IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

April 13, 2010

Demand Letter
Certified
Complaint Intake: #27460-C
Incident Intake: #27390-I

Jennifer Burcum, Administrator
Irving Point
910 7th St SE
Cedar Rapids, IA 52401-2400

RE: I. Final Complaint and Incident Investigation Report – #27460-C and #27390-I
II. Civil Penalty
III. Hearings and Appeals
IV. Conclusion

Dear Ms. Burcum:

I. Final Complaint and Incident Investigation Report – Irving Point, Cedar Rapids, IA

Enclosed is the **Final Complaint and Incident Investigation Report** completed by the Department of Inspections and Appeals (DIA) in accordance with Iowa Code section 231C.7 (2009) and Iowa Administrative Code, chapters 481 – 67 and 69. The Final Report notes **Regulatory Insufficiencies** in the areas of: Service Plans and Life Safety. The program is being assessed a $1,000.00 civil penalty.

DIA is accepting the Plan of Correction (POC). DIA is denying the program's Request for Reconsideration in relation to Service Plans as all 30 day service plans must be reviewed and signed, regardless of whether there was a change in condition.

You are unable to ask for a request of reconsideration for a fine; however, you can request an appeal of the fine and that is explained in section III. Hearings and Appeals.

II. Civil Penalty

If, within thirty (30) days of the receipt of this demand letter, you (1) do not request a formal hearing or withdraw your request for formal hearing, and (2) pay the penalty, the assessed penalty will be reduced by thirty-five percent (35%) pursuant to Iowa Code section 231C.14. If you do not wish to request a formal hearing or wish to withdraw your request for formal hearing, please send written notice to the Certification Coordinator and remit the penalty assessed by check or money order in the amount of six hundred fifty dollars ($650.00) within 30 business days after the receipt of this

demand letter. **Please be sure to identify the program and its location on the check or money order.**

III. Hearings/Appeals

The Program may appeal the DIA decision in accordance to 481IAC 67.13, within 30 days of notice, by submitting a request for appeal to the DIA. Hearings will be held pursuant to 481 IAC chapter 10. If the program appeals, the civil penalty will be suspended, pending appeal. If the program does not appeal, the fine is due within 30 days of notice.

IV. Conclusion

The Program is being assessed a $1,000.00 civil penalty. The final Plan of Correction (POC) submitted on April 7, 2010, has been reviewed and is accepted. The Request for Reconsideration has been denied as explained in section one.

DIA may revisit the program to confirm compliance in fulfilling the POC's corrective measures. If the Program wishes to appeal or request a hearing on the final findings, the program may do so within 30 days of this letter.

If you have any questions in regard to this letter and report, please contact your Certification Coordinator, Chris Nothaft, at 515-281-4116.

Sincerely,

Ann Martin

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

Iowa Department of Inspections and Appeals
Assisted Living Program
Final Complaint & Incident Investigation Report

Assisted Living Program:

Complaint Intake #: 27460-C
Incident Intake#: 27390-I

Victoria Huffman, Director
Jennifer Burcum, Administrator
Irving Point
910 7th St SE
Cedar Rapids, IA 52401-2400

Date of Investigation:

February 11, 2010

Monitor(s):

Stephanie Cummins, MA
Joyce Kix, RN

Definitions:

The following definitions are relevant:

Regulatory Insufficiency - A violation of a statutory or rule provision within the Iowa Code or Iowa Administrative Code (IAC) governing assisted living programs. A regulatory insufficiency requires a plan of correction to be presented to, and approved by, the Department of Inspections and Appeals (DIA).

Plan of Correction - A written response to one or more regulatory insufficiencies that are rule violations. IAC r. 481-67.10(5). The plan should identify how, and by a specific date, an insufficiency will be corrected. The plan is due to DIA within ten (10) working days of the program's receipt of a Complaint Investigation Report. Depending on the circumstances, DIA may revisit the assisted living program to confirm progress in fulfilling a plan's corrective measures.

Dementia-specific assisted living program - An assisted living program certified under 481 IAC chapter 69 that: serves fewer than fifty-five (55) tenants and has five (5) or more tenants who have dementia between Stages 4 and 7 on the Global Deterioration Scale or serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the Global Deterioration Scale or holds itself out as providing specialized care for persons with dementia, such as Alzheimer's disease, in a dedicated setting.

Overview:

A complaint and incident investigation on-site were conducted at Irving Point on February 11, 2010. In preparing this report, the following information was considered:

Current Program Census

General Population Program (GPP)* – A program that does is not include a Dementia Specific unit, but may include have tenants with cognitive disorder.

Current number of tenants without cognitive disorder:	46
Current number of tenants with cognitive disorder:	1
Total Population:	47

Dementia Specific Program (DSP)* – Not applicable.

