IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

DEMAND LETTER
CERTIFIED

August 12, 2010

Ms. Cathy Hughes, Assisted Living Director
Senior Star at Elmore Place
4500 Elmore Avenue
Davenport, IA 52807

RE: I. Final Initial Certification Monitoring Evaluation Report
II. Civil Penalty
III. Appeals
IV. Standard Certification
V. Conclusion

Dear Ms. Hughes:

I. Final Initial Certification Monitoring Evaluation Report – Senior Star at Elmore Place, Davenport, IA

Enclosed is the **Final Initial Certification Monitoring Evaluation Report** completed by the Department of Inspections and Appeals (DIA) in accordance with Iowa Code chapter 231C and Iowa Administrative Code (IAC) chapters 481—67 and 481—69. The Report notes the Regulatory Insufficiencies in the area(s) of: Occupancy Agreement, Service Plan, Nurse Review, Food Service, Staffing, Transportation, Activities, Structural Requirements, Record Checks and Other (lack of dependent adult abuse training and Tenant Rights). Senior Star at Elmore Place (Program) is being assessed a $1500 civil penalty.

DIA is accepting the Plan of Correction (POC) following the Program's submission of information.

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 in accordance with IAC 67.12(3)(d). If you do not wish to request a formal hearing or wish to withdraw your request for formal hearing, please send a letter to that effect to the attention of **Tamara Halvorson** and remit the assessed civil penalty by check or money order in the amount of $975 (nine hundred seventy five dollars) within 30 business days after the receipt of this demand letter.

III. Appeals

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

IV. Standard Certification

Enclosed you will find the Assisted Living Program Certificate **S0295** with effective dates of **July 15, 2009** through **July 14, 2011**.

V. Conclusion

The Program is being assessed a $1500 civil penalty. The POC submitted on August 10, 2010 has been reviewed and will constitute the final POC related to the on-site visit of June 22, 23, 24 & July 6, 2010.

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

If you have any questions, please contact your Certification Coordinator, Tamara Halvorson, at 515/281-5721.

Sincerely,

Ann Martin

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

Iowa Department of Inspections and Appeals
Assisted Living Program
Final Initial Certification Monitoring Evaluation Report

Assisted Living Program:

Cathy Hughes, Assisted Living Director
Senior Star at Elmore Place
4500 Elmore Avenue
Davenport, IA 52807

Date of Monitoring Visit:

June 22, 23, 24 & July 6, 2010

Monitor(s):

Stephanie Cummins, MA

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 an Initial Certification Monitoring Evaluation 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:

An on-site monitoring evaluation was conducted at Senior Star at Elmore Place on June 22, 23, 24 & July 6, 2010. In preparing this report, the following information was considered:

Current Program Census:

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

Current number of tenants without cognitive disorder:	28
Current number of tenants with cognitive disorder:	0
Total Population:	28

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.**

Tenant/Family Satisfaction Results – A community meeting with 14 tenants and two family members, five tenant interviews and three family interviews were held. The tenants stated the apartments and common areas were clean. On second floor trash removal was not completed and tenants put their garbage out so it would be removed. Two of the tenants reported issues with mice and expressed concerns with the follow up related to that issue. (Administrative staff indicated there had been follow up to the issue reported.) The tenants reported the spa was not functioning for a period of time and they requested clarification regarding if staff needed to be in the spa room. They reported a machine in the exercise room had not been functioning for some time. The tenants requested increased treatment for insects. The tenants requested peep holes on the apartment doors. They stated the chairs in the dining room were difficult to pull up to the tables. They stated transportation was available but not flexible regarding the schedule. On certain days the transportation was available only for medical appointments. They stated there were not enough staff to meet their needs. Medications were delivered late, usually at bedtime. Medications were delivered as late as 9:30 p.m. and were delivered past 9:00 p.m. at least one time per week. Tenants stated medications were administered after normal bedtimes. One tenant reported receiving incorrect units of insulin. The tenants indicated staff responded to requests for assistance in 10-15 minutes. The tenants requested an orientation to new caregivers, especially those of opposite gender. (Administrative staff indicated new caregivers were introduced). They reported concerns about agency staff not being oriented to the program. The tenants stated the food was improving but previously was "terrible." The dietary staff needed more training. The variety and temperature of the food needed improvement. They requested eggs and bacon daily and stated the toast was cold and dry. They requested more sweet rolls and English muffins. They also requested more fresh fruit and less crushed fruit. There were too many carbohydrates served and the salads were not hearty. They had some concerns regarding ordering of food and stated at times, the kitchen would be out of choices. They requested improved communication and follow up from Administrative staff and improved communication from department to department. They stated the activity calendar looked great, but the activities did not take place. Exercises took place (tenant led). They stated seminars took place at the Independent Living, and the Assisted Living tenants required assistance to attend them. They requested activities be called by the actual name and not a "fancy" name. They did not feel there were enough activities offered. They stated the problem occurred before the Activity Director vacancy and it was a long standing problem. Direct staff led activities; however, they did not have the supplies to carry them out. For example, Bingo, without Bingo prizes. The tenants did not recall signing any service plans and they did not feel they were getting activities, beauty

