



Office for People With Developmental Disabilities

ANDREW M. CUOMO
Governor

KERRY A. DELANEY
Acting Commissioner

Via Email, USPS Regular and Certified Mail

7015 1520 0000 8183 2603

7015 1520 0000 8183 2610

September 9, 2016

Mrs. Elizabeth McCarthy, Executive Director
Sheltering Arms Children and Family Services
305 Seventh Avenue
4th Floor
New York, NY 10001

Kenneth M Kramer, PRESIDENT
[REDACTED]

Re: Notification of Fine

Dear Mrs. McCarthy and Mr. Kramer:

This letter constitutes formal notification of a \$3,500 fine the New York State Office for People With Developmental Disabilities (OPWDD) is imposing against your agency, Sheltering Arms Children and Family Services (Sheltering Arms).

Pursuant to Mental Hygiene Law §16.17(g), the Commissioner may impose a fine upon a finding that the holder of the certificate has failed to comply with the terms of an operating certificate or with the provisions of any applicable statute, rule or regulation. Mental Hygiene Law specifies that the Commissioner may impose a fine of up to \$1,000 per day or \$15,000 for each violation. This process was explained in the OPWDD Accountability Initiative Memorandum dated June 1, 2011, a copy is enclosed.

The imposition of the fine is based on Sheltering Arms' continued non-compliance with regulatory requirements for incident reporting under 14 NYCRR Part 624 including but not limited to the following:

- failure to properly enter and update information into the OPWDD Incident Management Reporting Application (IRMA)
- failure to thoroughly investigate reportable incidents

Your agency was previously fined \$2,000 by OPWDD on February 18, 2016 for the same issues outlined above. (See attached letter). The accompanying chart details incidents that are either outstanding or incomplete. Since February 18, 2016, OPWDD has repeatedly notified your agency regarding the number of outstanding investigations, missing information with regard to reported incidents and the lack of updated information in IRMA for all incidents. Please be aware that OPWDD expects resolution of these outstanding incident management issues.

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 want a hearing, you must submit a written request within 30 days from service of notice of this proposed action. 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:

Kerry Delaney, Acting Commissioner
NYS Office for People With Developmental Disabilities
3rd Floor
44 Holland Avenue
Albany, NY 12229

Your written request for a hearing must include a copy of this letter. You should also submit a copy of your request to me. If you decide not to request a hearing, please remit payment of your fine immediately. The money should be sent in a lump sum payment. A check is the only acceptable form of payment. The check should be payable to OPWDD and forwarded to the following address:

OPWDD
Attn: Roger Bearden, General Counsel
Counsel's Office – 3rd floor
44 Holland Ave.
Albany NY 12229-0001

It is important to note that the imposition of this fine does not preclude OPWDD from taking further adverse action if your agency continues to fail to maintain compliance with OPWDD regulations. We appreciate your prompt response in addressing these concerns.

Sincerely,



Tamika R. Black, Ph.D.
Acting Deputy Commissioner
Division of Quality Improvement

Enclosures

cc: Board of Directors

Kerry Delaney, Acting Commissioner

Helene DeSanto, Acting Executive Deputy Commissioner

Megan O'Connor-Hebert, Deputy Commissioner, Division of Service Delivery

Roger Bearden, General Counsel

Abiba Kindo, Associate Deputy Commissioner

Donna Limiti, DDRO Region 4 Director

Brian O'Donnell, Regional Director, DQI

Leslie Fuld, Director, DQI/IMU

James Walrath, DQI