



Protecting, Maintaining and Improving the Health of All Minnesotans

Electronically delivered
July 18, 2019

Administrator
Bywood East Health Care
3427 Central Avenue Northeast
Minneapolis, MN 55418

RE: Project Numbers HE185057C, HE185058C, HE185059C, and HE185060C

Dear Administrator:

On June 28, 2019, an abbreviated standard survey was completed at your facility by the Minnesota Departments of Health and Public Safety, to determine if your facility was in compliance with Federal participation requirements for skilled nursing facilities and/or nursing facilities participating in the Medicare and/or Medicaid programs.

This survey found the most serious deficiencies in your facility to be isolated deficiencies that constituted no actual harm with potential for more than minimal harm that was not immediate jeopardy (Level D), as evidenced by the electronically attached CMS-2567 whereby corrections are required.

OPPORTUNITY TO CORRECT - DATE OF CORRECTION

The date by which the deficiencies must be corrected to avoid imposition of remedies is August 7, 2019.

ELECTRONIC PLAN OF CORRECTION (ePoC)

Within **ten (10) calendar days** after your receipt of this notice, you must submit an acceptable plan of correction (ePOC) for the deficiencies cited. An acceptable ePOC will serve as your allegation of compliance. Upon receipt of an acceptable ePOC, we will authorize a revisit to your facility to determine if substantial compliance has been achieved.

To be acceptable, a provider's ePOC must include the following:

- How corrective action will be accomplished for those residents found to have been affected by the deficient practice.
- How the facility will identify other residents having the potential to be affected by the same deficient practice.
- What measures will be put into place, or systemic changes made, to ensure that the deficient practice will not recur.
- How the facility will monitor its corrective actions to ensure that the deficient practice is being

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corrected and will not recur.

- The date that each deficiency will be corrected.
- An electronic acknowledgement signature and date by an official facility representative.

The state agency may, in lieu of a revisit, determine correction and compliance by accepting the facility's ePoC if the ePoC is reasonable, addresses the problem and provides evidence that the corrective action has occurred.

If an acceptable ePoC is not received within 10 calendar days from the receipt of this letter, we will recommend to the CMS Region V Office that one or more of the following remedies be imposed:

- Discretionary denial of payment for new Medicare and Medicaid admissions (42 CFR 88.417 (a));
- Civil money penalty (42 CFR 488.430 through 488.444).

Failure to submit an acceptable ePoC could also result in the termination of your facility's Medicare and/or Medicaid agreement (488.456(b)).

DEPARTMENT CONTACT

Questions regarding this letter and all documents submitted as a response to the resident care deficiencies (those preceded by an "F" tag), i.e., the plan of correction should be directed to:

Eva Loch, Unit Supervisor
Metro D Survey Team
Licensing and Certification Program
Health Regulation Division
Minnesota Department of Health
85 East Seventh Place, Suite 220
P.O. Box 64900
Saint Paul, Minnesota 55164-0900
Email: eva.loch@state.mn.us
Phone: (651) 201-3792
Fax: (651) 215-9697

PRESUMPTION OF COMPLIANCE - CREDIBLE ALLEGATION OF COMPLIANCE

The facility's ePoC will serve as your allegation of compliance upon the Department's acceptance. In order for your allegation of compliance to be acceptable to the Department, the ePoC must meet the criteria listed in the plan of correction section above. You will be notified by the Minnesota Department of Health, Licensing and Certification Program staff and/or the Department of Public Safety, State Fire Marshal Division staff, if your ePoC for the respective deficiencies (if any) is acceptable.

VERIFICATION OF SUBSTANTIAL COMPLIANCE

Upon receipt of an acceptable ePoC, a Post Certification Revisit (PCR), of your facility will be conducted to validate that substantial compliance with the regulations has been attained in accordance with your verification.

If substantial compliance has been achieved, certification of your facility in the Medicare and/or Medicaid program(s) will be continued and remedies will not be imposed. Compliance is certified as of the latest correction date on the approved ePoC, unless it is determined that either correction actually occurred between the latest correction date on the ePoC and the date of the first revisit, or correction occurred sooner than the latest correction date on the ePoC.

FAILURE TO ACHIEVE SUBSTANTIAL COMPLIANCE BY THE THIRD OR SIXTH MONTH AFTER THE LAST DAY OF THE SURVEY

If substantial compliance with the regulations is not verified by September 28, 2019 (three months after the identification of noncompliance), the CMS Region V Office must deny payment for new admissions as mandated by the Social Security Act (the Act) at Sections 1819(h)(2)(D) and 1919(h)(2)(C) and Federal regulations at 42 CFR Section 488.417(b).

