IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

TERRY E. BRANSTAD
GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

**DEMAND LETTER**
**CERTIFIED**
**Incident Intake #: 33569-I**

May 31, 2011

Ms. Cheryl Rogan, Director of Housing
Oak Park Place
1381 Oak Park Place
Dubuque, IA 52002

**RE: I. Final Incident Investigation Report**
**II. Civil Penalty**
**III. Appeals/Hearings**
**IV. Conclusion**

Dear Ms. Rogan:

**I. Final Incident Investigation Report – Oak Park Place, Dubuque, IA**

Enclosed is the **Final Incident Investigation 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 Regulatory Insufficiencies in the area(s) of: Evaluation of Tenant and Service Plans. **Oak Park Place** ("Program") is being assessed a $2,000 civil penalty pursuant to Iowa Code section 231C.14 and 481 IAC 67.12(3)(a).

**II. Civil Penalty**

If, within 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 civil penalty, the assessed penalty will be reduced by thirty-five percent (35%) pursuant to IAC rule 481—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 cover letter to the attention of **Jim Berkley** and remit the civil penalty assessed by check or money order in the amount of thirteen hundred dollars ($1300) within 30 business days after the receipt of this demand letter.

## III. Appeals/Hearings

The Program may appeal the DIA decision in accordance with IAC rule 481—67.13 within thirty (30) days of this notice, by submitting a request for appeal to DIA. A contested case hearing will be held pursuant to Iowa Code chapter 17A and IAC chapter 481—10. If the Program appeals the DIA decision, the civil penalty will be suspended pending the appeal process. If the Program does not appeal, the civil penalty is due within 30 days of notice.

## IV. Conclusion

The Program is being assessed a $2,000 civil penalty pursuant to Iowa Code section 231C.11 and 481 IAC 67.12(3)(a). The Plan of Correction (POC) submitted on May 12, 2011, has been reviewed and will constitute the final POC related to the on-site visit of April 19, 2011.

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 in regard to this letter and enclosed Report, please contact your Program Coordinator, Jim Berkley, 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 Incident Investigation Report

**Assisted Living Program:** **Incident Intake #: 33569-I**

Cheryl Rogan, Director of Housing
Oak Park Place
1381 Oak Park Place
Dubuque, IA 52002

**Date of Incident Investigation:**

April 19, 2011

**Monitor(s):**

Stephanie Cummins, MA
Margaret Kaltefleiter, RN MS

**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 Incident 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:**

An on-site visit was conducted at Oak Park Place on April 19, 2011. 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.

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|---|---|
| Current number of tenants without cognitive disorder: | 41 |
| Current number of tenants with cognitive disorder: | 2 |
| Total Population of GPP: | 43 |

***Dementia Specific Program (DSP)**** – A program that is dementia specific and provides specialized care in a dedicated setting.

| | |
|---|---|
| Total Population of DSP: | 17 |
| **Total Census of ALP:** | 60 |

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

**Program History** – There have been substantiated Regulatory Insufficiencies this certification period in the following areas, Evaluation of Tenants, Service Plans, Medications, Nurse Review, Staffing and Dementia Specific Education.

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

**A. Evaluation of Tenant**

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

- Monitoring Observation: Tenant #2, an 84 year old, was admitted on 2-19-11 and diagnoses include: Hypothyroidism, Atrial Fibrillation, Aortic Valve Replacement, Generalized Weakness, Dementia, Pneumonia and Gastro Esophageal Reflux Disease (GERD). According to notes dated 3-29-11, the tenant was hospitalized for a Urinary Tract Infection (UTI) and Septicemia. The tenant was confused and required assistance to ambulate. According to notes dated 4-4-11, the tenant returned from an inpatient admission to treat a UTI, Septicemia, Bronchitis and Congestive Heart Failure (CHF). The tenant's weight was down three pounds from the past month. The tenant had exhibited some shortness of breath (SOB). Health and functional evaluations were completed on 4-4-11 by a registered nurse (RN). A cognitive evaluation dated 4-4-11 was completed by a licensed practical nurse (LPN) identified as a significant change.

Tenant #3, an 80 year old, was admitted on 2-5-09 and had a diagnosis of: Dementia. The tenant was staged at a six on the Global Deterioration Scale (GDS), which indicated severe cognitive decline. The tenant resided in the dementia unit. According to notes dated 4-11-11, the tenant had difficulty walking and balancing. Staff had great difficulty completing passive range of motion (ROM). The tenant was extremely stiff and was unable to concentrate on physical task. Notes dated 4-13-11 indicated on 4-12-11 the tenant was discharged from physical therapy (PT) and had not shown any improvement with passive ROM or PT for lower extremity strengthening. The tenant was consistently a two person transfer, according to notes. The program applied for a waiver of administrative rule for the tenant. Evaluations were not completed as needed with a significant change.