***These are the census numbers represented by the program to be applicable at the time of the on-site.**

Program History – There was a substantiated Regulatory Insufficiency during the past recertification visit in the area of Other (lack of Dependent Adult Abuse training).

Complaint and Incident Investigation – The complaint investigator(s) made the observations detailed in the following areas.

A. Evaluation of Tenant

Complaint Allegation: It was alleged in Complaint #27460-C that an evaluation was not appropriately completed.

Monitoring Observation: Three tenant files were reviewed.

Tenant #1, 89 years old, was admitted on 10-2-09 and diagnoses include: Arthritis and Hypertension (HTN). The tenant was staged at a 4.2 on the Global Deterioration Scale (GDS) dated 2-3-10. A review of the tenant's file indicated evaluations were completed at appropriate intervals and were completed by a nurse. The evaluations were completed by a health care professional utilizing clinical judgment.

Tenant #2, 85 years old, was admitted on 10-5-09 and diagnoses include: Emphysema, Mitral Valve Replacement and Arthritis. A review of the tenant's file indicated evaluations were completed at appropriate intervals and were completed by a nurse. The evaluations were completed by a health care professional utilizing clinical judgment.

Tenant #3, 68 years old, was admitted on 11-20-09 and diagnoses include: Diabetes Type II, Blindness, Pernicious Anemia, and Traumatic Upper Arm Fracture. A review of the tenant's file indicated evaluations were completed at appropriate intervals and were completed by a nurse. The evaluations were completed by a health care professional utilizing clinical judgment.

- Regulatory Insufficiency: None noted.

B. Program Initiated Involuntary Transfer

Complaint Allegation: It was alleged in Complaint #27460-C that appropriate involuntary transfer protocols were not followed.

Monitoring Observation: A review of program documents indicated one tenant, Tenant #1, was the only tenant with a GDS of four or greater. According to a 30 day notice of transfer letter given to Tenant #1, a tenant must transfer from the program if they have dementia or a cognitive disorder at stage four or above on the GDS. The letter was dated 2-3-10 and indicated it served as a 30 day notice of permanent transfer. According to a program document the transfer policy and procedures were followed.

According to an Incident Log dated 2-2-10, Tenant #1 was cooking in his/her microwave and left it unattended, causing smoke. The tenant then opened his/her door and let smoke into the hallway causing the fire alarm in the building to go off. Tenants in zone a1 were evacuated to zone a2. The fire department came, helped clear the smoke and stopped the alarm. The alarm was re-armed and tenants in zone a1 were allowed back into their apartments. According to a program record, the tenant's windows were opened in the apartment, the microwave was unplugged and the fire department authorized the safe return of tenants to their apartments.

The Patient Care Coordinator was interviewed and stated that on 2-2-10 at 3:15 p.m. she smelled what she thought was burnt popcorn. Tenant #1 had overcooked chicken; however, there was no smoke and no alarms. Staff assisted the tenant in making a new piece of chicken. On 2-2-10 at 9:30 p.m. the tenant opened his/her door and smoke set off the building alarm. The tenant was cooking fish or chicken. Staff heard the building alarm, responded by following protocol and evacuated tenants in that area. There were no negative outcomes or injuries. The fire department arrived and checked the tenant's apartment, opened windows and deemed the apartment safe for other tenants and Tenant #1 to return. A staff member unplugged the microwave. The tenant's stove was turned off previously, per family request. The Patient Care Coordinator stated she completed an assessment of the tenant and the tenant's cognition had declined. She attempted a call to a family member on 2-3-10 at 4:30 p.m. and was not able to reach that family member. Another family member was contacted and the Patient Care Coordinator explained the two incidents of burnt food and the tenant's cognitive status of a four. She stated she explained that the program did not accept or retain tenants after a level four. The Patient Care Coordinator stated she was not present when the 30 day notice letter was given to the tenant; however, she stated the tenant would have been able to understand the letter. She stated earlier in the day the tenant acknowledged he/she needed a higher level of care.

The Administrator was interviewed and stated she delivered the transfer notice to the tenant and a family member arrived five to ten minutes into the process. She stated the Patient Care Coordinator called one family member, was not able to reach that family member and then contacted another family member. The Patient Care Coordinator indicated the family member understood that the 30 day notice of transfer was given. The Administrator stated the tenant understood what was discussed and stated he/she needed more care.

According to a program transfer policy, the policies and procedures were followed.

- Regulatory Insufficiency: None noted.

C. Service Plan

During the course of the investigation, following information was obtained.

Monitoring Observation: Three tenant files were reviewed.

Tenant #1's file was reviewed and did not contain a service plan developed within 30 days of taking occupancy.

Tenant #2's file was reviewed and the 30 day service plan indicated it was developed on 11-2-09, within 30 days of taking occupancy. However, the record documented the date it was being reviewed, on 11-2-09, and stated no change, but it was not signed.

