

Department of Health & Human Services
Centers for Medicare & Medicaid Services
JFK Federal Building, Government Center
Room 2325
Boston, MA 02203



Northeast Division of Survey & Certification

June 29, 2018

Dr. David Tupponce, President
Central Maine Medical Center
300 Main Street
Lewiston, ME 04240

**RE: CMS Certification Number: 200024
Survey ID IV5H11, 05/21/2018
Revised Initial Notice of Termination**

Dear Dr. Tupponce:

To participate in the Medicare program, a hospital must meet the requirements established under Title XVIII of the Social Security Act (the Act) and the regulations established by the Secretary of Health and Human Services under the authority contained in §1861(e) of the Act. Medicare-participating hospitals must meet the provisions under § 1867 of the Social Security Act, or the Emergency Medical Treatment and Labor Act (EMTALA), along with the implementing regulations found at 42 C.F.R. § 489.20 and 489.24. Further, §1866(b) of the Act authorizes the Secretary to terminate the Medicare provider agreement of a hospital that fails to meet these provisions.

Your hospital was surveyed on May 21, 2018 by the Department Of Health And Human Services based on an allegation of noncompliance with the requirements of 42 C.F.R. §489.24, Responsibilities of Medicare Participating Hospitals in Emergency Cases and/or the related requirements at 42 C.F.R. §489.20. After a careful review of the findings, we have determined that your hospital violated the requirements at 42 C.F.R. §§489.20 and 489.24.

The deficiencies identified are listed on the enclosed Form CMS-2567, Statement of Deficiencies and Plan of Correction.

Under 42 C.F.R. §489.53, a hospital that violates the provisions of 42 C.F.R. §489.20 or 42 C.F.R. §489.24 is subject to termination of its provider agreement. Consequently, we plan to terminate Central Maine Medical Center's participation in the Medicare program. The prior notice of termination as a result of the findings of the investigation survey J1W811 is revised and the projected date on which your agreement will terminate is **September 27, 2018**.

You will receive a "Notice of Termination Letter" on or before September 12, 2018. This final notice will be sent to you concurrently with notice to the public, in accordance with 42 C.F.R. §489.53.

You may avoid termination action and notice to the public by correction of the deficiencies, through submission of an acceptable plan of correction and subsequent verification of compliance by the State Survey Agency. An acceptable plan of correction by the hospital requires a resurvey prior to the projected termination date, and must be received by this office as soon as possible, to permit timely resurvey to verify the corrections. If we verify your corrective action and you are in substantial compliance with requirements for hospitals participating in the Medicare program, your planned termination from the Medicare program will be rescinded.

The Form CMS-2567 with your plan of correction, dated and signed by your facility's authorized representative, must be submitted to CMS no later than July 14, 2018. Please indicate your corrective actions on the right side of the Form CMS-2567 in the column labeled "Provider Plan of Correction", keying your responses to the deficiencies on the left. Additionally, indicate your anticipated completion dates in the column labeled "Completion Date". Please send your plan of correction to:

CMS (By Mail and Facsimile)
Charles Marino
Centers for Medicare & Medicaid Services
Division of Survey & Certification
JFK Federal Building, Room 2350
Boston, MA 02203

Maine State Survey Agency

An acceptable plan of correction must contain the following elements:

1. The plan for correcting each specific deficiency cited;
2. Efforts to address improving the processes that led to the deficiency cited;
3. The procedure for implementing the acceptable plan of correction for each deficiency cited;
4. A completion date for correction of each deficiency cited (Note: The correction dates on the plan of correction must be no later than 45 calendar days from the date of this letter)
5. Procedures for monitoring and tracking to ensure that the plan of correction is effective and that specific deficiencies cited remain corrected and/or in compliance with the regulatory requirements; and
6. The title of the person responsible for implementing the acceptable plan of correction.

