NEW YORK STATE | Office for People With Developmental Disabilities

KATHY HOCHUL
Governor

WILLOW BAER
Acting Commissioner

March 28, 2025

VIA USPS CERTIFIED MAIL & EMAIL

Diane Baehre, Executive Director
Empower - United Cerebral Palsy of Niagara County, Inc.
9812 Lockport Road
Niagara Falls, NY 14304

Russell J. Petrozzi, President, Board of Directors
[redacted]

Re: Agency Placement on Early Alert

Dear Ms. Baehre and Mr. Petrozzi:

The purpose of this letter is to formally notify you that United Cerebral Palsy of Niagara County, Inc., (Doing Business as, Empower) was placed on Early Alert effective March 21, 2025, due to programmatic concerns identified by the Division of Quality Improvement.

To ensure that individuals with developmental disabilities in New York State receive appropriate services and protections, the Office for People With Developmental Disabilities (OPWDD) established the Early Alert Committee. The purpose of the Early Alert process is to monitor the performance of providers that have not maintained compliance with applicable laws and regulations that may affect the health and safety of individuals receiving services.

OPWDD placed your agency on Early Alert due to egregious and systemic deficiencies found during recent site reviews at the agency's certified residences. The following programmatic concerns were identified by the Bureau of Program Certification (BPC) and the Incident Management Unit (IMU), including but not limited to the following:

A 60-day letter was issued at the ICF located at [redacted], in December 2024, where BPC identified the facility was not in compliance with Conditions of Participation related to Governing Body, Client Protections and Active Treatment. The agency failed to prevent a pattern of 35 significant incidents of abuse, neglect and mistreatment. This includes not implementing pica safeguards resulting in an individual ingesting plastic; aggression between staff injuring an individual in a wheelchair; allowing people to sit in soiled/wet clothing for extended periods of time; inadequate staffing/levels of supervision resulting in an individual being found outside unsupervised; and an individual's death following a bowel obstruction.

In March 2025, immediate jeopardy was declared at the Niagara ICF located at [redacted], due to the agency's failure to treat and monitor three individuals having skin breakdown/wounds. The facility failed to develop and implement clear instructions for staff for the care, treatment and monitoring of these individuals' wounds. Staff failed to implement the recommendations for the frequent turning and re-positioning these individuals required.

In addition, the agency has not maintained regulatory compliance in many areas of incident management including completing timely and thorough IRMA entries, providing appropriate immediate protections, and completing thorough investigations and required corrective actions plans (CAPS). The agency currently has over 100 open incidents in IRMA dating back to February 2024.

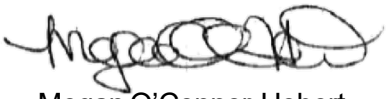
In September 2024, the agency received a Statement of Deficiencies from the Incident Management Unit (IMU) for not meeting the standard of completing investigations within the required time frames. The agency's compliance rate at the time was 50%. In November 2024, based on concerns related to the quality of the agency's investigations, the Office of Investigations and Internal Affairs (OIIA) had to intervene and take over several of the agency's investigations. In December 2024, following OIIA's on-site investigations, OIIA had significant concerns and reassigned 41 of the agency's incidents to their office for completion. As of March 11, 2025, OIIA has completed 25 investigations, 9 allegations of abuse/neglect were substantiated, and 6 significant incidents were founded.

While on Early Alert, OPWDD will monitor the agency's progress in remediating areas of non-compliance and will determine when the agency has demonstrated that compliance has been systemically achieved and has effective systems in place to maintain on-going compliance. During this time, OPWDD will not consider any agency requests for expansion of services and suspend any expansion that is in process.

Representatives from OPWDD will meet with the agency's leadership and board of directors to further discuss these concerns, the Early Alert process and OPWDD's expectations.

If you have any questions prior to the meeting, please contact Chad Mitchell, Regional Director, Bureau of Program Certification at: Chad.M.Mitchell@opwdd.ny.gov.

Sincerely,



Megan O'Connor-Hebert
Deputy Commissioner
Division of Quality Improvement

cc: Board of Directors
Willow Baer, Acting Commissioner
Eileen Haynes, Deputy Commissioner and General Counsel
Joshua Olsen, Deputy Counsel, Counsels Office
Erica Pandolfo, Associate Counsel, Counsels Office
Angela Hernandez, Senior Attorney, Counsels Office
Mary Jane Vogel, Deputy Director, Division of Quality Improvement
Brian O'Donnell, Statewide Director, Bureau of Program Certification
Robert Borchers, Deputy Director, Office of Audit Services
Abiba Kindo, Deputy Commissioner, Service Access, Program Implementation & Stakeholder Support
Ann Marie Peterson, Associate Commissioner, Service Access, Program Implementation & Stakeholder Support
Delia Tucker, Statewide Operations Director, Regional Field Offices
Maria Torgalski, Director – Region 1, Regional Field Offices
Joanne Howard, Director, Bureau of Fiscal Reporting and Data Analysis
Kenneth Glindmyer, Assistant Director, Bureau of Fiscal Reporting and Data Analysis
Earl Jefferson, Director, Central Operations
Ellie Smith, Statewide Director, Continuous Quality Improvement and Quality
Michelle Schwartz, Area Director, Continuous Quality Improvement