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2
3 BEFORE THE
4 THE DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION
5 STATE OF CALIFORNIA
6

7 In the Matter of the Penalty Issued to:

HCAI No. 25-010-HQF

8
9 **EL CENTRO REGIONAL
MEDICAL CENTER,**

DECISION

10 Facility.
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14 This is the decision of the California Department of Health Care Access and Information
15 (HCAI) regarding the penalty of \$5,200.00 assessed by Respondent, HCAI’s report and penalty
16 program staff, on or about May 19, 2025, against Appellant City of El Centro, regarding its facility
17 the El Centro Regional Medical Center.¹ The penalty was assessed because Appellant filed its
18 Hospital Quarterly Financial Report, for the report period that ended on December 31, 2024, fifty-
19 two (52) days after the deadline.

20 After reviewing the record, HCAI determines that good cause was established to waive the
21 \$5,200.00 penalty against Appellant.

22 **I.**

23 **PENALTY AND APPEAL BACKGROUND**

24 Appellant is the licensee for the El Centro Regional Medical Center (“Facility”) which is
25 required to file a Hospital Quarterly Financial Report (hereinafter “Quarterly Report”) under Health
26 and Safety Code sections 128740. Such quarterly reports must be filed within forty-five (45) days of

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28 ¹ Facility and Facility Licensee information is from the California Department of Public Health (CDPH), which regulates these facilities, at CDPH’s “Cal Health Find Database,” at <https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/SearchResult.aspx>, last accessed on 12/3/2025. Appellant is the licensee listed in this database for this facility.

1 the end of a calendar quarter under Health and Safety Code section 128740(a). Facilities can extend
2 the deadline for up to 30 days if they request an extension with HCAI under CCR, title 22, section
3 97051.

4 For the last quarter of 2024, from October 2024 through December 31, 2024, Appellant was
5 required to file its Quarterly Report on or before February 14, 2025. Appellant requested and
6 received a thirty-day extension to March 16, 2025. Appellant did not file the report by this extended
7 deadline. On May 7, 2025, Appellant properly filed its Quarterly Report to HCAI.

8 There is a penalty of \$100 a day for each day the report is late “considering all approved
9 extensions”. (Health and Safety Code section 128770(a) and CCR, title 22, section 97045.) Since
10 Appellant filed 52 days after its extended deadline, Respondent assessed a penalty of \$5,200 to
11 Appellant. (Respondent’s Exhibit 11.)

12 Pursuant to Health and Safety Code section 128775 and CCR, title 22, section 97052(a),
13 Appellant appealed this penalty to HCAI. (Appellant’s Request for Administrative Hearing, dated
14 July 1, 2025.)

15 II.

16 PROCEDURAL HISTORY

17 On September 3, 2025, a hearing was held regarding the penalty. At the hearing, Appellant
18 was represented by David Momberg, the Facility’s Chief Financial Officer. Respondent was
19 represented by HCAI employees, Ty Christensen and Tina Tran.

20 For the first time, during the hearing, Respondent alleged an affirmative defense that
21 Appellant filed its appeal late.

22 On October 23, 2025, the HCAI Hearing Officer issued the Proposed Decision in this matter
23 upholding the penalty based on a finding that Appellant’s appeal was filed too late.

24 On November 4, 2025, as the HCAI Director’s delegate, I issued a Notice of Rejection of the
25 Proposed Decision, rejecting the October 23, 2025, Proposed Decision which recommended
26 dismissal of the appeal based on the late appeal. I gave the parties until the end of November 14,
27 2025 to present written arguments about the rejection as required by CCR, title 22, section
28 97054(c)(1). As of the date of this Decision, I have not received any written arguments.

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III.

FACTUAL FINDINGS

1. In November 2023, Appellant’s Facility received a twenty-eight million dollar loan under HCAI’s Distressed Hospital Loan Program (DHLP).² The Facility is financially distressed and has been for many years, which was exacerbated by the COVID-19 pandemic, because, in part, 85% to 90% of its patients are under government payors. Appellant believes the Facility will most likely continue to be financially distressed. The Facility’s last fiscal year, 2024, was the first profitable year in the past 10 or 11 years. (Appellant’s Request for Administrative Hearing, dated July 1, 2025; Testimony of David Momberg, starting at 18:41 and 21:08.)

