

EXHIBIT 212
(Rev. 30, 12-15-07)

**MODEL LETTER REQUESTING QIO REVIEW OF A CONFIRMED
VIOLATION OF 42 CFR 489.24 FOR PURPOSES OF ASSESSING CIVIL
MONETARY PENALTIES (CMPS) OR EXCLUDING PHYSICIANS**

(Date)

QIO Executive Director
Quality Improvement Organization (QIO) Name
Address
City, State, ZIP Code

Dear (QIO Executive Director Name):

Enclosed is a case that we determined was a violation of 42 CFR §489.24, which places special responsibilities on Medicare-participating hospitals that offer emergency services. Because the Office of the Inspector General (OIG) has the authority to assess *civil monetary penalties* (CMPs) and exclude physicians from the Medicare program for violations of §1867 *of the Social Security Act*, we referred our confirmed violation decision to the OIG for *its* review.

In accordance with 42 CFR §489.24(g), before CMPs may be assessed or physicians may be excluded from the Medicare program for a violation of 42 CFR §489.24, the appropriate Quality Improvement Organization (QIO) must review the case to assess whether the individual had an emergency medical condition which had not been stabilized, and provide a report on its findings. Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall request such a review before effecting a sanction, and shall provide a period of at least 60 days for such review. During the 60 days, you are to provide the hospital and/or affected physician with an opportunity to discuss the case and submit additional information.

Please have this case reviewed by a physician who is a specialist in either the specialty of the physician who attended the patient or the type of service under review. Whenever possible, the physician reviewer should practice in a similar setting as that of the physician who attended the patient. Since the physician reviewer could be needed to serve as an expert witness in the case, secure from the physician a statement of willingness to provide service on the additional development needed to properly adjudicate any issues and to testify as an expert witness.

To assist you in performing your review, we have enclosed:

- A copy of the patient's medical record (at both hospitals, if pertinent);

(Name)

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- A copy of 42 CFR §489.24 and related provisions of 42 CFR §489.20; and
- The *EMTALA Physician Review Worksheet* upon which the physician will document his/her findings. Your response is not limited to the space provided on the form. It is important that the physician thoroughly document the *clinical* rationale for each response.

Thank you for your assistance. If you wish to discuss this case further, please contact **(policy person in RO)** at **(phone number)**.

Sincerely yours,

Associate Regional Administrator
(or its equivalent)

Enclosures: