NEW YORK STATE | Office for People With Developmental Disabilities

KATHY HOCHUL
Governor

WILLOW BAER
Commissioner

June 22, 2026

VIA USPS CERTIFIED MAIL & EMAIL

Susan Constantino, Executive Director
United Cerebral Palsy of Niagara County, Inc. DBA Empower
9812 Lockport Road
Niagara Falls, NY 14304

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

Re: Notification of Intent to Impose a Fine

Dear Ms. Constantino and Mr. Petrozzi:

This letter constitutes formal notification of New York State Office for People With Developmental Disabilities (OPWDD) imposing a fine in the amount of $15,000 on your agency, United Cerebral Palsy of Niagara County, Inc., DBA Empower, for the continued and ongoing failure to sustain regulatory compliance.

Pursuant to Mental Hygiene Law Section 16.17(g), the Commissioner may impose a fine upon finding the holder of an operating certificate has failed to comply with the terms of the operating certificate or with the provisions of any applicable statute, rule, or regulation.

The issuance of the fine is based on the following:

- The Bureau of Program Certification (BPC) issued a 45-day Adverse Action letter following the Agency Review conducted January 06, 2026, through January 16, 2026. During the course of the review two Immediate Jeopardies were issued in the area of Healthcare. The review identified compliance concerns in the areas of Rights Protections, Healthcare Oversight, Workforce, Personal Allowance and Incident Management.

- BPC completed a validation visit March 10, 2026, through March 18, 2026, to determine if the agency corrected the deficiencies issued following the January 2026 Agency Review. This visit resulted in BPC issuing a second 45-day Adverse Action letter in repeat areas including Rights Protections, Oversight of Healthcare, Workforce and Incident Management.

- BPC completed a third validation visit May 26, 2026, and May 27, 2026. This resulted in a 45-day Adverse Action being issued in repeat areas of concern including Healthcare Oversight and Incident Management. It was determined that the agency failed to put in place a mechanism to monitor and track medication

errors to ensure that staff who have committed errors are safe to continue passing medications. Additionally, the agency failed to ensure that trends identified in Incident Management are addressed and corrective actions are put in place to prevent similar occurrences. The agency failed to implement their Plan of Corrective Action (POCA) which indicated the POCA would be reviewed at the agency's May 7, 2026 Incident Review Committee meeting. The agency was unable to provide any evidence that the POCA was discussed or provide any recommendations or actions the agency has or will take to prevent similar occurrences. It should be noted that incidents of a similar nature (lack of nursing staff and medical support, breaches in supervision, conflicts among staff, unsafe driving) continued to be reported during this period.

- The agency has failed to implement corrective actions, develop adequate policies and procedures to address/remediate deficient practices, or ensure implementation and monitoring plans of corrective actions.

- Over the past year, the agency has had multiple adverse actions in the area of Healthcare across its certified residences. In total, there have been five Immediate Jeopardies declared in the area of Healthcare during site visits at other residences. Two of the Immediate Jeopardies were issued during the Agency Review.

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 are requesting a hearing, you have 30 days from service of this proposed action to submit your request. 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:

Willow Baer, Commissioner
NYS Office for People With Developmental Disabilities
44 Holland Avenue, 3rd Floor
Albany, NY 12229

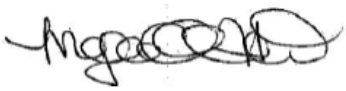
In accordance with 14 NYCRR 602.5, your written request for the hearing must include a copy of this letter and a declaration of the issues alleged to be involved and documentation of your position on each issue. If you decide not to request a hearing, please remit payment of your fine immediately. Payments should be made within 30 days of receipt of this notification. Payment must be made by check payable to OPWDD and be for the total amount of the fine. Partial payment will not be accepted without written authorization from OPWDD.

You may send your payment to:

Eileen Haynes, General Counsel
NYS Office for People With Developmental Disabilities
44 Holland Avenue, 3rd Floor
Albany, NY 12229

Once the agency has submitted payment of the fine to OPWDD, please forward evidence of payment to the Early Alert mailbox: earlyalert@opwdd.ny.gov. Please be aware that the imposition of this fine does not preclude OPWDD from taking further adverse action if your agency fails to maintain compliance with OPWDD regulations.

Sincerely,



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

cc: Agency Board of Directors
Willow Baer, Commissioner
John Barbuto, Executive Deputy Commissioner
Deborah Ellis, Chief of Staff
Eileen Haynes, Deputy Commissioner and General Counsel
Joshua Olsen, Deputy General Counsel
Abiba Kindo, Deputy Commissioner, Service Access, Program Implementation & Stakeholder Support
Ann Marie Peterson, Associate Commissioner, Service Access, Program Implementation & Stakeholder Support
Delia Tucker, Statewide Director, Service Access, Program Implementation & Stakeholder Support
Maria Torgalski, Director – Region 1, Regional Field Offices
Kevin Valenchis, Deputy Commissioner, Division of Fiscal Policy and Management
Joanne Howard, Director, Fiscal Reporting
Richard Cicero, Director, Office of Audit Services
Robert Borchers, Deputy Director, Office of Audit Services
Robert Kong, Principal Auditor, Office of Audit Services
Mary Jane Vogel, Deputy Director, Division of Quality Improvement
Maryellen Moeser, Deputy Director, Division of Quality Improvement
Joanne Weldon, Department of Health, ICF/MR Survey Coordinator
Stephanie Patton, Department of Health, Director, Division of Nursing Home and ICF/IID Surveillance
Ashley Cokgoren, Department of Health, Deputy Director, Division of Nursing Home and ICF/IID Surveillance