

Iowa Department of Inspections and Appeals
Health Facilities Division
Citation

Citation Number: FC # 6540		Fine amount reduced by 35% to \$3,900.00 on June 2, 2017 pursuant to Iowa Code Section 135C.43A	Date: May 19, 2017	
Facility Name: REM Iowa—Birch Cottage		Survey Dates: April 24, 2017 to May 2, 2017		
Facility Address/City/State/Zip 29 East Street Shelby IA. 51570		HL	Survey	
Rule or Code Section	Nature of Violation	Class	Fine Amount	Correction date

135C. 44	135C.44 Treble fines for repeated violations. The penalties authorized by section 135C.36 shall be trebled for a second or subsequent class I or class II violation occurring within any twelve-month period if a citation was issued for the same class I or class II violation occurring within that period and a penalty was assessed therefor. [C77, 79, 81, §135C.44]481—56.6 (135C) Treble and double fines.	I	\$6,000.00 Treble Fine (\$2,000.X3	Upon Receipt
56.6(1)	56.6(1) <i>Treble fines for repeated violations.</i> The director of the department of inspections and appeals shall treble the penalties specified in rule 481—56.3(135C) for any second or subsequent class I or class II violation occurring within any 12-month period, if a citation was issued for the same class I or class II violation occurring within that period and a penalty was assessed therefor.			
64.60	481-64.60(135C) Federal regulations adopted - conditions of participation. Regulations in 42 CFR Part 483, Subpart D, and Sections 410 to 480 effective October 3, 1988, are adopted by reference and incorporated as part of these rules. A copy of these regulations is available on request from the Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319. Classification of violations is I, II, and III, determined by the division using the provision in	I		

