March 3, 2026

VIA USPS CERTIFIED MAIL & EMAIL

Susan Constantino, Executive Director
United Cerebral Palsy of Niagara County, Inc.
D/B/A Empower
9812 Lockport Road
Niagara Falls, New York 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., D/B/A Empower for the continued and ongoing failure to sustain regulatory compliance at the Individualized Residential Alternative (IRA) located at [redacted].

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.

A site review was conducted from September 23, 2025 to September 25, 2025 at [redacted]. During the visit the Bureau of Program Certification (BPC) declared Immediate Jeopardy twice on September 23, 2025. The first immediate deficiency was issued due to the lack of staff training on the actions to take during medical emergencies and the second immediate deficiency involved the agency not assessing or training a person to evacuate the home in an emergency while home alone. On September 24,2025, BPC again declared Immediate Jeopardy twice, the first immediate deficiency was due to the Registered Nurse (RN) not implementing required care and monitoring for a person upon hospital discharge. The second immediate deficiency was due to the RN not providing clear, written instructions for a person's colostomy care.

An Adverse Action Statement of Deficiency (SOD) was issued to the agency on October 6,2025 that included systemic/pervasive deficiencies in the areas of Health Supports and Medications, Personal Funds, Delivery of Safeguards, Rights Protections, Fire, Site and Safety, Hospital Discharge, and Behavioral Supports. The agency provided immediate Plans of Corrective Action (POCA) on September 23, 2025 and September 24, 2025 to

address the Immediate Jeopardy findings and provided a POCA on November 13, 2025 detailing the systemic and monitoring actions to be completed by the agency.

During BPC's first validation visit, completed from November 18, 2025 to November 20,2025 at [redacted], it was determined that the agency failed to implement the immediate corrective actions required to abate the Immediate Jeopardy deficiencies issued on September 23, 2025 and September 24, 2025 and failed to implement the systemic and monitoring actions included in the November 13, 2025 POCA.

On November 18, 2025, during the first validation visit BPC declared Immediate Jeopardy for not implementing POCA corrections to ensure staff training for colostomy care was provided. On November 20, 2025 BPC also declared Immediate Jeopardy for the agency not implementing POCA corrections that ensured the person home alone was assessed and had the ability to evacuate independently in an emergency. These findings resulted in a second Adverse Action SOD dated December 1, 2025, that included repeat deficiencies in the areas of Health Supports and Medications, Personal Funds, Rights Protections, Fire Safety, and Behavioral Supports.

Subsequently, during the second validation visit from January 20, 2026 to January 22, 2026, BPC determined that the agency failed to implement the corrective actions in the approved POCAs that included the actions to remediate the concerns identified in the first validation visit in November 2025. On January 20, 2026 the Bureau of Program Certification declared Immediate Jeopardy a third time, due to the agency's continued failure to ensure staff were trained on the provision of colostomy care for the same person identified in the initial visit and the first validation visit. This review resulted in a third Adverse Action SOD due to the continued failure to correct the serious deficiencies identified during the two previous surveys in the areas of Health Supports and Medications, Fire Safety, and Behavioral Supports.

The declaration of Immediate Jeopardy eight times for the same immediate concerns and the issuance of three consecutive Adverse Action SODs at the Blank Road IRA demonstrates the agency's inability to remediate the lack of nursing oversight and the failure to provide needed health supports and services. The agency's continued failure to remediate these concerns poses a serious risk to individuals' health and safety.

In addition, 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 additional Immediate Jeopardy's declared during site visits at other residences and two of these were issued during the Agency Review in the area of healthcare.

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
Albany, New York 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
Counsel's Office-3rd Floor
44 Holland Avenue
Albany, New York 12229

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-RFO 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
Mary Jane Vogel, Deputy Director, Division of Quality Improvement
Maryellen Moeser, Deputy Director, Division of Quality Improvement