



CITATION REPORT

Employer

Name: Family Legacy Mental Health Services, Inc
d/b/a Name: Family Legacy Mental Health
Mailing Address: 2011 Schaub Dr. Suite 200
City/State/Zip Code: Raleigh, NC 27606

Investigator Name: Charles McHone

Report Date: Jul 08, 2014
Identification Number: 90301

Received By: mmarshall@familylegacyinc.com

Date: Tue, Jul 08, 2014



- 1 instance of 95-25.15(b) Failure to make, keep, or preserve accurate records of employee wages, hours, or other conditions and practices of employment required by the North Carolina Wage and Hour Act.
- 2 95-25.6 Failure to pay all wages accruing to employee (s) on the regular payday or within the intervals required by the North Carolina Wage and Hour Act.
- 3 95-25.13(3) Failure to notify employees, in writing or through a posted notice maintained in a place accessible to the employees, at least 24 hours prior to any changes in promised wages.

Cherie K. Berry
Commissioner



Selenia Genao
Investigative Assistant
Wage and Hour Bureau

July 16, 2014

Lisa Stacey, Registered Agent
Family Legacy Mental Health Services, Inc.
1101 Schaub Drive, Suite # 201
Raleigh, NC 27606

Certified Mail

NOTICE OF PENALTY

Re: **Certified Mail Number:**
Identification Number: 90301

Dear Ms. Stacey:

The North Carolina Wage and Hour Bureau investigation of **Family Legacy Mental Health Services, Inc.** in Raleigh, North Carolina revealed violations of the **record-keeping** provisions of the North Carolina Wage and Hour Act. Based upon the information received during our investigation of this matter, a civil money penalty (CMP) of **\$125.00** has been assessed against your company in accordance with **N.C. Gen. Stat. §95-25.23A**.

Penalty Payment – The Total Penalty Amount listed above is due within fifteen (15) days of your receipt of this Notification of Penalty, unless a written petition for a contested case hearing is filed with the Office of Administrative Hearings in accordance with N.C. Gen. Stat. §150B-23.

Payments can be made online at www.nclabor.com by Visa, MasterCard or E-Check. To remit payment via U.S. Mail, please make your check or money order payable to the **NCDOL – Budget and Management Division**, and mail to the **N.C. Department of Labor, Attn: Budget – Wage and Hour Penalty Collections, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101**, for the total amount of the penalties summarized above. Please include the **Identification Number 90301** on all forms of payment for proper processing.

Right to Contest – In accordance with **N.C. Gen. Stat. §95-25.23A** and 13 NCAC 12.0703, the above civil penalty will be final, unless you take exception to the penalty by filing a written petition for a contested case hearing with the Office of Administrative Hearings. The address for the Office of Administrative Hearings is 6714 Mail Service Center, Raleigh, North Carolina 27699-6714. Notice of your petition must also be served on Jane Ammons Gilchrist, General Counsel/Process Agent for the N.C. Department of Labor, at 1101 Mail Service Center, Raleigh, North Carolina 27699-1101.


1101 Mail Service Center • Raleigh • North Carolina • 27699-1101
919-807-2799 • FAX 866-840-0036 • selenia.genao@labor.nc.gov

The requirements for a legally effective petition for contested case hearing are established by N.C. Gen. Stat. §150B-23, the text of which is attached to this Notice.

Please visit the Office of Administrative Hearings website at <http://www.oah.state.nc.us/forms.html> or call them at (919) 431-3000 to obtain written instructions and the required form for filing a petition for contested case hearing. Pursuant to North Carolina General Statutes §§150B-23(a) and 150B-23.2 and North Carolina Administrative Code Section 26 NCAC 03 .0104(a)(4), a filing fee is required by the Office of Administrative Hearings (OAH) at the time an administrative hearing is requested. Therefore, please ensure that you verify and submit the required fee for filing the petition directly to the Office of Administrative Hearings in accordance with their filing procedures.

If you refuse to pay the penalty amount listed herein, and fail to file a written petition for a contested case hearing within fifteen (15) days of your receipt of this Notification of Penalty, then the penalty assessment becomes final and you waive your right to contest the penalty. The Commissioner may take additional action in accordance with N.C. Gen. Stat. §95-25.23B and file for entry of a judgment for the amount of the penalty assessed. Such judgment shall have the same effect as though the judgment had been entered in a suit duly heard and determined by the superior court of the General Court of Justice and will result in civil action to compel payment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Selenia Genao".

