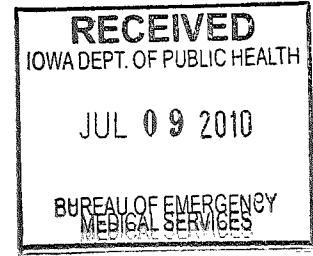


Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building – Third Floor
Des Moines, Iowa 50319



In the Matter of)	Case No. 10-04-07
)	DIA No. 10DPHES010
Mediapolis Community Ambulance Service)	
PO Box 400)	
Mediapolis, IA 52637-0400)	PROPOSED DECISION
)	
Service #2290400)	

On April 21, 2010, the Department of Public Health-Emergency Medical Services Bureau (Department) issued a Notice of Proposed Action-Citation and Warning to the Mediapolis Community Ambulance Service (Appellant). A telephone hearing was held before Administrative Law Judge Margaret LaMarche on June 21, 2010 at 1:00 p.m. Assistant Attorney General Heather Adams represented the Department. The Appellant was self-represented by its Service Director, James D. Mehaffy. The Appellant elected to have a closed hearing, pursuant to Iowa Code section 272C.6(1).

THE RECORD

The record includes the Notice of Telephone Hearing, testimony of the witnesses, and the following exhibits:

Department Exhibit 1:	Notice of Proposed Action: Citation and Warning
Department Exhibit 2:	641 IAC Chapter 132
Department Exhibit 3:	IDPH System Registry-Service Details
Department Exhibit 4:	Service Program Onsite Inspection Report
Department Exhibit 5:	Letter to Appellant, 4/6/2010
Department Exhibit 6:	IDPH System Registry-Onsite Review
Department Exhibit 7:	Email, Wolfe to Schmitt, 4/16/2010
Department Exhibit 8:	Request for Appeal, 5/27/2010

FINDINGS OF FACT

The Iowa Department of Public Health (department) authorizes more than 900 transport and nontransport emergency medical service programs in Iowa. Service programs are authorized for a period up to three years. During the authorization period, the department performs at least one onsite service inspection at each service program. (Joe Ferrell testimony)

Mediapolis Community Ambulance Service is a transport emergency medical services program located in Mediapolis, Iowa, and James Mehaffy is the Service Director. (James Mehaffy testimony; Department Exhibit 3)

Evelyn Wolfe is the Southeast Regional EMS Coordinator for the department. She is responsible for inspecting 170 EMS Service Programs within her region to confirm compliance with all administrative rules and all minimum standards applicable to emergency medical services. (Ferrell testimony) On March 9, 2010, Evelyn Wolfe performed an inspection of the Mediapolis Community Ambulance Service and then completed an Onsite Inspection Report. Ms. Wolfe documented the following deficiencies during her inspection:

- Failure to have current complete application on file [641 IAC 132.7(1)].
- Failure to document driver training: CPR/emergency driving/communications [641 IAC 132.8(1)"c"(2)].
- Failure to have documentation of measurable outcomes per the CQI policy [641 IAC 139.2" c"].
- Failure to have pharmacy agreement policies and procedures. [641 IAC 132.8(4)"d" and "e"].
- Failure to document an equipment maintenance program required by [641 IAC 132.8(3)"o"].

James Mehaffy was present for the April 9th inspection, signed the inspection report, and received a copy of the report. The "Compliance-DATE DUE" on the report was 4/9/10. Ms. Wolfe also recalled telling Mr. Mehaffy that the April 9, 2010 was the compliance due date. (Ferrell testimony; Evelyn Wolfe testimony; Department Exhibit 4)

Mediapolis Community Ambulance Service submitted its pharmacy agreement policies and procedures right away and that deficiency was considered resolved. The program's QCI policy required annual reports of measurable outcomes but

none were on file for the previous three years. The QCI policy also required weekly equipment checks but none had been done for some time. (Ferrell testimony)

On March 29, 2010 and April 8, 2010, the department's system registry automatically generated reminder emails to Mediapolis Community Ambulance Service concerning the April 9th compliance due date. (Ferrell testimony) James Mehaffy testified that he did not see these emails and speculates that they may have gone into a spam folder. (Mehaffy testimony)

In February 2010, the department had also begun mailing a reminder letter on the 21st day after the onsite inspection report. In this case, Evelyn Wolfe would normally send the reminder letter on March 30, 2010. However, the reminder letter was not actually sent to Mediapolis Ambulance Service until April 6, 2010. (Ferrell Testimony; Department Exhibit 5) Ms. Wolfe, who worked part-time, believes that April 6, 2010 had been her first opportunity to send the reminder letter due to time away from the office. (Wolfe testimony)

Mediapolis Community Ambulance Service did not submit verification of its deficiency corrections by the April 9, 2010 deadline. (Ferrell testimony) Evelyn Wolfe and James Mehaffy usually attended a regularly scheduled meeting in Des Moines County on the second Tuesday of each month. Mr. Mehaffy initially intended to provide the documentation to Ms. Wolfe at the April meeting. However, there were five Tuesdays in March so the April meeting would not be held until April 13th, which was four days after the compliance deadline. (Mehaffy, Wolfe testimony)

James Mehaffy testified that he did not see the department's April 6th reminder letter until April 12, 2010. He then left Evelyn Wolfe a message telling her that he intended to provide the documentation at the Tuesday meeting. On April 13, 2010, Ms. Wolfe returned Mehaffy's call and told him that he should mail the documentation because the meeting had been postponed until April 20th. James Mehaffy mailed the required documentation to Wolfe on or about April 13, 2010. Wolfe received the documentation on April 16, 2010. (Ferrell, Mehaffy testimony; Department Exhibits 7, 8)

