IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

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GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

DEMAND LETTER
CERTIFIED
Complaint Intake #: 39755-IR

October 17, 2012

Ms. Emily Elmendorf, Administrator
Bickford Cottage Iowa City
3500 Lower West Branch Road
Iowa City, IA 52245

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

Dear Ms. Elmendorf:

I. Final Complaint/Incident Investigation Report – Bickford Cottage Iowa City, Iowa City, IA

Enclosed is the **Final Complaint/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, Service Plans and Managed Risk.

Bickford Cottage Iowa City is being assessed a $3,000 civil penalty pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC 67.12(3)(a)(2). The Program failed to comply with regulatory requirements which have been cited previously by the Department. The Program's continued failure (or refusal) to comply with regulatory requirements within the prescribed time frame established has a direct relationship in the health, safety, or security of tenants. Bickford Cottage Iowa City has had repeated regulatory insufficiencies in the areas of Evaluation and Service Plans.

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 **Rose Boccella** and remit the civil penalty assessed by check or money order to the State of Iowa in the amount of one thousand nine hundred fifty dollars ($1950) 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 $3,000 civil penalty pursuant to Iowa Code section 231C.14 and 481 IAC 67.12(3)(a). The Plan of Correction (POC) submitted on October 16, 2012, has been reviewed and will constitute the final POC related to the on-site visit of August 29, 2012.

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, Rose Boccella, at 515/281-7039.

Sincerely,

Ann Martin

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Assisted Living Program
Final Complaint/Incident Investigation Revisit Report

Assisted Living Program: **Complaint/Incident Intake #:** 39755-IR

Emily Elmendorf, Administrator
Bickford Cottage Assisted Living
3500 Lower W. Branch Road
Iowa City, IA 52245

Date of Complaint/Incident Investigation:

August 29, 2012

Monitor(s):

Hal L. Chase, RN BSN MPH

Definitions: ***The following definitions are relevant:***

Assisted Living Program – A program certified under 481 IAC 69 that provides housing with contracted services to three or more tenants in a physical structure that provides a homelike environment. Services may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living. A General Population Program is an Assisted Living Program that is not dementia-specific but may have tenants with cognitive disorder.

Dementia-Specific Assisted Living Program - An assisted living program certified under 481 IAC 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 (GDS), or serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the GDS, or holds itself out as providing specialized care for persons with dementia, such as Alzheimer's disease, in a dedicated setting.

Regulatory Insufficiency - A violation of a statutory or rule provision within the Code of Iowa (2011) or the 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 statutory or rule violations. The plan should identify how and by what date each regulatory insufficiency will be corrected, and what measures will be taken to ensure the problem does not recur. The plan is due to DIA within ten (10) working days of the program's receipt of a Complaint/Incident Investigation Report. Depending on the circumstances, DIA may revisit the assisted living program to confirm progress in fulfilling a plan's corrective measures.

Overview: ***In preparing this report, the following information was considered:***

Current Program Census

Assisted Living Programs are defined by the type of population served. The census numbers below were provided by the Program at the time of the on-site visit.

Dementia-Specific Program by Dedication	
Number of tenants without cognitive disorder:	25
Number of tenants with cognitive disorder:	7
Total Population of Program at time of on-site	32
TOTAL census of Assisted Living Program	32

Program History – The Incident Investigation of July 11, 2012 resulted in a regulatory insufficiency in the area of Staffing.

The Incident Investigation of November 9 and 14, 2011 resulted in a regulatory insufficiency in the area of: Service Plan.

The Complaint and Incident Investigation of August 2 and 3, 2011 resulted in a $5,000 civil penalty and regulatory insufficiencies in the following areas: Tenant Documents, Service Plan, Nurse Review, Dementia Education, and Tenant Rights.

The Complaint Investigation of May 25 and 26, 2011, resulted in a $4,000.00 civil penalty and regulatory insufficiencies in the following areas: Evaluation of Tenants, Service Plan, Nurse Review, Tenant Documents and Rights.

The Complaint Investigation of January 3 and 4, 2011, resulted in a civil penalty of $1,000.00 and regulatory insufficiencies in the areas of: Evaluation, Service Plan, Nurse Review and Policy and Procedure.

The October 11 and 12, 2010 Recertification, Complaint and Incident Investigation resulted in a civil penalty of $4,000.00 and regulatory insufficiencies in the areas of: Evaluation of Tenants, Service Plan, Food Service, Staffing and Record Checks.