- Regulatory Insufficiency: A program shall evaluate each tenant's functional, cognitive and health within 30 days of occupancy. A program shall also evaluate each tenant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the tenant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human service professional. A licensed practical nurse may complete the evaluation via nurse delegation when the tenant has not exhibited a significant change. (IAC r. 481-69.22(2))

**B. Service Plan**

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

- Monitoring Observation: Tenant #1, a 92 year old, was admitted on 4-29-06 and diagnoses include: End Stage CHF, Hypertension (HTN), Osteoarthritis, Anxiety, Depression, Aortic Stenosis with Stent and Parkinson's Disease. The tenant was discharged on 4-1-11 and died on 4-4-11. According to notes dated 3-14-11, the tenant had a six pound weight loss in the past month, complained of SOB and complained of not feeling well. The tenant was admitted to the hospital on 3-15-11 for further evaluation for CHF. Notes dated 3-18-11 indicated the tenant returned from the hospital in the evening on 3-17-11 with orders to initiate Hospice care. Health and functional evaluations were completed on 3-18-11. A cognitive evaluation was completed on 3-21-11. The service plan was updated; however, it was updated before the cognitive evaluation was completed. The service plan was not based on evaluations.

  Tenant #3's file was reviewed. According to notes dated 4-11-11, the tenant had difficulty walking and balancing. Staff had great difficulty completing passive ROM. The tenant was extremely stiff and was unable to concentrate on physical task. Notes dated 4-13-11 indicated on 4-12-11 the tenant was discharged from PT and had not shown any improvement with passive ROM or PT lower extremity strengthening. The tenant was consistently a two person transfer, according to notes. The service plan indicated the tenant required intermittent assistance of two to transfer from bed/chair to standing and assist of one to two for ambulation if gait unsteady. The program applied for a waiver of administrative rule for the tenant. The service plan was not updated as needed with a significant change.

- Regulatory Insufficiency: A service plan shall be developed for each tenant based on the evaluations conducted in accordance with subrules 69.22(1) and 69.22(2) and shall be designed to meet the specific service needs of the individual tenant. The service plan shall subsequently be updated at least annually and whenever changes are needed. (IAC r. 481-69.26(1))

- 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 significant change, but not less than annually. (IAC r. 481-69.26(3))

**C. Other**

Incident Allegation: The program reported staff heard a tenant yelling from his/her apartment and responded. The tenant was found rested up against the wall and complained of right hip pain and head pain from hitting his/her head on the wall. The tenant was transported to a local hospital and sustained a fractured hip.

- Monitoring Observation: Tenant #1's file was reviewed. According to an Incident Report, on 3-30-11 staff heard the tenant yelling for help and staff responded. Staff found the tenant on the ground against the wall. The tenant reported he/she carried newspapers and tripped. The tenant stated his/her right hip hurt and stated he/she hit his/her head on the wall. The Director of Nursing (DON), an LPN and another staff came to the tenant's apartment. Hospice and family were notified. The tenant was transported to the hospital. According to notes dated 3-31-11, the tenant was found on the floor on 3-30-11. The tenant was carrying newspapers into the kitchen to put them on the table and tripped and fell. Papers were found on the floor next to the tenant; however, there were no other objects on the floor near the tenant. The tenant was fully dressed and had on stretchy non skid type slippers. The tenant complained of severe right hip pain. Lorazepam and Morphine Sulfate were administered to help ease the pain. The tenant was transferred to a local hospital. On 3-31-11, Hospice and the tenant's family notified the program that the tenant had a right hip fracture and due to his/her health it was inoperable. The tenant was transferred to a nursing facility on 4-1-11 and would not return.

  Review of the pendant history on 3-30-11 indicated the tenant did not activate his/her pendant related to the incident.

  Staff #1 stated she was walking down the hall about 11:30 a.m. and heard the tenant yell for help. She responded and found the tenant seated and leaned up against the wall and had rested his/her head on the wall. The tenant stated he/she tripped and fell. The tenant's walker was not with the tenant and the tenant had not activated his/her pendant. The tenant reported his/her pain was a 10 and the right hip hurt. The tenant complained of dizziness and said he/she had hit his/her head on the wall. She called for help and Staff #2 responded. The nurse and an LPN responded and then Staff #1 and #2 left. She said staff responded appropriately to the fall and there was good communication between program staff and Hospice staff. She stated the tenant received good care.

Staff #2, stated she was called up to the tenant's apartment and the tenant was found up against the wall. She observed one of the tenant's legs was longer than the other. There were newspapers on the floor and the tenant said he/she was putting papers on the kitchen table and fell. The tenant said his/her back, head and hip hurt. The LPN and nurse responded. When the paramedics arrived she brought them up to the tenant's apartment. When she went back up to the apartment the Hospice nurse was there at that time. She said staff responded appropriately to the fall and there was good communication between program staff and Hospice staff. She stated the tenant received good care.

The nurse stated right before lunch she was notified and went up to the tenant's apartment. The tenant was in terrible pain. She called Hospice and the tenant's family. The tenant was administered Morphine and Lorazepam to try to keep the tenant comfortable. The tenant was sent out. She stated staff responded appropriately and there was good communication between program staff and Hospice staff. She stated the tenant received good care.

The Hospice nurse stated she was seeing another patient and was paged. She went to the tenant's apartment and the tenant was on the floor. The tenant was alert and in a lot of pain. She instructed the nurse to administer Morphine and Lorazepam. The tenant was sent out and was diagnosed with a fractured right hip. The hip was not surgically repaired. The tenant died on 4-4-11 and did not return to the program after the incident.

Staff #1 and #2 stated there were enough staff to meet the needs of the tenants. The nurse stated there were enough staff to meet the needs of the tenants.

The program reported the fall with significant injury to the department appropriately. An incident report was completed appropriately related to the incident.

- Regulatory Insufficiency: None noted.

Dated this 31st day of May, 2011.