shop, gourmet meals and medications administered on time, as promised. They made their own decisions. One tenant requested staff show medications before the medications were crushed and bring them to the tenant. One tenant had concerns about charges for storage units and the fees associated with renting them. The occupancy agreement indicated storage space may be retained; however, it did not list a fee for the storage units. (Administrative staff indicated the storage units were located in the Independent Living building which opened after the Assisted Living and after the agreements were developed and or signed). Some tenants stated they would recommend the program and some stated they would not recommend the program to friends and family.

Program History – There were no substantiated Regulatory Insufficiencies found during this certification period.

On-Site Monitoring Evaluation – The monitor(s) made the observations detailed in the following areas.

A. Occupancy Agreement

Monitoring Observation: Tenant #1, a 67 year old, was admitted on 10-29-09 and diagnoses include: Hypokalemia, General Weakness, Back Pain, Underweight, Poor Electrolytes and Depression. The tenant signed the occupancy agreement on 10-29-09, which indicated single occupancy at Level II services. Level II services include the Basic Services and the following additional services and personal care services (includes minor to moderate hands-on assistance with and reminders of, daily grooming, dressing and oral and showers/bathing two times per week) daily morning and bedtime assistance, one person transfer assistance, blood glucose testing, occasional (once per day or less) toileting reminders and assistance, assistance with ambulation, escorts to meals and activities. The most recent service was dated 10-29-09; a 30 day and as needed service plans were not developed. The tenant signed the initial service plan. The service plan indicated the tenant required assistance with bathing twice a week, medications, toileting, behavior, grooming and housekeeping. The tenant was interviewed and indicated he/she did not receive any of the services listed under Level II services. Staff #1 and Staff #2 were interviewed. Staff #1 stated the tenant received staff assistance with medications and did not have any injections. She stated the tenant was independent. Staff assisted with cleaning the tenant's apartment. Staff #2 stated the tenant received staff assistance with medications and housekeeping tasks. She stated the tenant was independent with cares. The tenant had required more care following knee surgery on 4/12/10; however, at current time, was independent with cares. The tenant did not receive any injections. According to billing records, the tenant was charged $500.00 per month for Level II services. The occupancy agreement was not updated to reflect changes in services and financial arrangements.

- Regulatory Insufficiency: The occupancy agreement shall be reviewed and updated as necessary to reflect any change in services or financial arrangements. (IAC r. 481-69.21(3))

- Regulatory Insufficiency: An assisted living program shall not operate in this state unless a written occupancy agreement, as prescribed in subsection 2, is executed between the assisted living program and each tenant or the tenant's legal representative, prior to the tenant's occupancy, and unless the assisted living program operates in accordance with the terms of the occupancy agreement. The assisted living program shall deliver to the tenant or the tenant's legal representative a complete copy of the occupancy agreement and all supporting documents and attachments and shall deliver, at least thirty days prior to any changes, a written copy of changes to the occupancy agreement if any changed to copy originally delivered are made. (231C.5(1))

B. Service Plan

Monitoring Observation: Six tenant files were reviewed.