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W102	<p>481-Chapter 56, Fining and Citations," to enforce a fine to cite a facility.</p> <p>This rule is intended to implement Iowa Code Section 135C.2(3).</p> <p>DESCRIPTION:</p> <p>483.410 Governing Body and Management The facility must ensure that specific governing body and management requirements are met.</p> <p>Based on interviews and record reviews, the facility failed to maintain minimal compliance with Condition of Participation (CoP) Governing Body and Management. The governing body failed to adequately ensure incidents of client to client aggression were monitored, tracked and addressed. This affected client safety and clients' rights to be free from abuse. The investigation resulted in a determination of immediate jeopardy (IJ), due to concerns with clients' health and safety. The facility was notified of the IJ on 4/26/17. The IJ was removed on 5/2/17.</p> <p>Cross reference W104: Based on interviews and record review, the facility failed to ensure appropriate monitoring, tracking and follow up of client to client aggression, and whether the aggressions resulted in client injuries</p> <p>Cross reference Condition of Participation: Client Protections W122 & W149.</p>			
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W104	<p>483.410(a)(1) Governing Body The governing body must exercise general policy, budget, and operating direction over the facility. Based on interviews and record review, the facility failed to ensure appropriate monitoring and tracking of client to client aggression, and whether the aggressions resulted in client injuries. This affected 5 of 8 clients residing at the facility (Clients #1, #3, #4, #6 and #7). Finding follows:</p> <p>Record review on 4/24/17 revealed Incident Reports for the past year for the eight clients residing at the facility. The surveyor identified a minimal amount of Incident Reports provided and questioned the Program Director. For instance, there were several Incident Reports for Client #6 regarding seizures and falls from May to July 2016, but none since then. During interview on 4/24/17 at 2:30 p.m. the Program Director (PD) stated it was possible additional Incident Reports had been misplaced or possible that staff had not written them. She said Client #6's seizure activity had decreased recently. The Incident Reports presented on 4/24/17 contained only two incidents of peer to peer aggression: a) Client #7 hit Client #1 on 2/27/17, which did not cause an injury; b) Client #5 slapped Client #4 in the forehead on 2/06/17, with no resulting injury.</p> <p>Record review of Client #1's chart on 4/25/17 revealed a discharge form from the emergency room on 2/08/17 for abrasions to the face and a small laceration to the eye. According to a nursing note dated 2/09/17, Client #1 had abrasions to the right side of face caused by another client's aggression. No Incident Report</p>			
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	<p>regarding this incident could be located.</p> <p>When interviewed on 4/15/17 at 3:15 p.m. the PD stated she did not recall seeing an Incident Report for the incident on 2/08/17 when Client #1 went to the emergency room for injuries sustained as a result of aggression by Client #7. The PD noted the Program Coordinator was gone and might have additional Incident Reports in her office. When questioned about the tracking process for client to client aggression that result in injuries, the PD said she kept track informally on her calendar. When asked to show her 2017 calendar to the surveyor, the PD stated she had not documented any peer to peer aggressions with injuries since the first of the year. The PD said she had recently talked with staff about writing Incident Reports as needed because she felt like she was not getting as many Incident Reports as she should, including injuries of unknown origin. The PD said she had discussed this with staff at the March staff meeting. The PD was unable to produce minutes of the March meeting that showed the topic of Incident Reports was addressed, but she did have a hand written note stating she had encouraged staff to write Incident Reports when needed.</p> <p>The PD provided a few additional Incident Reports on 4/25/17 at 2:50 p.m. None of the Incident Reports noted client to client aggression. The PD provided more Incident Reports on the morning and afternoon of 4/26/17. None of them noted client to client aggression, although they did document incidents of aggression toward staff, self-injurious behaviors, client</p>			
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	<p>injuries and one case of a client attempting to aggress toward another client.</p> <p>Additional record review on the afternoon of 4/26/17 revealed client behavior data sheets for Client #1 and Client #7 from January 2017 to March 2017. The behavior data sheets documented multiple incidents of client to client aggression as follows:</p> <ul style="list-style-type: none"> a) On 1/06/17, Client #1 "started kicking" Client #6. There was no documentation of whether or not an injury occurred. b) On 1/20/17, Client #1 told Client #4 what to do and "started pulling on (his/her) arm." There was no documentation of whether or not an injury occurred. c) On 2/05/17, Client #1 got into an altercation with Client #7 and Client #1 bit Client #7 on his/her wrist. There was no documentation of whether or not an injury occurred. d) On 2/08/17, Client #1 got into an altercation with Client #7. Client #7 aggressed toward Client #1, who then bit Client #7. There was no documentation regarding injury to either client on the behavior form for Client #1, however the behavior form for Client #7 noted Client #1 was injured. e) On 3/24/17, Client #1 "started pushing peers" and threw items and hit Client #3. There was no documentation of whether an injury occurred. f) On 3/29/17, Client #1 "slapped" Client #6. There was no documentation of whether an injury occurred. g) On 3/31/17, Client #1 yelled and pushed Client #3. There was no documentation of whether there was an injury h) On 1/06/17, Client #7 "started punching" Client #6 in 			
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	<p>the chest. Regarding whether there was an injury, staff circled both the yes and no response on the form.</p> <p>i) On 1/09/17, Client #7 punched Client #6 in the back. Staff documented no injury.</p> <p>j) On 2/08/17, Client #7 aggressed toward Client #1. Staff documented injury to Client #1's face, but did not note the client went to the emergency room.</p> <p>k) On 2/27/17, Client #7 "started hitting" Client #1. Staff documented there was no injury. This was the only incident of client to client aggression that had a corresponding Incident Report.</p> <p>Further record review revealed no corresponding incident reports, no documentation of supervisory or programmatic follow up on any of the incidents of client to client aggression that did not have an Incident Report, no investigation or internal review of the incidents.</p> <p>When interviewed on 4/26/17 at 1:35 p.m. and asked if anyone at the agency tracked client to client aggressions, the PD said the former Qualified Intellectual Disability Professional (current Program Coordinator) might have been tracking or monitoring them, but that person was on an extended leave. The PD said the client monthly data summaries might indicate the frequency of client to client aggressions, however review of the monthly summaries revealed only the number of total aggressions, which included aggression toward staff. The monthly data summaries provided no information regarding client injuries caused by aggression or any changes made to the behavior programs.</p>			
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	<p>When interviewed on 4/26/17 at 2:30 p.m. Direct Support Professional (DSP) A said she worked at the facility for about 10 years. She said her understanding was to write an Incident Report anytime a client aggressed toward another client, regardless of whether there was an injury. She said an Incident Report should also be written if a client went to the emergency room.</p> <p>When interviewed on 4/26/17 at 2:40 p.m. DSP B stated she worked at the facility for about six months. She said Incident Reports were only completed for client to client aggression if one of the clients was injured. DSP B said she thought there had been discussion at a recent staff meeting regarding the need to write Incident Reports. She also recalled discussions at staff meetings regarding how to best address Client #7's behavioral issues, including aggression.</p> <p>When interviewed on 4/26/17 at 2:50 p.m. DSP C said she worked at the facility for almost one year. She said Incident Reports were only completed for client to client aggression if there was an injury. DSP C recalled there was discussion at a recent staff meeting reminding staff to write Incident Reports. When asked if there were any new or recent changes to Client #7's behavioral interventions, DSP C said staff just needed to keep reassuring the client when he/she got upset.</p> <p>According to the facility policy entitled Injuries, Incidents and Incident Reporting the purpose of the</p>				
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W122	<p>policy was "To ensure that individual injuries and other incidents related to individuals served, are clearly documented, promptly reported and responded to in an appropriate and timely manner." Incidents listed included peer to peer aggression. However the policy indicated that Incident Reports would not need to be completed if clients had programming in place and the incident was documented elsewhere, such as on a behavior data sheet.</p> <p>When interviewed on 4/17/17 at 10:10 a.m. regarding the Incident Report policy the PD said in the case of client to client aggression, an Incident Report would not need to be completed for the aggressive client if that client had a behavior program in place with data collection. However, an Incident Report should be written for the client who was the victim of the aggression, regardless of whether there was an injury at that time, because an injury could show up later.</p> <p>483.20 Client Protections The facility must ensure that specific client protection requirements are met.</p> <p>Based on interviews and record reviews, the facility failed to maintain minimal compliance with Condition of Participation (CoP) Client Protections. The facility failed to implement a system to monitor, track and address incidents of client to client aggression. Multiple incidents of client to client aggression were noted on behavioral data forms from January 2017 through March 2017, but the facility failed to implement a system to identify the scope of the problem and how</p>			

