DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Survey & Operations Group
San Francisco & Seattle Survey & Enforcement Division
San Francisco Regional Office
90 7th Street, Suite 5-300 (5W)
San Francisco, CA 94103

Refer to: SFSSED-PJ

Sent via E-MAIL to : Eroshospice@gmail.com, Aida.Kekejyan@yahoo.com, and JApril408@gmail.com

IMPORTANT NOTICE -PLEASE READ CAREFULLY

December 20, 2023

Jacob Barsegian, COO/Director of Quality
Eros Hospice, Inc.
9795 Cabrini Drive, Suite 203A
Burbank, CA 91504

RE: **CMS Certification Number (CCN): B21605 / Complaint Intake #: CA0099407 and 49407 Involuntary Termination of Medicare Provider Agreement After Complaint Revisit Survey on October 11-13, 2023; 23-Day Fast Track Termination by CMS Letter dated October 19, 2023 - Unabated IJ; Five Conditions of Participation not met; Termination Date: December 23, 2023**

Dear Mr. Barsegian:

After careful review, the Centers for Medicare & Medicaid Services (CMS) has determined that Eros Hospice, Inc. continued to no longer qualifies for participation as a hospice agency in the Medicare program established under Title XVIII, Section 1861(b) of the Social Security Act (the Act). Therefore, your Medicare agreement will be terminated effective 12:01 a.m. Pacific Daylight Time on **December 23, 2023.**

CMS has notified Eros Hospice, Inc. by letter dated August 15, 2023, that on July 11-13, 2023, a Medicare complaint validation survey found three Medicare Conditions of Participation (CoPs) (specifically 42 Code of Federal Regulations (C.F.R.) §§ 418.52-Patient's Rights; 418.54-Initial & Comprehensive Assessment of the Patient; and 418.64-Core Services) not met. The California Department of Public Health (CDPH) received an untimely acceptable plan of correction and CMS authorized a revisit survey.

CMS again notified Eros Hospice, Inc. by letter dated October 19, 2023, that on October 11-13, 2023, a Medicare complaint revisit survey conducted by CDPH found, under 42 C.F.R. § 418.54(a)-Initial Assessment, that your facility was not in substantial compliance with the participation requirements, and the conditions in your facility constituted immediate jeopardy (IJ) to resident health or safety and requested an acceptable Immediate Jeopardy removal plan (IJRP) be submitted by close of business on October 24, 2023, to CDPH and CMS. The CMS request and the CDPH numerous requests for IJRP remained unanswered, CMS will be moving forward with termination.

The Medicare complaint revisit survey at Eros Hospice, Inc. was completed by CDPH on October 11-13, 2023. The survey also documented that Eros Hospice, Inc. was in violation of the following five (5) Conditions of Participation (CoPs):

42 C.F.R. § 418.52	Patient's Rights
42 C.F.R. § 418.54	Initial & Comprehensive Assessment of Patient
42 C.F.R. § 418.56	Interdisciplinary Group (IDG), Care Planning, & Coordination of Services
42 C.F.R. § 418.102	Medical Director
42 C.F.R. § 418.104	Clinical Records

As you are aware, to participate in the Medicare program, a hospice must be in compliance with each of the applicable regulatory CoPs for hospice services at 42 C.F.R. Part 418.

Termination of Provider Agreement

CMS has determined that Eros Hospice, Inc. and the deficiencies documented by the October 11-13, 2023, survey either individually or in combination substantially limit the hospice's capacity to render adequate care or adversely affect patient health and safety, thus establishing a basis under 42 C.F.R. § 488.24(b) for concluding that the above-referenced Conditions of Participation are not met.

Therefore, because Eros Hospice, Inc. is not in compliance with all applicable Conditions of Participation set forth at 42 C.F.R. Part 418, as established by the complaint revisit survey, we are terminating Medicare coverage effective **12:01 a.m. Pacific Daylight Time, December 23, 2023**. *See* Social Security Act § 1866(i); *see also* 42 C.F.R. §§ 488.24(b), 488.24(c), 488.26(b), 488.28, 489.53(a)(1) & (3).