In addition, if substantial compliance with the regulations is not verified by December 28, 2019 (six months after the identification of noncompliance) your provider agreement will be terminated. This action is mandated by the Social Security Act at Sections 1819(h)(2)(C) and 1919(h)(3)(D) and Federal regulations at 42 CFR Sections 488.412 and 488.456.

Please note that this notice does not constitute formal notice of imposition of alternative remedies or termination of your provider agreement. Should the Centers for Medicare & Medicaid Services determine that termination or any other remedy is warranted, it will provide you with a separate formal notification of that determination.

INFORMAL DISPUTE RESOLUTION (IDR) / INDEPENDENT INFORMAL DISPUTE RESOLUTION (IIDR)

In accordance with 42 CFR 488.331, you have one opportunity to question cited deficiencies through an informal dispute resolution process. You are required to send your written request, along with the specific deficiencies being disputed, and an explanation of why you are disputing those deficiencies, to:

Nursing Home Informal Dispute Process
Minnesota Department of Health
Health Regulation Division
P.O. Box 64900
St. Paul, Minnesota 55164-0900

This request must be sent within the same ten days you have for submitting an ePoC for the cited deficiencies. All requests for an IDR or IIDR of federal deficiencies must be submitted via the web at: https://mdhprovidercontent.web.health.state.mn.us/lrc_idr.cfm

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You must notify MDH at this website of your request for an IDR or IIDR within the 10 calendar day period allotted for submitting an acceptable electronic plan of correction. A copy of the Department's informal dispute resolution policies are posted on the MDH Information Bulletin website at: https://www.health.state.mn.us/facilities/regulation/infobulletins/ib04_8.html

Please note that the failure to complete the informal dispute resolution process will not delay the dates specified for compliance or the imposition of remedies.

Please note, it is your responsibility to share the information contained in this letter and the results of this visit with the President of your facility's Governing Body.

Feel free to contact me if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas Larson", with a long horizontal flourish extending to the right.

Douglas Larson, Enforcement Specialist
Minnesota Department of Health
Licensing and Certification Program
Program Assurance Unit
Health Regulation Division
Telephone: 651-201-4118 Fax: 651-215-9697
Email: doug.larson@state.mn.us

cc: Licensing and Certification File

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

PRINTED: 08/06/2019
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 24E185	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 06/28/2019
NAME OF PROVIDER OR SUPPLIER BYWOOD EAST HEALTH CARE			STREET ADDRESS, CITY, STATE, ZIP CODE 3427 CENTRAL AVENUE NORTHEAST MINNEAPOLIS, MN 55418		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE	
F 000	INITIAL COMMENTS On 6/27/19-6/28/19, an unannounced abbreviated survey was completed at your facility to conduct a complaint investigation. Bywood East was not in compliance with 42 CFR Part 483, Requirements for Long Term Care Facilities. The following complaints were substantiated: HE185057C with no deficiencies written HE185059C with no deficiencies written HE185060C at F740 The following complaint was not substantiated: HE185058C The facility's plan of correction (POC) will serve as your allegation of compliance upon the Department's acceptance. Because you are enrolled in ePOC, your signature is not required at the bottom of the first page of the CMS-2567 form. Your electronic submission of the POC will be used as verification of compliance. Upon receipt of an acceptable electronic POC, an on-site revisit of your facility may be conducted to validate that substantial compliance with the regulations has been attained in accordance with your verification.	F 000			
F 740 SS=D	Behavioral Health Services CFR(s): 483.40 §483.40 Behavioral health services. Each resident must receive and the facility must provide the necessary behavioral health care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care. Behavioral health	F 740			8/15/19

