



Office for People With Developmental Disabilities

KATHY HOCHUL
Governor


KERRI E. NEIFELD
Commissioner

WILLOW BAER
Executive Deputy Commissioner

March 25, 2024

VIA USPS CERTIFIED MAIL & EMAIL

Ms. Barbara Senzel, Executive Director
Head Injury Association
300 Kennedy Drive
Hauppauge, New York 11788

Stuart Gleiber, Board President


Re: Notification of Intent to Impose a Fine

Dear Ms. Senzel and Mr. Gleiber:

This letter constitutes formal notification that the New York State Office for People With Developmental Disabilities (OPWDD) is imposing a fine in the amount of \$10,000 on your agency, Head Injury Association, Inc (HIA).

Pursuant to Mental Hygiene Law section 16.17(g), the Commissioner may impose a fine upon a finding that the holder of an operating certificate has failed to comply with the terms of the operating certificate or with the provisions of any applicable statute, rule, or regulation.

On 1/30/2024, resident (DM) of a HIA Individualized Residential Alternative (“IRA”) was returned to their family’s home following an altercation with one of their housemates at the IRA, after an order of protection was filed against DM. Mental Hygiene Legal Services was notified and spoke with DM and the family, who confirmed that they wanted to continue receiving residential services and DM could not be safely supported at the family’s home.

On 2/8/2024, the Regional Field Office (RFO) requested HIA to develop a temporary relocation plan to continue to provide residential services to DM. On 2/14/2024, DM’s parents objected HIA’s proposal to discharge DM and requested an informal resolution meeting. On 2/23/2024, The RFO Director sent HIA an inappropriate discharge letter. The agency failed to respond and take the necessary action and a second inappropriate discharge letter was sent to HIA directing the agency to provide DM with residential services by 3/12/2024 (within 72 hours). Again, the agency failed to comply and provide services and on 3/12/2024, a third inappropriate discharge letter was sent to HIA, directing the agency to provide residential services to DM by close of business on 3/12/24.

To date, HIA has not complied with the required actions directed by the RFO in the three letters received by the agency. The agency was advised in the inappropriate discharge letters, that individuals receiving services must be afforded due process as required by OPWDD regulations, 14 NYCRR 633.12. **Due**

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process requires that if an individual or their representatives object to a change in service, the service must remain in place pending the conclusion of the 633.12 process. The agency's attempt to inappropriately discharge DM is a violation of 14 NYCRR 633.12 and of Article 16 of New York State Mental Hygiene Law. In accordance with the OPWDD Accountability Initiative, OPWDD will impose fines for such violations and may also take adverse certification actions as needed.

You have the right to an administrative hearing to appeal the imposition of this fine. You also have the right to be represented by an attorney at such hearing. If you are requesting a hearing, you have **30 days** from service of notice of this proposed action to submit your request. Your request must include a declaration of the issues alleged to be involved and documentation of the agency's position as to each identified issue.

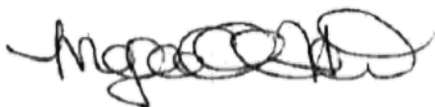
Send your request to:
Kerri Neifeld, Commissioner
NYS Office for People With Developmental Disabilities
44 Holland Avenue
Albany, NY 12229

In accordance with 14 NYCRR 602.5, your written request for the hearing must include a copy of this letter and a declaration of the issues alleged to be involved and documentation of your position of each issue. If you decide not to request a hearing, please remit payment of your fine immediately. Payment should be made within 30 days of receipt of this notification. Payment must be made by check payable to OPWDD and be for the total amount of the fine. Partial payment will not be accepted without written authorization from OPWDD.

You may send your payment to:
Eileen Haynes, General Counsel
NYS Office for People With Developmental Disabilities
Counsel's Office-3rd Floor.
44 Holland Avenue
Albany, NY 12229

Please be aware that the imposition of this fine does not preclude OPWDD from taking further adverse action if your agency fails to maintain compliance with OPWDD regulations.

Sincerely,



Megan O'Connor-Hebert
Deputy Commissioner
Division of Quality Improvement

cc:

Board of Directors
Kerri Neifeld, Commissioner
Willow Baer, Executive Deputy Commissioner
Maryellen Moeser, Deputy Director, Division of Quality Improvement
Mary Jane Vogel, Deputy Director, Division of Quality Improvement
Richard Cicero, Director of Internal Controls

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Abiba Kindo, Deputy Commissioner, Service Access, Program Implementation & Stakeholder Support
Eileen Haynes, General Counsel, OPWDD Counsel's Office
Josh Olsen, Deputy Counsel, OPWDD Counsel's Office
Angela Hernandez, Senior Attorney, OPWDD Counsel's Office