On April 21, 2010, the department issued Mediapolis Community Ambulance Service a Notice of Proposed Action-Citation and Warning for its failure to correct the identified service program deficiencies by the deadline. The service

was warned that continued violation of the department's rules could result in further disciplinary action, including suspension or revocation of the service program's authorization. (Department Exhibit 1)

A citation and warning has no impact on the service program's ability to provide emergency medical services. The department has consistently issued Citation and Warnings to other service programs who failed to verify deficiency corrections by the deadline established on the onsite inspection report. The department issues approximately six such Citations and Warnings to service programs each year. (Ferrell testimony)

CONCLUSIONS OF LAW

The legislature has directed the Department to adopt rules pertaining to the operation of ambulance, rescue, and first response services which have received authorization to utilize the services of emergency medical services providers.¹ The Department has adopted rules governing service programs at 641 IAC chapter 132.

On March 9, 2010, the department's EMS Regional Coordinator inspected the Mediapolis Community Ambulance Service and documented five program deficiencies. Three of the deficiencies were not immediately resolved. The remaining deficiencies involved the following requirements:

All service programs seeking ambulance authorization must provide, at a minimum, one currently licensed driver on each ambulance call. The service shall document each driver's training in CPR (AED training not required), in emergency driving techniques, and in the use of the service's communications equipment.²

The service program operational requirements for both ambulance and non transport service programs require service programs to document an equipment maintenance program to ensure proper working condition and appropriate quantities.³

¹ Iowa Code section 147A.4(1)(2007).

² 641 IAC 132.8(1)"c"(2).

³ 641 IAC 132.8(3)"o."

The medical director's duties include monitoring and evaluating the activities of the service program and individual personnel performance, including establishment of measurable outcomes that reflect the goals and standards of the EMS system. ⁴

Mediapolis Community Ambulance Service did not dispute the deficiencies. It was given 30 days-until April 9, 2010-to provide verification that the deficiencies had been properly corrected. Mediapolis Ambulance Service did not provide the required verification until April 16, 2010, which was one week after the compliance due date.

The department is authorized to issue a civil penalty not to exceed \$1000, to issue a citation and warning, to put a service program on probation, to suspend or revoke a service program authorization, or the otherwise discipline a program in accordance with Iowa Code section 147A.5(3), for:

- ...
- f. Failure or repeated failure of the applicant or alleged violator to meet the requirements or standards established pursuant to Iowa Code chapter 147A or the rules adopted pursuant to that chapter.
- ...
- i. Failure to correct a deficiency with the time frame required by the department.

Pursuant to these rules, the department is authorized to issue a citation and warning to the Appellant for its failure to meet the standards established by 641 IAC 132.8(1)"c"(2)," 132.8(3)"o," and 132.9(2)"c" and for the failure to correct those deficiencies within the time frame required by the department. The Onsite Inspection Report clearly stated both the deficiencies and the April 9, 2010 compliance due date. The department's Regional Coordinator discussed the report with the Service Director, and he signed the report. The preponderance of the evidence established that Mediapolis Community Ambulance did not provide verification that the deficiencies had been corrected until after the compliance due date.

Mediapolis Community Ambulance argues that a Citation and Warning is unwarranted because:

⁴ 641 IAC 132.9(2)"c."

- It corrected the deficiencies by the compliance due date, although it was late in submitting documentation of the corrections; and
- The department was late in sending the reminder letter that was usually sent the 21st day after the inspection.

The department is responsible for inspecting and monitoring over 900 service programs in the state. The department reasonably expects and requires service programs to not only correct the deficiencies identified at inspection but to also provide documentation verifying those corrections by a specified deadline. Compliance can only be verified through proper documentation. It is the service program's responsibility to provide the documentation in a timely manner. The rules do not require the department to send service programs any reminder emails or letters about compliance deadlines. The department has sent reminder emails and a reminder letters solely as a courtesy.

Mediapolis Community Ambulance was provided more than sufficient opportunity to verify its deficiency corrections without incurring any disciplinary action. The deadline was printed on the inspection report, and the inspector pointed out the due date to the service director. The department sent two reminder emails. It is not the department's responsibility to ensure that the service program opens the emails or to ensure that the department's emails do not go into a spam folder. It is unfortunate that Ms. Wolfe did not send the reminder letter until April 6th, but even so the letter should have been delivered to the Mediapolis post office prior to the due date. The department's delay in sending the courtesy reminder letter does not excuse the failure to comply.

The proposed disciplinary action is proportionate to the violations, is consistent with prior disciplinary actions by the department, and is the least serious discipline that can be imposed. The Citation and Warning does not interfere with the service program's ability to serve the public.

ORDER

IT IS THEREFORE ORDERED that the Notice of Proposed Action-Citation and Warning, issued to Appellant Mediapolis Community Ambulance Service on April 21, 2010, is hereby AFFIRMED.

Dated this 9th day of July, 2010.

Margaret LaMarche

Margaret LaMarche
Administrative Law Judge
Iowa Department of Inspections and Appeals
Division of Administrative Hearings
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Des Moines, Iowa 50319

cc: James Mehaffy, Service Director
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This proposed decision and order becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director of the Department of Public Health is taken as provided in subrule 131.12(11). Any appeal to the director for review of this proposed decision and order shall be filed in writing and mailed to the director of the Department of Public Health by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be sent to the administrative law judge. Any request for appeal shall state the reason for the appeal. 641 IAC 131.12(11).

