

EXHIBIT 204
(Rev. 30, 12-15-07)

**MODEL LETTER FOR A VIOLATION OF 42 CFR 489.24: PRELIMINARY
DETERMINATION LETTER (IMMEDIATE AND SERIOUS THREAT)**

(Date)

Hospital Administrator Name
Hospital Name
Address
City, State, ZIP Code

Re: CMS Certification Number (CCN)

Dear **(Hospital Administrator Name)**:

To participate in the Medicare program, a hospital must meet the requirements established under title XVIII of the Social Security Act (the Act) and the regulations established by the Secretary of Health and Human Services under the authority contained in §1861(e) of the Act. Further, §1866(b) of the Act authorizes the Secretary to terminate the provider agreement of a hospital that fails to meet these provisions.

Your hospital was surveyed on **(date)** by the **(State survey agency)** based on an allegation of noncompliance with the requirements at 42 CFR 489.24, Responsibilities of Medicare Participating Hospitals in Emergency Cases *and/or the related requirements at 42 CFR 489.20*. After a careful review of the findings, we have determined that your hospital violated: **(Select as appropriate)**

- *The requirements at 42 CFR 489.24 based on:* (failure to screen, failure to treat, failure to appropriately transfer, failure to accept an individual who required the hospital's specialized capabilities, delay in examination or treatment to inquire about an individual's method of payment or insurance status, or adverse action taken against a physician, qualified medical person or hospital employee); and/or
- *The related anti-dumping provisions found at 42 CFR 489.20 based on the hospital's failure to enforce policies to ensure compliance with the requirements of 42 CFR 489.24.*

The deficiencies identified are listed on the enclosed Form CMS-2567, Statement of Deficiencies *and Plan of Correction*.

(Name)

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(Date)

We have determined that the deficiencies are so serious that they constitute an immediate *and serious threat* to the health and safety of any individual who comes to the emergency department and requests examination or treatment for an emergency medical condition. Further, under 42 CFR 489.53, a hospital that violates the provisions of 42 CFR 489.24 is subject to termination of its provider agreement. Consequently, we plan to terminate **(name of hospital)** participation in the Medicare program.

This preliminary determination letter serves to notify you of the violation. The projected date on which your agreement will terminate is **(date - 23rd day from the date of this letter for immediate and serious threats)**.

You will receive a “notice of termination letter” on **(2-4 days prior to the termination date, which is also the 19th-21st day from the date of this preliminary determination letter)**. This final notice will be sent to you concurrently with notice to the public, in accordance with regulations at 42 CFR 489.53.

You may avoid termination action and notice to the public either by providing *prior to the projected public notification date* a credible allegation of correction of the deficiencies, *or credible evidence the* deficiencies did not exist. A credible allegation of correction by the hospital requires a resurvey *prior to the projected termination date, and must be received by this office as soon as possible, to permit timely resurvey to verify the corrections*. If we verify your corrective action, or determine that the findings contained in this letter were in error, your *planned* termination from the Medicare program will be rescinded.

If you have any questions concerning this preliminary determination letter, please contact **(name of contact)** at **(phone number)**.

Sincerely yours,

Associate Regional Administrator
(or its equivalent)

Enclosure: Form CMS-2567, Statement of Deficiencies *and Plan of Correction*

cc:

State *Survey* Agency
State *Medicaid* Agency

(Name)

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(Date)

cc:

State *Survey* Agency
State *Medicaid* Agency
QIO
Accreditation Organization
Complainant
State Licensing Body
DHHS Congressional Liaison Office
CMS Office of Legislation