

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Atlanta Regional Office
61 Forsyth Street, SW, Suite 4T20
Atlanta, GA 30303



RE: HealthSouth Blue Ridge Surgery 34C0001017

Important, Please Read Carefully!

February 15, 2018

Kathy Leibl, Administrator
HealthSouth Blue Ridge Surgery
2308 Wesvill Court
Raleigh, North Carolina 27607

RE: Ambulatory Surgery Center - CMS Certification Number (CCN): 34C0001017

Dear Ms. Leibl:

An Ambulatory Surgical Center (ASC) must meet all of the pertinent provisions of Section 1861(o) of Title XVIII of the Social Security Act and be in compliance with each of the Conditions for Coverage (42 CFR 416), in order to participate in the Medicare/Medicaid programs. The North Carolina State Survey Agency conducted a complaint survey at HealthSouth Blue Ridge Surgery on February 2, 2018. Based on the findings, we find that HealthSouth Blue Ridge Surgery is not in compliance with all the Conditions for Coverage for Ambulatory Surgical Centers. A copy of deficiencies cited during the survey is enclosed. These deficiencies have been determined to be of such serious nature as to substantially limit your ASCs capacity to render adequate care and prevent it from being in compliance with all the Conditions for Coverage for ASCs. Specifically, the ASC does not meet the following Medicare Conditions for Coverage:

- 42 CFR 416.41 Governing Body and Management**
- 42 CFR 416.42 Surgical Services and**
- 42 CFR 416.43 Quality Assessment and Performance Improvement**

When an ambulatory surgery center is found to be out of compliance with one or more Medicare Conditions for Coverage, and an immediate or serious threat to patient health and safety is found to exist, a determination must be made by CMS that the facility no longer meets the requirements for participation as a provider of services in the Medicare program. Such a determination has been made in the case of your facility. Accordingly, the Medicare provider agreement between Healthsouth Blue Ridge Surgery and the Secretary of the Department of Health and Human Services is being terminated effective **March 10, 2018**. The Medicare program will not make payment for services furnished to patients on or after **March 10, 2018**.

We will publish a public notice on CMS.gov. Termination can only be averted by correction of these deficiencies. Should we not hear from you, we will assume that the situation has not been corrected. If you have corrected this situation, please contact us immediately. A credible allegation of compliance/plan of correction must be received from you no later than **February 24, 2018**.

An acceptable plan of correction must contain the following elements:

- 1) The plan for correcting the specific deficiency cited. The plan should address the processes that lead to the deficiency cited;
- 2) The procedure for implementing the acceptable plan of correction for the specific deficiency cited;
- 3) The monitoring procedure to ensure that the plan of correction is effective and that the specific deficiency cited remains corrected and/or in compliance with the regulatory requirements;
- 4) The title of the person responsible for implementing the acceptable plan of correction.
- 5) The plan of correction must be signed (on page 1) by the responsible administrative officer and dated.

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 to rosemary.robinson@cms.hhs.gov.

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 Karmen Billingslea at 404-562-7586 or karmen.billingslea@cms.hhs.gov

Sincerely,

Hulio Griffin for

Linda Smith
Associate Regional Administrator
Division of Survey & Certification

cc: North Carolina State Agency

How to Use the Departmental Appeals Board's Electronic Filing System (DAB E-File)
<https://dab.efile.hhs.gov>

To file a new appeal using DAB E-File, you first must register a new account by: (1) clicking Register on the DAB E-File home page; (2) entering the information requested on the "Register New Account" form; and (3) clicking Register Account at the bottom of the form. If you have more than one representative handling your appeal, each representative must register separately to use DAB E-File on your behalf.

How to log-in to DAB E-File. To access DAB E-File, the e-mail address and password provided during the registration process must be entered on the Login screen at https://dab.efile.hhs.gov/user_sessions/new. A registered user's access to DAB E-File is restricted to the appeals for which s/he is a party or authorized representative.

How to file an appeal (request for hearing) in DAB E-File. After you have registered and logged-in to DAB E-File, you may file an appeal by: (A) clicking the File New Appeal link on the Manage Existing Appeals page, then at the next page clicking the Civil Remedies Division button; then (B) entering and uploading the requested information and documents on the form labeled "File New Appeal – Civil Remedies Division."

Basic requirements for using DAB E-File. At a minimum, the DAB's Civil Remedies Division (CRD) requires a party filing an appeal to submit the following: (1) a signed hearing request; and (2) a copy of the underlying notice letter from CMS which sets forth CMS's adverse action and the party's appeal rights. All documents must be submitted in Portable Document Format (PDF). Any document, including a hearing request, will be deemed to have been filed on the date it is submitted via DAB E-File (through 11:59 p.m. EST on the date of submission). A party filing a hearing request via DAB E-File will be deemed to have consented to receiving and accepting electronic service of appeal-related documents which CMS subsequently submits via DAB E-File and/or which the CRD subsequently submits via DAB E-File on behalf of an Administrative Law Judge. CMS also will be deemed to have consented to electronic service.

Detailed information regarding DAB E-File. More detailed instructions for using DAB E-File in cases before the DAB's Civil Remedies Division can be found by clicking the button marked E-Filing Instructions after logging-in to DAB E-File.

For general questions regarding the DAB E-File System, you may call the Civil Remedies Division main telephone line at 202-565-9462. If you experience any technical issues with the DAB E-File System, please contact E-File System Support at OS_DABimmediateOffice@hhs.gov.