Tenant #1's file was reviewed. The most recent service plan was dated 10-29-09. The service plan indicated the tenant required assistance with bathing twice a week, medications, toileting, behavior, grooming and housekeeping. The tenant was interviewed and indicated he/she did not receive any of the services listed under Level II services. Staff #1 stated the tenant received staff assistance with medications and was

independent. Staff assisted with cleaning the tenant's apartment. Staff #2 stated the tenant received staff assistance with medications and housekeeping tasks. She stated at the current time, the tenant was independent with cares. The tenant had required more care after knee surgery; however, currently was independent with cares. A 30 day service plan was not developed and the current service plan did not indicate services and tenant's identified needs and preferences for assistance. The tenant had knee replacement surgery on 4-12-10 and returned on 4-16-10. According to the functional evaluation completed on 4-16-10, the tenant's functional abilities changed. The tenant required a wheelchair for long distances, was incontinent and wore protective undergarments. The tenant's service plan was not updated as needed with a significant change in the tenant's condition.

Tenant #2's file was reviewed. The tenant's service plan reviewed 10-8-09 indicated the tenant received staff assistance with bathing. This was the most current service plan in the file at the time it was reviewed. An interview with the tenant indicated the tenant had a private caregiver that assisted him/her with bathing. The current service plan did not reflect the tenant's identified needs and preferences for assistance.

Tenant #4, a 96 year old, was admitted on 6-7-10 with a diagnosis of HTN. The preliminary service plan was not signed by the tenant or the tenant's legal representative.

Tenant #6, an 83 year old, was admitted on 11-6-09 and diagnoses include: Atrial Fibrillation, HTN, Severe Leg Pain, Dyslipidemia, and History of Transient Ischemic Attacks (TIAs). A 30 day service plan was not developed. The most current service plan of 5-26-10 was not signed by the tenant.

- Regulatory Insufficiency: Prior to the tenant signing the occupancy agreement and taking occupancy of a dwelling unit, a preliminary service plan shall be developed by a health or human service professional or human service professional in consultation with the tenant, and, at the tenant's request, with other individuals identified by the tenant, and, if applicable, with the tenant's legal representative. All persons who develop the plan and the tenant or the tenant's legal representative shall sign the plan. (IAC r. 481-69.26 (2))

- Regulatory Insufficiency: When a person 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 significant change, but not less than annually. (IAC r. 481-69.26(3))

- Regulatory Insufficiency: The service plan shall be individualized and shall indicate, at a minimum: The tenant's identified needs and preferences for assistance. (IAC r. 481-69.26(4)(a))

C. Nurse Review

Monitoring Observation: Six tenant files were reviewed. Physician orders were not consistently documented with time, date and signature.

- Regulatory Insufficiency: To provide the program with written documentation of the activities under the service plan, as set forth in rule 481-69.26(231 C), showing the time, date and signature. (IAC r. 481-69.27(4))

D. Food Service

Monitoring Observation: Four dietary staff training records were requested. Staff #6, #7, #8 and #9 did not have an orientation on sanitation and safe food handling prior to handling food. A community meeting was held and the tenants requested more training for dietary servers.

- Regulatory Insufficiency: Personnel who are employed by or contract with the program and who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection. (IAC r. 481-69.28(5))

E. Staffing

Monitoring Observation: A community meeting 14 tenants and two family members, five tenant interviews and three family interviews were held. Tenants stated there was not enough staff to meet their needs. Medications were delivered late, usually at the bedtime medication pass. Medications were delivered as late as 9:30 p.m. and were delivered past 9:00 p.m. at least one time per week. Tenants stated medications were administered after normal bedtimes.

- Regulatory Insufficiency: A sufficient number of trained staff shall be available at all times to fully meet tenants' identified needs. (IAC r. 481-67.9(1))

F. Transportation

Monitoring Observation: The program's van did not have safety triangles or a fire extinguisher in the vehicle.