Copies of the Form CMS-2567, including copies containing the facility's plan of correction, are releasable to the public in accordance with the provisions of Section 1864(a) of the Act and 42 C.F.R. § 401.133(a). As such, the plan of correction should not contain personal identifiers, such as patient names, and you may wish to avoid the use of staff names. It must, however, be specific as to what corrective action the hospital will take to achieve compliance, as indicated above.

If your Medicare agreement is terminated and you do not believe this termination decision is

correct, you may request a hearing before an Administrative Law Judge (ALJ) of the Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in regulations at 42 C.F.R. Part 498. An appeal/request for hearing must be filed no later than sixty (60) calendar days from the date of receipt of the initial notice of termination.

You must file your appeal electronically at the Departmental Appeals Board Electronic Filing System Web site (DAB E-File) at <https://dab.efile.hhs.gov>, unless you have received approval from the Civil Remedies Division (CRD) to file in hardcopy. It is important that you also send a copy of your request for hearing to this office to the attention of: Survey Branch, Northeast Consortium Division of Survey & Certification, Centers for Medicare and Medicaid Services (CMS), JFK Federal Building, Room 2275, Government Center, Boston, MA 02203. A request for a hearing should identify the specific issues, the findings of fact and the conclusions of law, if applicable, with which you disagree. You may be represented by counsel at a hearing at your own expense.

If you have any questions concerning this letter, please contact Charles Marino at 617-565-1328.

Sincerely,

A handwritten signature in black ink, appearing to read "Lauren D. Reinertsen".

Lauren D. Reinertsen, M.P.A, Ph.D
Associate Regional Administrator
Northeast Division, Survey & Certification

Enclosure: Form CMS-2567, Statement of Deficiencies

cc: Maine State Agency
TJC
QIO
OIG

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

PRINTED: 06/29/2018
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 200024	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 05/21/2018
NAME OF PROVIDER OR SUPPLIER CENTRAL MAINE MEDICAL CENTER			STREET ADDRESS, CITY, STATE, ZIP CODE 300 MAIN STREET LEWISTON, ME 04240		
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A 000	INITIAL COMMENTS	A 000			
A2400	<p>EMTALA Complaint #27864 Survey Dates: May 14, 2018 - May 21, 2018</p> <p>Central Maine Medical Center is not in compliance with 42 Code of Federal Regulation Part 489 Responsibilities of Medicare Participating Hospitals in Emergency Cases. The following requirements have not been met:</p> <p>COMPLIANCE WITH 489.24 CFR(s): 489.20(l)</p> <p>[The provider agrees,] in the case of a hospital as defined in §489.24(b), to comply with §489.24.</p> <p>This STANDARD is not met as evidenced by: Based on hospital policy review and medical record review, the hospital failed to comply with 42 CFR 489.24.</p> <p>The findings include:</p> <p>Central Maine Healthcare, Administrative Policy No.: HC-ED, SUBJECT: Emergency Medical Treatment and Active Labor Act (EMTALA) stated:</p> <p>-"POLICY: To ensure that all patients presenting to a CMH's hospital requesting emergency services receive an appropriate medical screening examination within Hospital's capability to determine whether or not an emergency medical condition exists. If a patient is determined to have an emergency medical condition, then Hospital will either stabilize and/or transfer the patient in accordance with the Emergency Medical Treatment and Active Labor Act (EMTALA)."</p>	A2400			

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

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A2400	Continued From page 1 -Comes to the Emergency Department: Is defined as the individual (not yet a patient): Presents at the Hospital's Emergency Department or on hospital property and examination or treatment for a medical condition is requested or it can reasonably be inferred that the individual needs evaluation or treatment for a medical condition; Patient #1 presented at the hospital's Emergency Department (ED) on October 28, 2017 at approximately 10:08 AM, seeking care. A hospital security log and a police report indicated that Patient #1 completed the ED registration process and remained seated at the ED registration desk. Documentation obtained indicated that Patient #1 became uncooperative prior to being triaged (assessed for level of illness/injury), and was eventually removed from the ED by security and placed under arrest by the police. The registration log entry was deleted from the ED log, causing this patient encounter to not be seen in the Emergency Department Log. Additionally, the hospital failed to provide a medical screening examination for an individual presenting to a CMH's hospital requesting emergency services.	A2400			
A2402	POSTING OF SIGNS CFR(s): 489.20(q) [The provider agrees,] in the case of a hospital as defined in §489.24(b), to post conspicuously in any emergency department or in a place or places likely to be noticed by all individuals entering the emergency department, as well as those individuals waiting for examination and treatment in areas other than traditional emergency departments (that is, entrance,	A2402			