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W149	<p>to address it. The investigation resulted in a determination of immediate jeopardy (IJ), due to concerns with clients' health and safety. The facility was notified of the IJ on 4/26/17. The IJ was removed on 5/2/17.</p> <p>Cross reference W149: Based on interviews and record reviews, the facility failed to implement a system to track, monitor and address incidents of client to client aggression.</p> <p>483.420(d)(1) Staff treatment of Clients The facility must develop and implement written policies and procedure that prohibit mistreatment, neglect, or abuse of the client.</p> <p>Based on interviews and record reviews, the facility failed to implement a system to track, monitor and address incidents of client to client aggression. This affected 5 of 8 clients residing at the facility (Clients #1, #3, #4, #6 and #7). Findings follow:</p> <p>Record review on 4/24/17 revealed Incident Reports for the past year for the eight clients residing at the facility. The surveyor identified a minimal amount of Incident Reports provided and questioned the Program Director. For instance, there were several Incident Reports for Client #6 regarding seizures and falls from May to July 2016, but none since then. During interview on 4/24/17 at 2:30 p.m. the Program Director (PD) stated it was possible additional Incident Reports had been misplaced or possible that staff had not written them. She said Client #6's seizure activity had</p>			

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	<p>decreased recently. The Incident Reports presented on 4/24/17 contained only two incidents of peer to peer aggression: a) Client #7 hit Client #1 on 2/27/17, which did not cause an injury; b) Client #5 slapped Client #4 in the forehead on 2/06/17, with no resulting injury.</p> <p>Record review of Client #1's chart on 4/25/17 revealed a discharge form from the emergency room on 2/08/17 for abrasions to the face and a small laceration to the eye. According to a nursing note dated 2/09/17, Client #1 had abrasions to the right side of face caused by another client's aggression. No Incident Report regarding this incident could be located.</p> <p>When interviewed on 4/15/17 at 3:15 p.m. the PD stated she did not recall seeing an Incident Report for the incident on 2/08/17 when Client #1 went to the emergency room for injuries sustained as a result of aggression by Client #7. The PD noted the Program Coordinator was gone and might have additional Incident Reports in her office. When questioned about the tracking process for client to client aggression that resulted in injuries, the PD said she kept track informally on her calendar. When asked to show her 2017 calendar to the surveyor, the PD stated she had not documented any peer to peer aggressions with injuries since the first of the year. The PD said she had recently talked with staff about writing Incident Reports as needed because she felt like she was not getting as many Incident Reports as she should, including injuries of unknown origin. The PD said she had discussed this with staff at the March staff meeting. The PD was unable to produce minutes of</p>			
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	<p>the March meeting that showed the topic of Incident Reports was addressed, but she did have a hand written note stating she had encouraged staff to write Incident Reports when needed.</p> <p>The PD provided a few additional Incident Reports on 4/25/17 at 2:50 p.m. None of the Incident Reports noted client to client aggression. The PD provided more Incident Reports on the morning and afternoon of 4/26/17. None of them noted client to client aggression, although they did document incidents of aggression toward staff, self-injurious behaviors, client injuries and one case of a client attempting to aggress toward another client.</p> <p>Additional record review on the afternoon of 4/26/17 revealed client behavior data sheets for Client #1 and Client #7 from January 2017 to March 2017. The behavior data sheets documented multiple incidents of client to client aggression as follows:</p> <ul style="list-style-type: none"> a) On 1/06/17, Client #1 "started kicking" Client #6. There was no documentation of whether or not an injury occurred. b) On 1/20/17, Client #1 told Client #4 what to do and "started pulling on (his/her) arm." There was no documentation of whether or not an injury occurred. c) On 2/05/17, Client #1 got into an altercation with Client #7 and Client #1 bit Client #7 on his/her wrist. There was no documentation of whether or not an injury occurred. d) On 2/08/17, Client #1 got into an altercation with Client #7. Client #7 aggressed toward Client #1, who then bit Client #7. There was no documentation 			
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	<p>regarding injury to either client on the behavior form for Client #1, however the behavior form for Client #7 noted Client #1 was injured.</p> <p>e) On 3/24/17, Client #1 "started pushing peers" and threw items and hit Client #3. There was no documentation of whether an injury occurred.</p> <p>f) On 3/29/17, Client #1 "slapped" Client #6. There was no documentation of whether an injury occurred.</p> <p>g) On 3/31/17, Client #1 yelled and pushed Client #3. There was no documentation of whether there was an injury</p> <p>h) On 1/06/17, Client #7 "started punching" Client #6 in the chest. Regarding whether there was an injury, staff circled both the yes and no response on the form.</p> <p>i) On 1/09/17, Client #7 punched Client #6 in the back. Staff documented no injury.</p> <p>j) On 2/08/17, Client #7 aggressed toward Client #1. Staff documented injury to Client #1's face, but did not note the client went to the emergency room.</p> <p>k) On 2/27/17, Client #7 "started hitting" Client #1. Staff documented there was no injury. This was the only incident of client to client aggression that had a corresponding Incident Report.</p> <p>Further record review revealed no corresponding incident reports, no documentation of supervisory or programmatic follow up on any of the incidents of client to client aggression that did not have an Incident Report, no investigation or internal review of the incidents.</p> <p>When interviewed on 4/26/17 at 1:35 p.m. and asked if anyone at the agency tracked client to client</p>			

