IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

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DEMAND LETTER
CERTIFIED

Complaint Intake #: 43871-IR1

August 13, 2013

Ms. Mary Keen, Administrator
Bickford Cottage Urbandale
5915 Sutton Place
Urbandale, IA 50322

RE: I. NOTICE OF IMPOSITION OF CIVIL PENALTY – FINAL COMPLAINT/INCIDENT INVESTIGATION REVISIT REPORT - BICKFORD COTTAGE URBANDALE
II. Reduction of Civil Penalty
III. Appeals/Hearings
IV. Conclusion

Dear Ms. Keen:

I. Final Complaint/Incident Investigation Revisit Report – Bickford Cottage Urbandale, Urbandale, IA

Enclosed is the **Final Complaint/Incident Investigation Revisit Report ("Report")** issued 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, following an investigation by DIA on **July 17, 2013.** The Report notes Regulatory Insufficiency in the area(s) of: Structural.

Bickford Cottage Urbandale ("Program") is being assessed a **$500 civil penalty** pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC 67.12(3)(a)(2).

Pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC rule 67.12(3)(a)(2), the continued failure or refusal to comply within a prescribed time frame with regulatory requirements that have a direct relationship to the health, safety, or security of tenants may result in a civil penalty of up to $5,000.

The factors to be considered in determining the amount of a civil penalty are contained within rule 481 IAC 67.12(3)(b) and include:

(1) the frequency and length of time the regulatory insufficiency occurred;
(2) the past history of the program as it relates to the nature of the regulatory insufficiency;
(3) the culpability of the program as it relates to the reasons the regulatory insufficiency occurred;
(4) the extent of any harm to the tenants or the effect on the health, safety, or security of the tenants which resulted from the regulatory insufficiency;
(5) the relationship of the regulatory insufficiency to any other types of regulatory insufficiencies;
(6) the actions of the programs after the occurrence of the regulatory insufficiency;
(7) the accuracy and extent of records kept by the program which relate to the regulatory insufficiency and the availability of such records to DIA;
(8) the rights of tenants to make informed decisions; and
(9) whether the program made a good-faith effort to address a high-risk tenant's specific needs and whether the evidence substantiates this effort.

The Report reflects that the Program failed to comply with regulatory requirements which have been cited previously by the Department. The Program previously received Regulatory Insufficiencies in the areas of Structural.

The determination of a **$500 civil penalty** is based upon repeated Regulatory Insufficiency in the area(s) of: Structural. As the enclosed Report details, the Program failed to ensure tenant safety by allowing them access to a kitchen on the dementia unit when staff were not present. Tenants had access to an electric stove, chemicals and screwdrivers.

II. Reduction of Civil Penalty

If, within 30 days of the notice or service 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 days after the notice or service of this demand letter.

III. Appeals/Hearings

The Program may appeal the DIA decision within thirty (30) days of the notice or service of this demand letter by submitting a written 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 the notice or service of this demand letter.

IV. Conclusion

The Program 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 Plan of Correction (POC) submitted on August 1, 2013, has been reviewed and will constitute the final POC related to the on-site visit of July 17, 2013.

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 notice or service 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,

Jim Friberg

Jim Friberg, Acting 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 #:** 43871-IRI

Mary Keen, Administrator
Bickford Cottage Urbandale
5915 Sutton Place
Urbandale, IA 50322

Date of Complaint/Incident Investigation:

July 17, 2013

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.

General Population Program	
Number of tenants without cognitive disorder:	16
Number of tenants with cognitive disorder:	3
Total Population of Program at time of on-site	19

Dementia-Specific Program by Dedication	
Number of tenants without cognitive disorder:	0
Number of tenants with cognitive disorder:	14
Total Population of Program at time of on-site	14
TOTAL census of Assisted Living Program	33

Program History – The program received regulatory insufficiencies in the areas of: Medications, Service Plan and Dementia Specific Education during the Recertification, Complaint (39691-C) and Incident (39501-I) Investigation of July 10 and 11, 2012. During the August 20, 2012 Incident Investigation (40147-I), the program received regulatory insufficiencies in the areas of Policies and Procedures and Structural. The program received regulatory insufficiencies in the areas of Tenant Rights and Staffing during the October 9, 2012 Complaint Investigation (41110-C). During the June 4, 2013 Incident Investigation (43871-I) the program received a regulatory insufficiency in the area of Criteria for Admission and Retention.