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

TITLE

(X6) DATE
07/26/2019

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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F 740	<p>Continued From page 1 encompasses a resident's whole emotional and mental well-being, which includes, but is not limited to, the prevention and treatment of mental and substance use disorders. This REQUIREMENT is not met as evidenced by:</p> <p>Based on observation, interview and record review, the facility failed to implement behavioral interventions for 1 of 2 residents reviewed (R1) who had recently displayed an increase in agitation.</p> <p>Findings include:</p> <p>According to facility run facesheet R1 was readmitted to facility on 1/17/19 and had a medical diagnosis of paranoid schizophrenia.</p> <p>On 6/27/19, at 11:47 a.m. R1 was observed in smoking room inside the facility smoking calmly.</p> <p>On 6/27/19, at 11:48 a.m. trained medication aide (TMA)-A stated if someone confronted R1 or if R1 felt as if someone "gets in her face" she will hit. TMA-A stated R1's behaviors could happen anywhere such as by the elevators, smoke room in the building or smoking areas outside. TMA-A stated if R1 had behaviors staff would just remove her from the situation.</p> <p>On 6/27/19, at 2:50 p.m. R1 was sitting in smoking area in the front of the building, and had an adhesive bandage on nose. R1 stated the bandage was from her getting into a fight with R2. R1 stated R2 stated "f--- you" and hit her in the face. R1 stated she then kicked R2 in the stomach. R1 stated she did not start the fight but acknowledged she was upset that R2 sat down on the same bench that she was sitting on and</p>	F 740	<p>The resident care plan was for R1 and R2 will be updated by August 1, 2019 to reflect the approaches to her behaviors.</p> <p>R2 recently agreed to participate in the inpatient chemical dependency program and has attended several sessions.</p> <p>The Director of Social Services will write a letter to the R1s psychiatrist that enumerates the behaviors and requesting orders for a change in current treatment by August 9, 2019. Although the psychiatrist has been verbally notified, it may not be apparent the number and extent of behaviors.</p> <p>When the counselor comes weekly from the Associated Clinic of Psychology, they meet with the Director of Social Services and the Director of Nursing after they have completed their visits to update them and recommend interventions. The facility process has been changed so that additionally, when the counselor written report comes in from Associated Clinic of Psychology, the recommendations to be implemented will be added to the medical chart for better communication to all of the staff. This will be implemented with any reports received August 1, 2019 and later.</p> <p>To ensure that commitment renewals are</p>		

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F 740	<p>Continued From page 2 that was how their verbal exchange started.</p> <p>R1's facility reports to the state agency (SA) indicated the following information: - 5/7/19, at 6:25 p.m. R1 threw a cigarette at R4 and it hit him. R4 pushed R1 and she fell to the floor in the smoke room. No injuries were noted. R1 and R4 were banned from smoking room for one week. -5/21/19, at 10:40 a.m. R1 brushed past R3 on the elevator and patted R3 on her hand. R3 hit R1 who hit back. No injuries were reported. Elevator etiquette was reviewed with residents. - 6/18/19, at 1:37 p.m. R1 hit R2 when she would not move from her spot on the smoking area and R2 hit Laurel back. R1 had a scratch on the bridge of her nose as a result of this altercation. R2 was asked to avoid R1 and she agreed. The reports to SA did not indicate any behavioral interventions for R1 as a result of any of these altercations.</p> <p>R1's ACP note dated 5/21/19 indicated that R1 was more likely to engage in an altercation when she was attempting to get something done such as going to smoke, meal, activity, etc. It recommended considering offering assistance to destinations, particularly when R1 was more irritable to help prevent altercations.</p> <p>R1's care plan printed 6/28/19, did not indicate any interventions for R1's aggressive behaviors or any updates after R1's recent altercations with other residents.</p> <p>R1's record review revealed R1 had been on court ordered commitment which started on 12/11/18.</p>	F 740	<p>tracked and followed up appropriately, all commitments on file for our residents are being reviewed by Medical Records and a tickler reminder system for renewals is set up. Upon receipt of a commitment, Medical Records will ensure that we have the name and contact information of the Case Manager in our records so that they can be easily updated. The social workers will keep in communication with the case managers to update them for all residents, especially during the last quarter prior to the commitment expiration.</p> <p>A new Social Service assessment is being developed and will be implemented for all new residents beginning on August 12, 2019, 2019. The assessment will be implemented for all current residents at the time of their quarterly assessment going forward until all are completed.</p> <p>The Director of Nursing and Director of Social Services met 7/23/19 to review in detail the interpretive guidelines for F 740 as well as the Critical Elements for Behavioral and Emotional Status to better educate ourselves for the expectations of the regulation.</p> <p>The Interdisciplinary Committee will be in-serviced at the August 7 meeting as will the professionals nurses on ideas for behavioral interventions to be used with the residents.</p> <p>To monitor, the DON or designee will audit that the counselor's</p>		

