that the Medicare provider agreement will be terminated effective June 30, 2007, unless the immediate jeopardy is removed prior to that date. Although Federal funding has already been removed, formal termination of the provider agreement could have the effect of permanently reducing the number of interns and residents training in the Los Angeles area and the total amount Medicare pays to those hospitals for that training, and also would result in a lengthier process for the hospital to re-enter the Medicare and Medicaid programs at a later date.

To speed the corrective process, we specified a number of actions that the hospital is required to undertake immediately. The "directed plan of correction" includes the following:

"Immediately upon receipt of this letter, MLK-Harbor shall:

Reassign physician assistants who have not been determined, through the medical staff privileging and competency process, to be competent to perform medical screening examinations in the emergency department.

Staff the emergency department with personnel who have been determined, through the medical staff privileging and competency process, to be competent to perform medical screening exams.

Identify the number of staff and qualifications of staff assigned to emergency and urgent care services.

Identify the number of staff, including their qualifications and scope of duties and assignment, needed in the emergency department area, and assure that hospital management responsible for staffing have this information.

Implement a method/process that is available to hospital personnel and CMS representatives which accounts for all individuals seeking emergency services at the hospital."

Additional steps were required to be taken by the hospital and documented in a written plan of correction, due to CMS no later than June 18, 2007. We did receive the plan of correction by the due date and are currently in dialogue with the hospital regarding the plan.

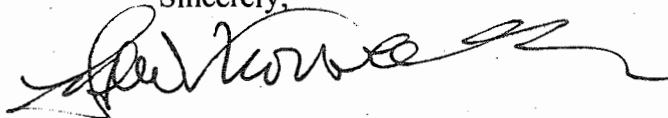
If the hospital makes the immediate improvements required, then the termination date of June 30, 2007, will be removed. The hospital will still be subject to the August 15, 2007 termination date that is specified in the Extension Agreement. Prior to August 15, 2007, CMS and the State of California Survey Agency will conduct a full, unannounced survey of the hospital. If the hospital demonstrates that it meets the Medicare CoPs, then the Medicare provider agreement will continue, and regular Medicare payments will resume. If the hospital does not meet the CoPs at that time, the provider agreement will be terminated. It will then be a decision of the State and the County as to what services might continue at MLK-Harbor in the absence of Federal funds.

We are deeply saddened by the recent tragic events. At the same time, since November 2006, we have seen substantial action and strenuous efforts to improve care at the hospital. The continuing problems at the hospital call for those efforts to be redoubled.

We do not underestimate the challenge involved in turning around a facility that had reached the condition of MLK-Harbor. Those challenges are formidable. We appreciate the hard work of medical professionals at MLK-Harbor, County and State officials, and concerned citizens who are dedicated to ensuring South Los Angeles residents have ready access to hospital services that are safe, effective, and of high quality. CMS will continue to provide consultation as requested, and we will be prepared to conduct a full survey of the hospital later this summer to see if the required improvements have resulted in full conformance with Medicare requirements for quality care.

I appreciate your concern for this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie V. Norwalk", written in a cursive style.

Leslie V. Norwalk, Esq.
Acting Administrator