

TERRY E. BRANSTAD
GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

**DEMAND LETTER
CERTIFIED**

Complaint Intake #: 41224-C

December 5, 2012

Ms. Sharon Lukes, Administrator
Windhaven Assisted Living
5500 S. Main Street
Cedar Falls, IA 50613

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

Dear Ms. Lukes:

I. Final Complaint/Incident Investigation Report – Windhaven Assisted Living, Cedar Falls, 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: Food Service.

Windhaven Assisted Living is being assessed a \$500 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. Program failed to assure therapeutic diets were approved by the dietician.

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 three hundred twenty five dollars (\$325) 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 \$500 civil penalty pursuant to Iowa Code section 231C.14 and 481 IAC 67.12(3)(a). The Plan of Correction (POC) submitted on December 4, 2012, has been reviewed and will constitute the final POC related to the on-site visit of November 6, 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 Report

Assisted Living Program:

Windhaven Assisted Living
Sharon Lukes, Administrator
5500 S. Main Street
Cedar Falls, IA 50613

Complaint/Incident Intake #:

41224-C

Date of Complaint/Incident Investigation:

November 6, 2012

Monitor(s):

Joyce Kix, RN

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.

General Population Program	
Number of tenants without cognitive disorder:	93
Number of tenants with cognitive disorder:	1
Total Population of Program at time of on-site	94
Dementia-Specific Program by Dedication	
Number of tenants without cognitive disorder:	3
Number of tenants with cognitive disorder:	27
Total Population of Program at time of on-site	30
TOTAL census of Assisted Living Program	124

Program History – The program received regulatory insufficiencies in the areas of Food Service and Life Safety during the August 13 and 14, 2012, Recertification on-site.

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

A. Tenant Rights

Complaint/Incident Allegation: It was alleged that meals were not served in a timely manner.

- Monitoring Observation: Observation of noon meal service on 11-6-12 from 11:00 a.m. to 12:00 noon was completed. Approximately 35 tenants ate in the dining room. The monitor observed 15 tenants from seating time to food service. The first tenants seated at 11:00 a.m. had their order taken within 10 to 15 minutes and received their first course within another 10 to 15 minutes. Tenants seated later were served more quickly. All tenants reported the food was appropriate temperatures and tasted good. The department does not have regulatory over-site regarding time limits for food service.
- Regulatory Insufficiency: None noted.

B. Food Service

Complaint/Incident Allegation: It was alleged the program menus were not planned for appropriate nutrition and chicken was served bloody and raw.

- Monitoring Observation: The monitor interviewed tenants who reported general concerns with food service such as long waits, out of food on menu and tough meat.

The program Executive Chef from the contracted company, reported the kitchen provided meals for two tenants with therapeutic diets. The Chef stated that the menu had changed November 1st to the winter menu. He said he had not seen the dietitian for the last two weeks and did not have the dietitian's approval of the current menus.

A resident meeting was held 10-26-12 with the state Ombudsman present. At this meeting the tenants reported that hot foods were served cold or barely warm. The Chef stated he had just started taking temperatures of the food prior to service on November 1st. He said he was aware that tenant's had reported raw chicken but said he felt the meat was always served appropriately. The Chef provided evidence of temperatures taken only sporadically for 9 meals since the beginning of November.

The Chef did not take temperatures of the food routinely and could not provide documentation that chicken was served appropriately cooked. The Chef changed the menus without documentation of approval of therapeutic diets from the dietitian.

The 2005 Iowa Food Code requires providers who are preparing meals for tenant consumption to assure food temperatures reach 145 degrees prior to serving. The Food Code has specific temperatures that must be reached prior to serving for meats and other proteins. As the program did not monitor temperatures of the cooked food items, it would have had no way to identify temperature concerns.

- Regulatory Insufficiency: Therapeutic diets may be provided by a program. If therapeutic diets are provided, they shall be prescribed by a physician, physician assistant, or advanced registered nurse practitioner. A current copy of the Iowa Simplified Diet Manual published by the Iowa Dietetic Association shall be available and used in planning and serving of therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and for reviewing procedures for food preparation and service of therapeutic diets. (IAC r. 481-69.28(4))
- Regulatory Insufficiency: Program engaged in the preparation of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F. (IAC r. 481-69.28(6))