2. Part of the DHLP funds were to be used to finish the Facility’s transition to a new electronic medical record (EMR) system, which had begun in 2018. (Testimony of David Momberg, starting at 21:08.)

3. In 2023, the Facility and Appellant entered into a Joint Powers Agreement to operate and manage the facility. (Appellant’s Request for Administrative Hearing, dated July 1, 2025.)

4. On about November 1, 2024 (during the reporting period for the Quarterly Report), the Facility went live with its new EMR system. The Facility needed to upgrade its EMR system because it had many obsolete systems and needed to consolidate the various systems (around 12 different systems) into one system. Before the new EMR system, “everything” had a different EMR system, but those systems had been in place so long that the Facility had developed a process to report data for its reports to HCAI, such as the Quarterly Report. The new EMR system was to unify all the different systems so the Facility could use it to make its reports to HCAI. However, with the start of the new EMR system, the Facility lost access to existing reports it used to prepare the Quarterly Report. The Facility had to rebuild its HCAI reports, such as the Quarterly Report, in the new EMR system. (Appellant’s Request for Administrative Hearing, dated July 1, 2025; Testimony of David Momberg, starting at 21:08.)

5. It was “almost near impossible” to get data out of the new EMR system once it

² For information about the Distressed Hospital Loan Program, see Health and Safety Code sections 129380, *et seq.* and HCAI’s website, at <https://hcai.ca.gov/facilities/health-facility-financing/distressed-hospital-loan-program/> (last accessed December 12, 2025.)

1 became live to complete the Quarterly Report. Appellant could not report financials until the
2 beginning of 2025 because Appellant could not get any revenue data out of the new EMR system.
3 The Facility could only pull pieces from the system and even when it was able to obtain data for the
4 Quarterly Report, the data was not complete. For instance, all data for November 2024 “was blank”
5 until January. When the Facility was able to get reports out from the new EMR system, they were
6 not “usable” and it “took a heavy lift” to complete the reports. So, it took Appellant a “protracted
7 time” to generate and develop its reports and to get data out of the new system. Appellant is still
8 facing delays and issues with their new system although it is getting better. (Testimony of David
9 Momberg, starting at 19:35 and 21:08.)

10 6. The transition to the new EMR system was the “biggest reason” why Appellant did
11 not timely submit the Quarterly Report. (Testimony of David Momberg, at 19:35.) Respondent
12 noted that this was a “common theme” heard from facilities when switching to a new EMR system—
13 that a new system is not “out-of-the-box” usable to complete HCAI reports. Also, Respondent has
14 “often see[n] [a] silly struggle to get the data” from new systems for the HCAI reports and that this
15 is “not uncommon”. (Testimony of Ty Christensen, starting at 24:58.)

16 7. In 2023, new California legislation required Appellant to enter into negotiations with
17 the newly formed Imperial Valley Healthcare District (IVHD) to sell or transfer the Facility to
18 IVHD. The IVHD was created in March 2025 and Appellant has been negotiating with IVHD and
19 performing due diligence work which has been “immense” during the same time the Facility was
20 dealing with the problems from the new EMR system. (Appellant’s Request for Administrative
21 Hearing, dated July 1, 2025; Testimony of David Momberg, starting at 23:15.)

22 8. Appellant was required to file the Facility’s Quarterly Report for the last quarter of
23 2024 on February 14, 2025. On February 4, 2025, Respondent emailed Mr. Momberg about this
24 deadline. (Respondent’s Exhibit 1; Testimony of Ty Christensen, starting at 8:04.)

25 9. On or about February 13, 2025, the Facility requested and Respondent granted a
26 thirty-day extension to the filing deadline to March 16, 2025. Respondent emailed notice of the
27 extension to Appellant. (Respondent’s Exhibit 2; Testimony of Ty Christensen, starting at 8:04 and
28 again at 16:07.)