Selenia Genao
Investigative Assistant

Attachment
cc: File

**§ 150B-23. Commencement; assignment of administrative law judge;
hearing required; notice; intervention.**

(a) A contested case shall be commenced by paying a fee in an amount established in G.S. 150B-23.2 and by filing a petition with the Office of Administrative Hearings and, except as provided in Article 3A of this Chapter, shall be conducted by that Office. The party who files the petition shall serve a copy of the petition on all other parties and, if the dispute concerns a license, the person who holds the license. A party who files a petition shall file a certificate of service together with the petition. A petition shall be signed by a party or a representative of the party and, if filed by a party other than an agency, shall state facts tending to establish that the agency named as the respondent has deprived the petitioner of property, has ordered the petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced the petitioner's rights and that the agency:

- (1) Exceeded its authority or jurisdiction;
- (2) Acted erroneously;
- (3) Failed to use proper procedure;
- (4) Acted arbitrarily or capriciously; or
- (5) Failed to act as required by law or rule.

The parties in a contested case shall be given an opportunity for a hearing without undue delay. Any person aggrieved may commence a contested case hereunder.

A local government employee, applicant for employment, or former employee to whom Chapter 126 of the General Statutes applies may commence a contested case under this Article in the same manner as any other petitioner. The case shall be conducted in the same manner as other contested cases under this Article.

(a1) Repealed by Session Laws 1985 (Regular Session, 1986), c. 1022, s. 1(9).

(a2) An administrative law judge assigned to a contested case may require a party to the case to file a prehearing statement. A party's prehearing statement must be served on all other parties to the contested case.

(b) The parties to a contested case shall be given a notice of hearing not less than 15 days before the hearing by the Office of Administrative Hearings. If prehearing statements have been filed in the case, the notice shall state the date, hour, and place of the hearing. If prehearing statements have not been filed in the case, the notice shall state the date, hour, place, and nature of the hearing, shall list the particular sections of the statutes and rules involved, and shall give a short and plain statement of the factual allegations.

(c) Notice shall be given by one of the methods for service of process under G.S. 1A-1, Rule 4(j) or Rule 4(j3). If given by registered or certified mail, by signature confirmation as provided by the United States Postal Service, or by designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, notice shall be deemed to have been given on the delivery date appearing on the return receipt, copy of the proof of delivery provided by the United States Postal Service, or delivery receipt. If giving of notice cannot be accomplished by a method under G.S. 1A-1, Rule 4(j) or Rule 4(j3), notice shall then be given in the manner provided in G.S. 1A-1, Rule 4(j1).

(d) Any person may petition to become a party by filing a motion to intervene in the manner provided in G.S. 1A-1, Rule 24. In addition, any person interested in a contested case may intervene and participate in that proceeding to the extent deemed appropriate by the administrative law judge.

(e) All hearings under this Chapter shall be open to the public. Hearings shall be conducted in an impartial manner. Hearings shall be conducted according to the procedures set out in this Article, except to the extent and in the particulars that specific hearing procedures and time standards are governed by another statute.

(f) Unless another statute or a federal statute or regulation sets a time limitation for the filing of a petition in contested cases against a specified agency, the general limitation for the filing of a petition in a contested case is 60 days. The time limitation, whether established by another statute, federal statute, or federal regulation, or this section, shall commence when notice is given of the agency decision to all persons aggrieved who are known to the agency by personal delivery or by the placing of the notice in an official depository of the United States Postal Service wrapped in a wrapper addressed to the person at the latest address given by the person to the agency. The notice shall be in writing, and shall set forth the agency action, and shall inform the persons of the right, the procedure, and the time limit to file a contested case petition. When no informal settlement request has been received by the agency prior to issuance of the notice, any subsequent informal settlement request shall not suspend the time limitation for the filing of a petition for a contested case hearing. (1973, c. 1331, s. 1; 1975, 2nd Sess., c. 983, s. 65; 1985, c. 746, s. 1; 1985 (Reg. Sess., 1986), c. 1022, ss. 1(9), (10); 6(2), (3); 1987, c. 878, ss. 3-5; c. 879, s. 6.1; 1987 (Reg. Sess., 1988), c. 1111, s. 5; 1991, c. 35, s. 1; 1993 (Reg. Sess., 1994), c. 572, s. 2; 2009-451, s. 21A.1(a); 2011-332, s. 2.1; 2011-398, s. 16.)

Note: The above includes changes made in 2011-398, s.16. It is the sole responsibility of the potential petitioner to ensure that no additional changes have been made to N.C. Gen. Stat. § 150B prior to remitting a petition for contested case hearing to the Office of Administrative Hearings.