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F 740	<p>Continued From page 3</p> <p>On 6/27/19, at 2:49 p.m. TMA-B stated R1 would frequently become upset about her cigarettes. In the evening many times after R1 had a cigarette, she would immediately want another one however R1 was care planned for only one cigarette an hour. TMA-B further explained that when R1 was told she could not have another cigarette at that time R1 would start yelling and had hit TMAs before. TMA-B stated she would speak to R1 in a calm voice but nothing helped calm R1 down much after she became upset. TMA-B stated sometimes they would give her another cigarette after 45 minutes instead of an hour and that was the only thing that calmed her down.</p> <p>On 6/27/19, at 3:16 p.m. licensed practical nurse (LPN)-A stated R1 was officially off court ordered electroconvulsive therapy (ECT). LPN-A stated she just found out earlier a few weeks ago when the ECT clinic told the facility they would not schedule R1 for anymore ECT due to R1 not being competent to consent, not having a guardian and not having a court order anymore. LPN-A stated she did not know who in the facility kept track of court ordered commitments and if the facility had any input in if they should be continued. LPN-A stated when she found out, she left a message for the social worker (SW-A) and that the director of nursing (DON) was aware. LPN-A explained that when R1 was living in the facility last year, her behaviors were mainly having hallucinations. LPN-A further explained that R1 had a major mental episode late 2018 and was hospitalized for months and when she came back to the facility she was on the court ordered ECT. LPN-A stated upon coming back to the facility R1's major behaviors including verbal and physical aggression. LPN-A stated the last</p>	F 740	<p>recommendations are documented by Social Services in the progress notes and that the care plans are updated. The results of the audits will be reported at the next two QAPI meetings in October 2019 and in January 2020 and the committee will decide in January if the audits need to continue.</p>		

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F 740	<p>Continued From page 4</p> <p>few weeks R1's behaviors had really spiraled downward and that she had been refusing her ECT treatment and other things. LPN-A stated it was difficult to anticipate when R1 would have a behavioral outburst but also explained that R1 was very territorial about her belongings and personal space. LPN-A explained that R1 had a few behavioral incidents recently with other residents, one was in the smoking room and recently one in front of the building with another resident. LPN-A stated she had watched the video and it appeared that R2 had sat in between R1 and the wall and LPN-A thought that was what upset R1. LPN-A further stated a verbal exchange and "slap fight" had then happened between R1 and R2.</p> <p>On 6/28/19 at 10:43 a.m. the social worker (SW) -A was interviewed. SW-A stated she had been working at facility since January 2019 and did not work there every day. SW-A confirmed that R1's court ordered commitment which included ECT treatments had ended. SW-A stated R1 would now have to decompensate in order to have the process for recommitment started again. SW-A stated R1's community case worker talked with R1's psychiatrist and they made the decision together about 6 weeks ago to not extend R1's commitment. SW-A stated she did not know who R1's case worker was and only found out a few weeks ago when she was meeting with this case worker in regards to another resident at the facility. SW-A stated at that time the case worker told SW-A that she was not going to attempt to extend R1's commitment. SW-A stated she and the DON talked to case worker about extending R1's commitment because R1 had been stable with the ECT treatments but by that time it was too late. SW-A stated the process had to be</p>	F 740			

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F 740	<p>Continued From page 5</p> <p>started about 6 weeks before the scheduled end of the commitment. SW-A stated she did not know when R1's court ordered ECT started. SW-A explained that court ordered commitments from Minnesota lasted 6 months from the start date and that was why there was no end date listed on the document. SW-A also stated when R1 had psychology (ACP) visits the documents were uploaded into the medical record but they were not reviewed by specific staff until quarterly care plan review was done.</p> <p>On 6/28/19, at 12:52 p.m. DON stated after hospitalization last year R1 returned to the facility with court ordered ECT once per week. DON stated in May R1's psychiatrist decreased her ECT treatments to every 2 weeks and since then R1 has had increased behaviors. DON stated she was not aware that R1's commitment ended until after it stopped. DON explained that she did not know it was going to end, she looked at the commitment order but it had no end date. DON further explained she thought the commitment would be for a year. DON stated she talked with R1's case manager and psychiatrist in May regarding R1's increased behaviors, however it was too late to continue to commitment order and ECT treatments at that time. DON explained that now the facility was expecting R1 to have increased behaviors due to her commitment ending. DON stated there was not anything seemed to precipitate R1's aggressive episodes and that smoking helped calm her down. DON stated recently R1 got into an altercation with R2 in front of building. DON stated she thought it was from R1 feeling like R2 had "sat in her space." DON stated after the incident, she spoke with R2 who was okay with staying away from R1. DON did not indicate any behavioral interventions in</p>	F 740			