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	<p>aggressions, the PD said the former Qualified Intellectual Disability Professional (current Program Coordinator) might have been tracking or monitoring them, but that person was on an extended leave. The PD said the client monthly data summaries might indicate the frequency of client to client aggressions, however review of the monthly summaries revealed only the number of total aggressions, which included aggression toward staff. The monthly data summaries provided no information regarding client injuries caused by aggression or any changes made to the behavior programs.</p> <p>When interviewed on 4/26/17 at 2:30 p.m. Direct Support Professional (DSP) A said she worked at the facility for about 10 years. She said her understanding was to write an Incident Report anytime a client aggressed toward another client, regardless of whether there was an injury. She said an Incident Report should also be written if a client went to the emergency room.</p> <p>When interviewed on 4/26/17 at 2:40 p.m. DSP B stated she worked at the facility for about six months. She said Incident Reports were only completed for client to client aggression if one of the clients was injured. DSP B said she thought there had been discussion at a recent staff meeting regarding the need to write Incident Reports. She also recalled discussions at staff meetings regarding how to best address Client #7's behavioral issues, including aggression.</p>			
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	<p>When interviewed on 4/26/17 at 2:50 p.m. DSP C said she worked at the facility for almost one year. She said Incident Reports were only completed for client to client aggression if there was an injury. DSP C recalled there was discussion at a recent staff meeting reminding staff to write Incident Reports. When asked if there were any new or recent changes to Client #7's behavioral interventions, DSP C said staff just needed to keep reassuring the client when he/she got upset.</p> <p>According to the facility policy entitled Injuries, Incidents and Incident Reporting the purpose of the policy was "To ensure that individual injuries and other incidents related to individuals served, are clearly documented, promptly reported and responded to in an appropriate and timely manner." Incidents listed included peer to peer aggression. However the policy indicated that Incident Reports would not need to be completed if clients had programming in place and the incident was documented elsewhere, such as on a behavior data sheet.</p> <p>When interviewed on 4/17/17 at 10:10 a.m. regarding the Incident Report policy the PD said in the case of client to client aggression, an Incident Report would not need to be completed for the aggressive client if that client had a behavior program in place with data collection. However, an Incident Report should be written for the client who was the victim of the aggression, regardless of whether there was an injury at that time, because an injury could show up later.</p>			

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	FACILITY RESPONSE:			

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Rule or Code Section	Nature of Violation		Class	Fine Amount
	HL		Survey	

Facility Administrator

Date

If, within thirty (30) days of the receipt of the citation, you (1) do not request a formal hearing or; (2) withdraw your request for formal hearing, and (3) pay the penalty; the assessed penalty will be reduced by thirty-five percent (35%) pursuant to Iowa Code section 135C.43A (2013).