

Appendix B

MODEL LETTER TO PROVIDER SELECTED AS A “SPECIAL FOCUS FACILITY”

IMPORTANT NOTICE – PLEASE READ CAREFULLY

(Date)

Nursing Home Administrator Name

Facility Name

Address

City, State, ZIP Code

Dear (Nursing Home Administrator):

The purpose of this letter is to inform you that your facility has been selected for the Special Focus Facility (SFF) program based on poor compliance history for the past three years. More information on this selection is described below.

What Does This Mean?

You will be subject to at least one standard survey every six months as required under Section 1819(f)(8)(B) of the Social Security Act (42 U.S.C. §1395-i-3(f)(8)(B)). The Centers for Medicare & Medicaid Services (CMS) will be closely monitoring your facility with the objective that your facility can attain and maintain substantial compliance with Medicare and/or Medicaid participation requirements.

How Does A Facility Get Removed From the SFF Program?

A nursing home will “graduate” from the SFF program once it has completed two consecutive standard surveys with no noncompliance deficiency citations at a scope and severity level of “F” or greater (or “G” or greater for life safety code (LSC) deficiencies), and has no complaint surveys with deficiencies cited at “F” or greater (or “G” or greater for LSC deficiencies) in between those two standard surveys. However, if the only “F” level deficiency cited is for food safety requirements (at 42 C.F.R. §483.60(i), tag F371), the facility may graduate from the SFF program at the discretion of the CMS Regional Office. A nursing home may also be removed from the SFF Program through a voluntary termination or an involuntary termination by CMS if it fails to graduate from the program after three standard surveys.

Robust Enforcement for Lack of Significant Improvement: CMS will impose immediate sanctions on an SFF that fails to achieve and maintain significant improvement in correcting deficiencies on the first and each subsequent standard, complaint and LSC survey after a facility becomes an SFF.

Progressive Enforcement: Enforcement sanctions will be of increasing severity for SFFs that do not make significant improvement. Sanctions include, but are not limited to, Civil Money

Penalties, Denial of Payment for New Admissions, Directed Plan of Correction, and Temporary Management.

“Last Chance Survey:” For nursing homes remaining in the SFF program after three standard surveys, where the most recent standard survey results in noncompliance at a scope and severity

level of “F” or greater, the State Survey Agency will schedule a “last chance survey.” Following a last chance survey that results in noncompliance deficiencies cited at a scope and severity of “F” or greater (or “G” or greater for LSC deficiencies), the CMS Regional Office and the State Survey Agency will determine whether the facility’s provider agreement should be terminated without the opportunity to correct as set forth in 42 C.F.R. 489.53. Factors bearing on the decision to terminate or not include, but are not limited to, special needs or characteristics of the resident population making it difficult for them to be transferred, bed availability in the local area, whether the facility will be changing ownership or management, and any other development that indicates timely and enduring improvement in the quality of care or safety is likely.

Can This Selection Be Appealed?

Your selection as an SFF cannot be appealed. However, you still have the right to informal dispute resolution and independent informal dispute resolution as allowed by law (see 42 Code of Federal Regulations §488.331 and §488.441) and to appeal the noncompliance that led to an enforcement remedy to an Administrative Law Judge of the Department of Health and Human Services Departmental Appeals Board. Specific requirements for requesting a formal hearing are contained in the notice of the imposition of the remedy.

We recommend you take the SFF designation very seriously. We can also help by referring you to useful resources, including help from the (Name of State Quality Improvement Organization).

To ensure we have the contact information for all accountable parties, you must provide to the State Survey Agency (insert SSA contact name and email address here) and the CMS Regional Office (insert CMS RO contact name and email address here) the contact information (names, telephone numbers, email addresses and physical addresses) of the Chairperson of the Governing Body and full Governing Body, the holder of the provider agreement, any party who owns more than five percent interest in the facility, the management company (if applicable), the facility’s landlord (if any), the facility’s mortgage holder, and any corporate owner(s) for chain-operated nursing homes.

If you have any questions, please contact (name, title, address, phone number, fax number and e-mail address of appropriate survey agency official).

Sincerely,

(Name and Title)

cc: CMS Regional Office
(Name of Quality Improvement Network or Organization)
(Name of Owner)