- Regulatory Insufficiency: Each vehicle shall have a first aid kit, fire extinguisher, safety triangles and a device for two-way communication. (IAC r. 481-69.33(7))

G. Activities

Monitoring Observation: A community meeting with 14 tenants and two family members, five tenant interviews and three family interviews were held. The tenants stated the activity calendar looked great but the activities did not take place. Exercises took place; however, they were tenant led. They did not feel there were enough activities offered and the activity calendar did not match reality. They stated the problem occurred before the Activity Director vacancy and it was a long standing problem. Direct staff were left to do activities; however, they did not have the supplies to carry them out. For example, Bingo, without Bingo prizes. The tenants did not feel they were getting activities as promised. Most of those involved in the community meeting felt there were insufficient activities.

- Regulatory Insufficiency: The program shall provide appropriate activities for each tenant. Activities shall reflect individual differences in age, health status, sensory

deficits, lifestyle, ethnic and cultural beliefs, religious beliefs, values, experiences, needs, interests, abilities and skills by providing opportunities for a variety of types and levels of involvement. (IAC r. 481-69.34(1))

H. Structural Requirements

Monitoring Observation: A community meeting with 14 tenants and two family members, five tenant interviews and three family interviews were held. Tenants expressed concern regarding fire drills and fire drill training. See attached report from the State Fire Marshal. The program did not conduct emergency egress and relocation drills not less than six times per year on a bimonthly basis, with not less than two drills conducted during the night when tenants can be expected to be sleeping.

- Regulatory Insufficiency: The structure in which a program is housed shall be built, at a minimum, of Type V (111) construction as provided in Section 22.3.1.3.3 and Sections 6.2.1A to 6.2.2 of NFPA 101, Life Safety Code, 2003 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, or as required in administrative rules promulgated by the state fire marshal. (IAC r. 481-69.35(1e))

I. Record Checks

Monitoring Observation: Five staff files were reviewed. Staff #1 was hired on 7-7-09 and had a Trak 1 check completed on 6-30-09. Abuse checks (SING) were completed on 9-11-09.
Staff #2 was hired on 2-2-10 and had a Trak 1 check completed on 2-1-10.
Staff #3 was hired on 7-21-09 and a Trak 1 check was completed on 7-21-09.
Staff #4 was hired on 11-30-09 and had a Trak 1 check completed on 11-20-09.
Staff #5 was hired on 6-21-10 and had a Trak 1 check completed on 6-11-10.

Appropriate criminal history checks were not completed prior to hire. A criminal history check was not completed through the Department of Public Safety prior to hire.

- Regulatory Insufficiency: Prior to employment of a person in a facility, the facility shall request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state. A facility shall inform all persons prior to employment regarding the performance of the record checks and shall obtain, from the persons, a signed acknowledgment of the receipt of the information. (135C.33(1))

J. Other

Monitoring Observation: Five staff files were reviewed. Staff #1 and Staff #3 did not have documented dependent adult abuse training within six months of initial employment.

- Regulatory Insufficiency: A person required to report cases of dependent adult abuse pursuant to section 235B.3, other than a physician whose professional practice does not regularly involve providing primary health care to adults, shall complete two hours of training relating to the identification and reporting of dependent adult abuse

within six months of initial employment or self-employment which involves the examination, attending, counseling, or treatment of adults on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements form the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional dependent adult abuse identification and reporting training every five years. (235B.16(5)(b))

Monitoring Observation: According to a tenant interview, a staff member told a tenant that his/her doctor wasn't worth a "damn" or worth a "shit." The tenant had also reported to Staff #4, during a re-assessment, that staff member called his/her doctor a "piece of shit". The staff member, Staff #2, denied making the comment to the tenant. Staff #2 made the comment the doctor was busy with practice and nursing homes. She stated she was frustrated about not getting any directions or answers to the fax and phone calls made.

- Regulatory Insufficiency: To be treated with consideration, respect, and full recognition of personal dignity and autonomy. (IAC r. 481-67.3(1))

Dated this 15th day of July 2010.