Complaint/Incident Revisit Investigation – The Complaint/Incident investigator(s) made the observations detailed in the following areas:

A. Staffing

The Program was cited a regulatory insufficiency related to not having sufficient number of trained staff available to meet Tenant #2's needs during a incident between Tenant #2 and Tenant #1 on 7-4-12. Tenant #1 was hospitalized and did not return to the Program. Tenant #1's file was reviewed and revealed the following information:

- Monitoring Observation: Tenant #1, a 93 year old, was admitted on 2-26-10 and had diagnoses of: History of Cerebro Vascular Accident (CVA), Hypertension (HTN), Congestive Heart Failure (CHF), Hyperlipidemia, Coronary Artery Disease (CAD),

Osteoporosis, Pacemaker Placement, Lumbar Stenosis and Edema. Tenant #1 was admitted to hospice on 11-18-11 with an admitting diagnosis of Failure to Thrive. A cognitive evaluation was completed on 8-14-12 and staged Tenant #1 at three on the Global Deterioration Scale (GDS), which indicated mild cognitive decline.

Program records indicated Tenant #2 was hospitalized from 7-4-12 through 7-30-12. The Program completed evaluations and updated the service plan to include interventions related to cognitive deficits, behavior and activities of daily living (ADLs). Additionally, an outside agency provided one-on-one care 24-hours daily beginning 7-30-12 through 8-13-12. On 8-13-12 one-on-one staff care began daily from 8:00 a.m. – 8:00 p.m.

An incident report of 8-19-12 indicated Tenant #2 sustained a fall and was hospitalized for observation and returned on 8-20-12. Evaluations were completed and a service plan was updated on 8-20-12 and one-on-one direct care was continued.

Nurse's notes of 8-1-12 through 8-27-12 indicated Tenant #2 became agitated at times, but was redirected by direct care staff. No physical or verbal outbursts with tenants or staff were noted. Staff #4 and Staff #5 were interviewed and reported Tenant #2 has "sundowners" and becomes agitated at times, but there had been no incidents or confrontations with tenants or staff.

- Regulatory Insufficiency: None noted.

B. Evaluation

During the course of the revisit, the following information was obtained:

- Monitoring Observation: Tenant #4, an 86 year old, was admitted on 7-27-12 and had diagnoses of: Possible Heart Related Illness, Dementia, Hypertension, Hypothyroidism, Delirium and Probable Urinary Tract Infection. A Global Deterioration Scale (GDS) staged Tenant #4 at three, which indicated mild cognitive decline.

  Tenant #4 was seen in a hospital emergency room due to a fall that occurred on 7-16-12 and was admitted to the hospital. A psychiatric consultation concluded Tenant #4 had significant sleep deprivation. Hospital records of 7-18-12 through 7-20-12 indicated Tenant #4 was uncooperative, irritable and needed one-on-one care from staff due to wandering and increased confusion. Hospital discharge summary indicated during hospitalization, Tenant #4 was quite confused, disoriented to time and place, required one-on-one care and had little change in mentation or behaviors.

  Functional and health evaluations of 7-30-12 indicated Tenant #4 was independent with ambulation with a recommendation for physical therapy to increase gait stability, was confused to his/her surroundings, needed frequent reminders of a daily routine and wore a wander-guard watch, as Tenant #4 was at a higher risk of elopement. An order was obtained for physical therapy on 8-2-12

Nurse's notes of 7-30-12 through 7-31-12 indicated Tenant #4 had fallen or was found by staff on the floor at least four times. On 7-31-12, staff assisted Tenant #3 to the toilet, then left to get supplies. Upon returning to assist Tenant #4, staff noted a laceration above Tenant #4's right eye. Nurse's notes of 8-1-12, (as part of a nurse review), indicated staff had attempted multiple times to assist Tenant #4 with ambulation but Tenant #4 refused. The Administrator and Program nurse reported Tenant #4 refused assistance with ambulation. Nurse's notes of 8-1-12 through 8-20-12 indicated staff assisted Tenant #4 with ambulation and transfer at least 20 times during this period. Tenant #4 also insisted he/she must carry his/her purse, which weighs ten pounds, around his/her neck at all time. The purse had a tendency to throw Tenant #4 off balance when turning around too quickly.

Incident reports of 8-1-12 through 8-20-12 indicated Tenant #4 had at least 27 reported incidents of falls or being found by staff on the floor, with Tenant #4 reporting he/she had fallen. Incident reports during this period revealed Tenant #4 had sustained bruises, was drooling, couldn't follow directions, had fallen when staff had assisted with ambulation and had difficulty ambulating.