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

A. Criteria for Admission and Retention

Complaint/Incident Allegation: During the onsite incident investigation #43871-I of 6-4-13, the Program received a regulatory insufficiency for retaining Tenant #1 who exceeded admission and retention criteria. The Program submitted a waiver, which was denied on 6-24-13. The Program appealed the denial on 7-8-13, reporting Tenant #1 no longer exceeded admission and retention criteria.

Monitoring Observation: Tenant #1, a 90 year old, was admitted to the program on 12-13-11 with diagnoses of: Alzheimer's Disease, Depression, Diabetes, Hypertension and Vitamin B12 deficiency. Tenant #1 scored a five on the Global Deterioration Scale completed on 7-9-13, which indicated moderately severe cognitive decline. Tenant #1 resided in the dementia unit.

Tenant #1's clinical record indicated initial physical therapy plan of treatment of 5-21-13 through 6-20-13 established goals to transfer independently from all surfaces and ambulate independently with a four wheeled walker.

Progress notes of 6-6-13 through 6-30-13 indicated Tenant #1 had three incidents of falls or suspected falls. On 6-6-13 staff witnessed Tenant #1 sliding to the floor when attempting to leave his/her bed. On 6-11-13, staff witnessed Tenant #1 getting out of bed and walking. Tenant #1 fell on his/her right side. On 7-1-13 staff entered Tenant #1's apartment and found Tenant #1 lying on the floor. Tenant #1 reported he/she slid from the bed. An incident report was completed for each fall and the program nurse completed an evaluation of Tenant #1's current health status and recorded her evaluation in the progress notes.

Progress notes of 7-2-13 referenced staff made a call to Tenant #1's physician regarding an order for physical therapy and orders related to the removal of Tenant #1's right wrist cast and placement of a brace with splint.

A service plan of 7-2-13 established interventions related to safety; including the wearing of a watch alarm for safety and the use of bed and chair alarms at all times. Staff was to provide stand by assist with transfer and ambulation. Additional nurse delegation tasks for staff and treatment interventions were established related to the placement and wearing of the wrist brace.

A physician order of 7-3-13 indicted new orders to elevate the right hand/wrist, keep a splint for the right wrist except for bathing and no physical therapy "at this time."

Physical therapy was again authorized for an additional 28 days beginning 7-9-13 through 8-7-13. Physical therapy documentation indicated Tenant #1 was able to transfer and ambulate independently but needed supervision when doing so due to cognitive limitations. Physical therapy goals for the current period included increased functional flexion and extension of the right wrist.

A service plan, supported by evaluations, was updated on 7-9-13 and included interventions related to renewed physical therapy and additional assistance with cares related to placement and care of Tenant #1's wrist brace and standby assistance with transfer and ambulation.

A monitor observed Tenant #1 periodically throughout the day, beginning at 8:05 a.m. at breakfast until approximately 12:00 p.m. Staff was present when Tenant #1 transferred and ambulated independently.

Staff #1 and #2 were interviewed and reported when Tenant #1 had his/her right wrist cast on, he/she continued to be unsteady and needed one staff assist with transfer and ambulation. The cast was removed approximately three weeks ago and Tenant #1 was independent with transfer and ambulation with staff supervision. A bed/chair alarm was used at all times. Staff pagers were activated when the bed/chair alarm was activated. Tenant #1 had three falls when attempting to get out of bed, but hasn't had any falls after 7-1-13. Physical therapy came several times weekly and Tenant #1's functional ability had improved.

Tenant #1's progress notes and staff interviews indicated Tenant #1 was independent with ambulation and transfer, but needed staff supervision when doing so. Progress notes indicated three incidents of falls or suspected falls, each resulted in no injury. Tenant #1 did not exceed admission and retention criteria.

- Regulatory Insufficiency: None noted.

B. Structural

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

- Monitoring Observation: A tour of the dementia unit was conducted by a monitor. Staff was not present in the kitchen area or common areas of the dementia unit. At least 12 tenants were sitting in the dining room, which was adjacent to the kitchen area. The kitchen was open and accessible to tenants. An electric stove with electric burners were able to be turned on by turning control knobs located on a panel above the burners. Tenants could turn on the burners and oven. Cupboards and drawers were inspected and liquid soap cartridges and screwdrivers were found. A monitor observed Staff #1 returning to the dementia unit approximately seven minutes after the monitor arrived. Several minutes later Staff #2 was seen leaving a tenant's apartment, which was located several yards away from the commons and kitchen area. Staff #1 and #2 reported the kitchen area was usually open and accessible to tenants and staff was not always present. The Program did ensure tenants safety.

- Regulatory Insufficiency: The building and grounds shall be well-maintained, clean, safe and sanitary. (IAC r.481-69.35(1)(b))