There will be no payment for inpatient services rendered to Medicare and/or Medicaid beneficiaries admitted on or after **12:01 a.m. Pacific Daylight Time, December 23, 2023**. To facilitate the appropriate movement and placement of Medicare and/or Medicaid patients in your facility upon termination of your Medicare provider agreement, payments for services to Medicare and/or Medicaid residents who were admitted to your facility prior to the effective date of termination may be permitted for up to a maximum of thirty (30) days after the effective date of termination. *See* 42 C.F.R. § 489.55(a)(1).

Public Notice

In accordance with 42 C.F.R. § 488.456(c), CMS is required to provide the general public with notice of an impending termination and will publish a notice prior to the effective date of termination. Public notice of termination will be published on the CMS Website at https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html on or before December 20, 2023. *See Agreement Termination Notices Final Rule (CMS-1677-F).*

Application for Readmission Following Involuntary Termination
Once terminated, Eros Hospice, Inc. may apply for reinstatement. *See* 42 C.F.R. § 489.57. However, a new agreement will not be accepted unless CMS determines that the reason for termination of the previous agreement has been removed and that there is "reasonable assurance" that the hospice can maintain compliance with all applicable Conditions of Participation. 42 C.F.R. § 489.57(a). Compliance will be verified by on-site surveys conducted at the beginning and end of a reasonable assurance period determined by CMS. This period will be a minimum of 90 days. Prior to issuance of a new provider agreement the hospice also must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of its previous agreement (including resolution of all outstanding financial obligations due the Medicare program). 42 C.F.R. § 489.57(b). Additionally, before readmission to the Medicare program, you must demonstrate your ability to comply with all pertinent requirements of Title XVIII of the Social Security Act (including your financial ability to provide the services required for Medicare participation). *See, e.g.*, 42 C.F.R. § 489.12(a)(4); *See generally* 42 C.F.R. Part 489, Subpart B.

Assuming substantial compliance with participation requirements is documented at the beginning and end of the reasonable assurance period, and assuming all other federal requirements are met, Medicare certification and reimbursement will begin following the conclusion of the reasonable assurance period in accordance with the terms of 42 C.F.R. § 489.13.

Appeal Rights
If you disagree with this action imposed on your facility, you or your legal representative may request a hearing before an administrative law judge of the Department of Health and Human Services, Departmental Appeals Board (DAB). Procedures governing this process are set out in 42 C.F.R. 498.40, et seq. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at https://dab.efile.hhs.gov no later than sixty (60) days after receiving this letter. Specific instructions on how to file electronically are attached to this notice. A copy of the hearing request shall be submitted electronically via Email: ROSFOSO@cms.hhs.gov Attn: Renae Hill.

Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted as of October 1, 2014, unless you do not have access to a computer or internet service. In those circumstances you may call the Civil Remedies Division to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed **no later than sixty (60) days after receiving this letter**, by mailing to the following address:

Department of Health & Human Services
Departmental Appeals Board, MS 6132
Director, Civil Remedies Division
330 Independence Avenue, S.W.
Cohen Building – Room G-644
Washington, D.C. 20201
(202) 565-9462

A request for a hearing should identify the specific issues, findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. At an appeal hearing, you may be represented by counsel at your own expense.

If you have any questions, please contact Renae Hill, Manager, CMS San Francisco & Seattle Acute and Continuing Care Branch at (206) 615-2041 or by email at ROSFOSO@cms.hhs.gov ATTN: Renae Hill.

Sincerely,

Renae Hill
Acting Director
San Francisco/Seattle Survey & Enforcement Division
Survey & Operations Group
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services

Enclosures: CMS-2567 form Statement of Deficiencies (53 pages)

cc: California Department of Public Health Los Angeles HH/Hospice Unit
State Medicaid Agency
Accreditation Commission for Health Care (ACHC)