

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

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTIONS		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION A. BUILDING B. WING	(X3) DATE SURVEY COMPLETED 03/11/2024
NAME OF PROVIDER OR SUPPLIER SILVER BIRCH OF MISHAWAKA		STREET ADDRESS, CITY, STATE, ZIP CODE 3630 HICKORY ROAD, MISHAWAKA, , 46545		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES...	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION...	(X5) COMPLETION DATE
R 0000	INITIAL COMMENTS This visit was for the Investigation of Complaints IN00429653, IN00429494, and IN00426578. Complaint IN00429653 - State deficiency related to the allegations is cited at R0035. Complaint IN00429494 - State deficiency related to the allegations is cited at R0035. Complaint IN00426578 - No deficiencies related to the allegations are cited. Survey date: March 7, 8, & 11, 2024 Facility number: 014260 Residential Census: 110 This State Residential Finding is cited in accordance with 410 IAC 16.2-5.	R 0000		
R 0035	Residents' Rights - Deficiency	R 0035	1	03/22/2024

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410 IAC 16.2-5-1.2(j)(1-7)

(j) Residents have the right to the following:

(1) Participate in the development of his or her service plan and in any updates of that service plan.

(2) Choose the attending physician and other providers of services, including arranging for on-site health care services unless contrary to facility policy. Any limitation on the resident's right to choose the attending physician or service provider, or both, shall be clearly stated in the admission agreement. Other providers of services, within the content of this subsection, may include home health care agencies, hospice care services, or hired individuals.

(3) Have a pet of his or her choice, so long as the pet does not pose a health or safety risk to residents, staff, or visitors or a risk to property unless prohibited by facility policy. Any limitation on the resident's right to have a pet of his or her choice shall be clearly stated in the admission agreement.

(4) Refuse any treatment or service, including medication.

(5) Be informed of the medical consequences of a refusal under subdivision (4) and have such data recorded in his or her clinical record if treatment or medication is administered by the facility.

(6) Be afforded confidentiality of treatment.

What corrective action(s) will be accomplished for those residents found to have been affected by the deficient practice: Resident potentially affected by alleged deficiencies has seen new provider and continues to see provider of his choice.

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How the facility will identify other residents having the potential to be affected by the same deficient practice and what corrective action will be taken: All residents have the potential to be affected by alleged deficiency. A thorough review of appointments requested by residents for the Community to schedule and/or appointments that the Community is aware of per resident/representative notification have been reviewed; there were no additional incidents noted of cancelled and/or rescheduled appointments facilitated by Community staff without resident involvement or awareness.

What measures will be put into place or what systemic changes the facility will make to ensure that the deficient

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(7) Participate or refuse to participate in experimental research. There must be written acknowledgement of informed consent prior to participation in research activities.

Based on interview and record review, the facility failed to honor the right of a resident to choose their own attending physician, related to the facility canceling an appointment that was made at the resident's request with a physician outside of the facility, for 1 of 3 residents reviewed for Resident Rights. (Resident F)

Finding includes:

On 3/7/24 at 1:30 P.M., Resident F's clinical records were reviewed.

Resident F was admitted to the facility on 5/11/22. Diagnoses included, but were not limited to, frontal lobe and executive function deficit, encephalopathy, repeated falls, and weakness.

Resident F's Admission Record indicated he was his own responsible party, and a review of a Care Plan relating to the resident's cognition, dated 11/1/22, indicated Resident F made safe judgments and functioned appropriately in social situations.

During an interview, on 3/7/24 at 1:45 P.M., the Administrator

practice does not recur?

The Director of Nursing & Wellness, or designee, will audit appointments that staff assist with scheduling or appointments that residents make clinical staff aware of, along with auditing documentation weekly to ensure that no appointments are cancelled without resident request and/or due to unforeseen external circumstances (provider cancellation, third party transportation barriers, etc.)

How the corrective action(s) will be monitored to ensure the deficient practice will not recur, i.e., what quality assurance program will be put into place:

The DONW, or designee, will audit appointments and documentation for appointments that Community staff assist with scheduling or appointments that residents make staff aware to ensure that no appointments are cancelled without resident request and/or due to unforeseen external circumstances(provider

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FORM APPROVED

OMB NO. 0938-0391

indicated the facility had not canceled any appointments Resident F made, but believed the facility canceled an appointment made by another resident on his behalf. The Administrator indicated Resident F's Emergency Contact requested that the facility cancel the appointment. The Administrator indicated Resident F has the right to choose his own physician.

During an interview, on 3/8/24 at 11:07 A.M., Resident F indicated the facility canceled an appoint he had on 2/27/24 with a physician outside of the facility, that he gave permission for his friend to make on his behalf. Resident F indicated his friend drove him to his physician's office and was told by the office staff that the facility canceled his appointment at his Emergency Contact's request. Resident F indicated his Emergency Contact did not make decisions for him and is not his Power of Attorney for medical or financial decisions.

cancellation, third party transportation barriers, etc.) on the following sequence: [weekly]; additionally, the DONW, or designee, will ensure that the resident, or representative, if applicable, is notified if an external circumstance results in the cancellation of an appointment along with rescheduling support (if requested). The audit will be conducted weekly for 8 weeks, biweekly for 2 months, and then once monthly for 2 months. Any identified opportunities will be formally addressed by the DONW at the time of discovery and shared with the QA Committee during the Monthly QA Committee Meetings. The QA Committee will determine if continued audits are necessary following this sequence.

Systematic changes will be in effect by 3/22/24. The facility respectfully requests a paper compliance review.

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During a phone interview with Resident F's physician's nurse, on 3/11/24 at 9:57 A.M., she indicated Resident F had an appointment scheduled at the office on 2/27/24, and on that day, the facility called and canceled the appointment at the request of the resident's Emergency Contact.

A policy titled, "Statement of Resident Rights," dated 2/12/20, was provided by the Administrator, who indicated it was the current facility policy and the same policy that was included in resident's lease agreements on admission. The policy indicated, "...Residents shall be afforded all rights guaranteed under the Constitutions of the United States and the State of Indiana...Each resident shall have the right to:...Choose the attending physician and other providers of services..."

This citation relates to Complaints IN00429494 and IN00429653.

Based on interview and record review, the facility failed to honor the right of a resident to choose their own attending physician, related to the facility canceling an appointment that was made at the resident's request with a physician outside of the facility, for 1 of 3 residents reviewed for Resident Rights.

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(Resident F)

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Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting provided it is determined that other safeguards provide sufficient protection to the patients. (See instructions.)

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

TITLE

(X6) DATE