Tenant #3's file was reviewed. The tenant did not have a service plan developed within 30 days of taking occupancy.

- Regulatory Insufficiency: When a tenant needs personal care or health-related care, the service plan shall be updated within 30 days of the tenant's occupancy and as needed with a significant change, but not less than annually. (IAC r. 481-69.26(3))

D. Staffing

Complaint Allegation: It was alleged in Complaint #27460-C that tenants were treated like outcasts.

Monitoring Observation: Staff #1 and Staff #2 were interviewed and stated staff did not treat tenants like outcasts or mistreat tenants. The Patient Care Coordinator and the Administrator were interviewed and indicated staff did not treat tenants like outcasts or mistreat tenants. The monitor observed appropriate interaction between staff and tenants.

- Regulatory Insufficiency: None noted.

Complaint Allegation: It was alleged housekeeping tasks were not consistently completed.

Monitoring Observation: Staff #1 and Staff #2 were interviewed and stated housekeeping services were provided as required. They stated there were enough staff to meet the needs of the tenants. The Patient Care Coordinator and the Administrator were interviewed and indicated housekeeping services were completed appropriately.

- Regulatory Insufficiency: None noted.

E. Life Safety

Complaint Allegation: It was alleged fire sprinklers were obstructed.

Monitoring Observation: See the attached State Fire Marshal's Inspection Report.

- Regulatory Insufficiency: The program's structure and procedures and the facility in which a program is located shall meet the requirements adopted for assisted living programs in administrative rules promulgated by the state fire marshal. Approval of the state fire marshal indicating that the building is in compliance with these requirements is necessary for certification of a program. (IAC r. 481-69.32(3))

F. Structural requirements

Complaint Allegation: It was alleged in Complaint #27460-C that apartments smelled like burnt popcorn and tenants still slept in their apartments.

Monitoring Observation: According to an Incident Log dated 2-2-10, Tenant #1 was cooking in his/her microwave and left it unattended, causing smoke. The tenant then opened his/her door and let the smoke into the hallway causing the fire alarm in the building to go off. Tenants in zone a1 were evacuated to zone a2. The fire department came, cleared the smoke and the alarm was stopped. The alarm was re-armed and tenants in zone a1 were allowed back into their apartments. According to a program record,

Tenant #1's windows were opened in the apartment, the microwave was unplugged and the fire department authorized the safe return of Tenant #1 and all other tenants to their apartments.

According to the Patient Care Coordinator, there were no health related issues with any tenants related to the smoke or odor. She indicated the fire department arrived, checked the tenant's apartment, opened up windows and deemed the apartments safe for tenants to return. A staff member unplugged the microwave and the stove had been shut off previously, per family request.

- Regulatory Insufficiency: None noted.

G. Other

Incident Allegation: The program reported in Incident #27390-I, that a tenant was heating up fish in the microwave, burnt the meat, the tenant's apartment filled with smoke and the tenant opened the door and set off the main fire alarm. The program reported staff evacuated tenants and waited for the fire department to arrive and silence and reset the alarm.

Monitoring Observation: According to an Incident Log dated 2-2-10, Tenant #1 was cooking in his/her microwave and left it unattended, causing smoke. The tenant then opened his/her door and let smoke into the hallway causing the fire alarm in the building to go off. Tenants in zone a1 were evacuated to zone a2. The fire department came, cleared the smoke and the alarm was stopped. The alarm was re-armed and tenants in zone a1 were allowed back into their apartments. According to a program record, Tenant #1's windows were opened in the apartment, the microwave was unplugged and the fire department authorized the safe return of Tenant #1 and all other tenants to their apartments.

The Patient Care Coordinator was interviewed and stated on 2-2-10 at 3:15 p.m. she smelled what she thought was burnt popcorn. The tenant had overcooked chicken; however, there was no smoke and no alarms. Staff assisted the tenant in making a new piece of chicken. On 2-2-10 at 9:30 p.m., the tenant opened his/her door and smoke set off the building fire alarm. The tenant was cooking fish or chicken. Staff heard the building alarm and responded by following protocol and evacuated tenants in that zone. There were no negative outcomes or injuries. The fire department arrived, checked the tenant's apartment, opened up windows and deemed the apartments safe for all tenants to return to. A staff member unplugged the microwave and the tenant's stove was shut off previously, per family request. The Patient Care Coordinator stated she completed an assessment of the tenant and the tenant had declined cognitively. She called a family member on 2-3-10 at 4:30 p.m. and was not able to reach that family member and, therefore, called another family member to inform them of the incident.

The program reported this incident to the Department within the appropriate timeframe.

- Regulatory Insufficiency: None noted.

Dated this 12th day of April, 2010.