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F 740	<p>Continued From page 6</p> <p>place for R1 as a result of this altercation. DON stated ACP saw R1 after her recent altercations and the notes were uploaded into R1's medical record. DON stated there was not a system for reviewing recommendations from ACP and that sometimes they were reviewed in interdisciplinary team meetings and sometimes not until care plans were reviewed.</p> <p>A policy regarding behavioral monitoring was requested but not provided.</p> <p>A policy titled Vulnerable Adult Abuse Prevention Policy revised 4/2019 was provided. It indicated the facility shall make reasonable efforts to determine the source of the suspected maltreatment and take corrective action consistent with the investigative findings to eliminate any on-going danger to the residents.</p>	F 740			



Protecting, Maintaining and Improving the Health of All Minnesotans

July 18, 2019

Administrator
Bywood East Health Care
3427 Central Avenue Northeast
Minneapolis, MN 55418

Re: Project Number(s) HE185057C, HE185058C, HE185059C, HE185060C

Dear Administrator:

The above facility survey was completed on June 28, 2019 for the purpose of assessing compliance with Minnesota Department of Health Nursing Home Rules. At the time of the survey, the survey team from the Minnesota Department of Health - Health Regulation Division noted no violations of these rules promulgated under Minnesota Stat. § 144.653 and/or Minnesota Stat. § 144A.10.

Attached is the Minnesota Department of Health order form stating that no violations were noted at the time of this survey. The Minnesota Department of Health is documenting the State Licensing Correction Orders using federal software. Please disregard the heading of the fourth column which states, "Provider's Plan of Correction." This applies to Federal deficiencies only. There is no requirement to submit a Plan of Correction.

Please note it is your responsibility to share the information contained in this letter and the results of this visit with the President of your facility's Governing Body.

Please feel free to call me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Douglas Larson'.

Douglas Larson, Enforcement Specialist
Minnesota Department of Health
Licensing and Certification Program
Program Assurance Unit
Health Regulation Division
Telephone: 651-201-4118 Fax: 651-215-9697
Email: doug.larson@state.mn.us

cc: Licensing and Certification File

Minnesota Department of Health

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NAME OF PROVIDER OR SUPPLIER BYWOOD EAST HEALTH CARE	STREET ADDRESS, CITY, STATE, ZIP CODE 3427 CENTRAL AVENUE NORTHEAST MINNEAPOLIS, MN 55418
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
2 000	<p>Initial Comments</p> <p>*****ATTENTION*****</p> <p>NH LICENSING CORRECTION ORDER</p> <p>In accordance with Minnesota Statute, section 144A.10, this correction order has been issued pursuant to a survey. If, upon reinspection, it is found that the deficiency or deficiencies cited herein are not corrected, a fine for each violation not corrected shall be assessed in accordance with a schedule of fines promulgated by rule of the Minnesota Department of Health.</p> <p>Determination of whether a violation has been corrected requires compliance with all requirements of the rule provided at the tag number and MN Rule number indicated below. When a rule contains several items, failure to comply with any of the items will be considered lack of compliance. Lack of compliance upon re-inspection with any item of multi-part rule will result in the assessment of a fine even if the item that was violated during the initial inspection was corrected.</p> <p>You may request a hearing on any assessments that may result from non-compliance with these orders provided that a written request is made to the Department within 15 days of receipt of a notice of assessment for non-compliance.</p> <p>INITIAL COMMENTS: On 6/27/19-6/28/19 surveyors of this Department's staff visited the above provider for a complaint investigation to investigate complaint HE185057C, HE185058C, HE185059C, HE185060C. No correction orders were issued</p> <p>The facility is enrolled in the electronic Plan of</p>	2 000		

Minnesota Department of Health
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

Electronically Signed

TITLE

(X6) DATE
07/26/19

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 00176	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 06/28/2019
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NAME OF PROVIDER OR SUPPLIER BYWOOD EAST HEALTH CARE	STREET ADDRESS, CITY, STATE, ZIP CODE 3427 CENTRAL AVENUE NORTHEAST MINNEAPOLIS, MN 55418
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
2 000	Continued From page 1 Correction (ePoC) and therefore a signature is not required at the bottom of the first page of the State form. Although no plan of correction is required, it is required that you acknowledge receipt of the electronic documents.	2 000		