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A2402	<p>Continued From page 2</p> <p>admitting area, waiting room, treatment area) a sign (in a form specified by the Secretary) specifying the rights of individuals under section 1867 of the Act with respect to examination and treatment for emergency medical conditions and women in labor; and to post conspicuously (in a form specified by the Secretary) information indicating whether or not the hospital or rural primary care hospital (e.g., critical access hospital) participates in the Medicaid program under a State plan approved under Title XIX.</p> <p>This STANDARD is not met as evidenced by: Based on Emergency Department observations, the hospital failed to ensure required signage was posted conspicuously.</p> <p>The findings include:</p> <p>While conducting observations of the Emergency Department and areas in which patients may enter or be waiting to be seen by the emergency department providers between May 14, 2018 and May 15, 2018, it was noted that the signage in place was not conspicuous.</p> <p>Upon entering the emergency department (ED) walk in entrance adjacent to the security entrance, there was one sign noted that stated "Emergency Department Notices" which was obstructed and not in an area likely to be noticed by patients entering for ED services as there was a sign immediately in front of it stating: "MRI registration and waiting area."</p> <p>On the side of the ED registration window was a small 8.5 x 11 inch piece of paper which had wording stating, "IT'S THE LAW" in 4 different languages, but it was not of sufficient size or</p>	A2402		

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A2402	Continued From page 3 location to be seen or noticed by all entering. Within the ambulance entrance area was a small 8.5 x 11 inch piece of paper which had wording stating, "IT'S THE LAW" in 4 different languages, but it was not of sufficient size or location to be seen or noticed by all entering. This paper was covered in plastic and located directly above the heating control and on the wall between the emergency department entrance wall and a large glass encased bulletin board on the wall.	A2402			
A2405	EMERGENCY ROOM LOG CFR(s): 489.20(r)(3) [The provider agrees,] in the case of a hospital as defined in §489.24(b) (including both the transferring and receiving hospitals), to maintain a central log on each individual who comes to the emergency department, as defined in §489.24(b), seeking assistance and whether he or she refused treatment, was refused treatment, or whether he or she was transferred, admitted and treated, stabilized and transferred, or discharged. §489.24 The provisions of this regulation apply to all hospitals that participate in Medicare and	A2405			

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A2405	<p>Continued From page 4 provide emergency services.</p> <p>This STANDARD is not met as evidenced by: Based on record review, the facility failed to register all individuals in a central log who came to the emergency department seeking care, in 1 of 16 Emergency Department (ED) patients (Patient #1).</p> <p>Findings include:</p> <p>The Emergency Department log was received on 5/14/18 at approximately 5:18 PM. This log failed to identify an entry for Patient #1's name on October 28, 2017.</p> <p>A review of the Emergency Department security log provided on May 16, 2018 at approximately 1:40 PM, indicated entry 17-5156; that Patient #1 arrived at the hospital Emergency Department on October 28, 2017 at approximately 10:08 AM. Security log entry stated: "[Patient #1] JUST PRESENTED TO THE ER ...ADVISED THAT IF [HE/SHE] NEEDED TO BE SEEN TO REGISTER ... PT REFUSES TO COOPERATE AND IS ESCALATING. ESCORTED OUT OF ER @1020 BY [security]. LPD [police department] CALLED @ 1021. SUBJECT PLACED UNDER ARREST @ 1039."</p> <p>Document titled "LPD Statement Related to IR 17-5156" was provided on May 21, 2018 at approximately 2:45 PM. This document included a photograph of a police statement, dated October 28, 2017 at 10:45 AM, completed by RN #8. The police statement indicated: "[Patient #1] arrived to the Central Maine Medical center waiting room at approximately 10:15 AM. Upon registration [his/her] chief complaint was to</p>	A2405		