Nurse's notes of 8-20-12 indicated Tenant #4 had fallen or was found on the floor and reported he/she had fallen. On 8-20-12 at 2:55 p.m. Tenant #4 was seen approaching the nurse's station and attempted to sit in one of the medication chairs, lost his/her balance and fell to the left side. Tenant #4's left side hit the sofa table adjacent to the chair and Tenant #4's eye glasses were on the floor. Tenant #4 complained of lower back and calf pain. Nurse's notes at 3:00 p.m. reported an ambulance was called and Tenant #4 was transported to the hospital. Nurse's notes of 8-22-12 indicated the Program was notified Tenant #4 was transferred to the surgical intensive care unit as hospital staff found Tenant #4 unresponsive with minimal respiratory effort and was placed on a ventilator. Nurse's notes of 8-25-12 indicated Tenant #4's physician reported Tenant #4 had a blood stream infection and Tenant #4 condition had declined rapidly. Nurse's notes of the same entry reported Tenant #4's physician reported Tenant #4's brain bleed remained unchanged and Sepsis was the fatal diagnosis. Nurse's notes of 8-26-12 indicated Tenant #4 had passed away.

Nurse's notes of 7-30-12 through 8-20-12 indicated a nurse review was completed after each fall or suspected falls. Functional, cognitive and health evaluations were completed on 7-30-12 and updated on 8-17-12, but the evaluations were not reflective of the 30 falls or suspected falls between these dates. The Program did not complete functional, cognitive and health evaluations with a significant change and determine if any changes to services were needed.

Staff #4 reported Tenant #4 had multiple falls and needed standby assistance with ambulation and transfer. Staff #5 reported Tenant #4 ambulated independently and stood independently, but needed occasional assistance with transfer once or twice in the evening two three days weekly. Staff #5 reported the reason Tenant #4 fell was Tenant #4 had an unsteady balance. Some of the falls Tenant #4 had resulted in injury. Tenant #4 had a spatial judgment issue and couldn't recognize distance when attempting to sit. Staff would often place Tenant #4 in the common area so staff could monitor him/her. Tenant #4 would wander, looking for Dubuque street, the senior center and a hospital.

- Regulatory Insufficiency: A program shall evaluate each tenant's functional, cognitive and health status 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 had not exhibited a significant change. (IAC r. 481-69.22(2))

C. Service Plans

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

- Monitoring Observation: Tenant #4's service plans of 7-30-12 and 8-17-12 indicated Tenant #4 was independent with ambulation despite an extensive history of at least 30 falls or suspected falls between 7-30-12 through 8-20-12. The Administrator and Program nurse reported Tenant #4 refused assistance with ambulation. Nurse's notes of 8-1-12 through 8-20-12 indicated staff assisted Tenant #4 with ambulation and transfer at least 20 times during this period.

  Staff #4 reported Tenant #4 had multiple falls and needed standby assistance with ambulation and transfer. Staff #5 reported Tenant #4 ambulated independently and stood independently, but needed occasional assistance with transfer once or twice in the evening two three days weekly. Staff #5 reported the reason Tenant #4 fell was Tenant #4 had an unsteady balance. Some of the falls Tenant #4 had resulted in injury. Tenant #4 had a spatial judgment issue and couldn't recognize distance when attempting to sit. Staff would often place Tenant #4 in the common area so staff could monitor him/her. Tenant #4 would wander, looking for Dubuque Street, the senior center and a hospital.

  Service plans of 7-30-12 and 8-17-12 did not establish interventions directing staff to assist Tenant #4 with ambulation and transfer. Service plans did not represent the identified needs of Tenant #4.

- Regulatory Insufficiency: When a tenant needs personal care or health-related care, the service plan shall be updated within 30days 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: a. the tenant's identified needs and preferences for assistance. (IAC r. 481-69.26 (4)(a))

D. Managed Risk

During the course of the revisit, the following information was obtained:

- Monitoring Observation: Tenant #4 had an extensive history of at least 30 falls or suspected falls between 7-30-12 through 8-20-12. The Administrator and Program

nurse reported Tenant #4 refused assistance with ambulation. Nurse's notes of 8-1-12 through 8-20-12 indicated staff assisted Tenant #4 with ambulation and transfer at least 20 times during this period. Tenant #4's file revealed no documentation of Tenant #4 consistently refusing assistance with cares, including assistance with ambulation and transfer. The Program nurse reported Tenant #4 had a GDS of three, which indicated minimal cognitive decline. The Program nurse reported Tenant #4 was able to make his/her own decision related to personal and health related cares and would refuse staff assistance with ambulation and transfer. The Program did not initiate a consensus-based process to address specific risk situations.

- Regulatory Insufficiency: The program shall have a managed risk policy. The managed risk policy shall be provided to the tenant along with the occupancy agreement. The managed risk policy shall include the following: 2. A consensus-based process to address specific risk situations. Program staff and the tenant shall participate in the process. The result of the consensus-based process may be a managed risk consensus agreement. The managed risk consensus agreement shall include the signature of the tenant and the signatures of all others who participated in the process. The managed risk consensus agreement shall be included in the tenant's file. (IAC r. 481-69.31(2))