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A2405	Continued From page 5 demand an MRI exam for self reported brain cancer. [Patient #1] refused to proceed with the triage process and refused to self ambulate to an exam room for medical examination ... [Patient #1] has been medically evaluated for similar complaint recently and has been deemed mentally competent with most recent consultation of October 25, 2017. [Patient #1] has been told that if [he/she] can comply with the medical evaluation process [he/she] will be evaluated at any time. [He/She] is denying intent to self harm at this time."	A2405			
A2406	Document titled "Canceled Registration 2017.10.28" was provided on May 21, 2018 at approximately 2:45 PM. This document demonstrated that Patient #1 was registered to the Emergency Department on October 28, 2017 at 10:15 AM, although the ED log failed to show that patient registered on that date and time. MEDICAL SCREENING EXAM CFR(s): 489.24(a) & 489.24(c) Applicability of provisions of this section. (1) In the case of a hospital that has an emergency department, if an individual (whether or not eligible for Medicare benefits and regardless of ability to pay) "comes to the emergency department", as defined in paragraph (b) of this section, the hospital must (i) provide an appropriate medical screening examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition exists. The examination must be conducted by an individual(s) who is determined qualified by hospital bylaws or rules and	A2406			

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A2406	<p>Continued From page 6</p> <p>regulations and who meets the requirements of §482.55 of this chapter concerning emergency services personnel and direction; and</p> <p>(b) If an emergency medical condition is determined to exist, provide any necessary stabilizing treatment, as defined in paragraph (d) of this section, or an appropriate transfer as defined in paragraph (e) of this section. If the hospital admits the individual as an inpatient for further treatment, the hospital's obligation under this section ends, as specified in paragraph (d)(2) of this section.</p> <p>(2) Nonapplicability of provisions of this section. Sanctions under this section for inappropriate transfer during a national emergency or for the direction or relocation of an individual to receive medical screening at an alternate location do not apply to a hospital with a dedicated emergency department located in an emergency area, as specified in section 1135(g)(1) of the Act. A waiver of these sanctions is limited to a 72-hour period beginning upon the implementation of a hospital disaster protocol, except that, if a public health emergency involves a pandemic infectious disease (such as pandemic influenza), the waiver will continue in effect until the termination of the applicable declaration of a public health emergency, as provided for by section 1135(e)(1) (B) of the Act.</p> <p>(c) Use of Dedicated Emergency Department for Nonemergency Services If an individual comes to a hospital's dedicated emergency department and a request is made on his or her behalf for examination or treatment for a medical condition, but the nature of the request</p>	A2406		

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A2406	<p>Continued From page 7</p> <p>makes it clear that the medical condition is not of an emergency nature, the hospital is required only to perform such screening as would be appropriate for any individual presenting in that manner, to determine that the individual does not have an emergency medical condition.</p> <p>This STANDARD is not met as evidenced by: Based on record review, the facility failed to provide a screening examination to a patient who came to the emergency department seeking care in 1 of 16 (Patient #1) Emergency Department (ED) patient records reviewed.</p> <p>The finding includes:</p> <p>Patient #1 presented to the ED on October 28, 2017 at approximately 10:08 AM seeking emergency care. The patient reportedly was seeking an examination to rule out brain cancer. The patient was registered as an ED patient, however; was described as uncooperative with the nursing triage process and was removed from the ED by security and police prior to receiving a medical screening examination. Documentation provided by the hospital indicated that Patient #1 was arrested and removed from the hospital property. (See Tag A-2405).</p>	A2406			