1 10. On March 6, 2025, Respondent sent a reminder notice to Mr. Momberg that the filing
2 deadline was coming up for the Quarterly Report. (Respondent’s Exhibit 3; Testimony of Ty
3 Christensen, starting at 8:04.)

4 11. On March 15, 2025, Respondent sent a reminder notice to Mr. Momberg that the
5 filing deadline was coming up for the Quarterly Report. (Respondent’s Exhibit 4; Testimony of Ty
6 Christensen, starting at 8:04.)

7 12. On March 19, 2025, Respondent emailed Mr. Momberg and notified him that the
8 Quarterly Report was past due and that a penalty of \$100 per day would accrue. (Respondent’s
9 Exhibit 5; Testimony of Ty Christensen, starting at 8:04.)

10 13. On March 25, 2025, Respondent delivered a letter by overnight delivery to the
11 Facility’s address stating that the Facility’s Quarterly Report was delinquent and a penalty of \$100
12 per day would be assessed until the report was filed. (Respondent’s Exhibits 6 and 7; Testimony of
13 Ty Christensen, starting at 8:04.) The overnight delivery service’s delivery notification stated that a
14 “R. Catalan” had signed for the letter. (Respondent’s Exhibit 7.)

15 14. On April 24, 2025, Respondent delivered another letter by overnight delivery to the
16 Facility’s address about the late Quarterly Report and the accruing penalties. (Respondent’s Exhibits
17 8 and 9; Testimony of Ty Christensen, starting at 8:04.) The overnight delivery service’s delivery
18 notification stated that an “A. Catalan” had signed for the letter. (Respondent’s Exhibit 9.)

19 15. On May 7, 2025, Appellant filed the Facility’s delinquent Quarterly Report. This was
20 52 days after the extended filing deadline. (Respondent’s Exhibits 10 and 11; Testimony of Ty
21 Christensen, starting at 8:04.)

22 16. On May 21, 2025, Respondent’s overnight delivery service delivered the notice of the
23 penalty to the Facility’s address. The overnight delivery service’s “Shipment Tracking Information”
24 stated that an “A. Catalan” had signed for the notice. (Respondent’s Exhibit 9; Testimony of Ty
25 Christensen, starting at 8:04.)

26 17. Although Respondent’s overnight delivery service delivered the penalty notice to the
27 Facility’s address on May 21, 2025, it is unknown whether the penalty notice was received by
28 Appellant because it is unknown who “A. Catalan” is or how the delivery service actually delivered

1 the penalty notice at the Facility’s address, which is hospital. Respondent did not present evidence
2 about this issue and did not question Appellant’s representative about this.

3 18. Appellant date stamped Respondent’s penalty notice as being received by Appellant
4 on June 30, 2025. (Appellant’s Request for Administrative Hearing, dated July 1, 2025.)
5 Appellant’s executive administrator signed the penalty notice on June 30, 2025 and Appellant
6 attempted to return the appeal request as soon as they could. Appellant could not explain the time
7 period between delivery and when the executive administrator received the penalty notice.
8 (Testimony of David Momberg, starting at 7:06.)

9 19. HCAI received Appellant’s appeal request to reduce or waive the penalty for the late
10 Quarterly Report on July 2, 2025. (Appellant’s Request for Administrative Hearing, dated July 1,
11 2025.)

12 20. Before the Quarterly Report at issue in this matter, Appellant had timely filed the
13 previous seven Quarterly Reports. (Respondent’s Exhibit 13; Testimony of Ty Christensen, starting
14 at 8:04.)

15 IV.

16 ISSUES AND ANALYSIS

17 A. Late Appeal Affirmative Defense was Not Established

18 Under California Code of Regulations, title 22, section 97052(a), an appellant must file their
19 appeal with HCAI “within 15 business days after the date the [penalty notice] is *received* by the
20 health facility....” (Emphasis added.) If an appellant does not file an appeal within this time period,
21 Respondent may raise this as an affirmative defense. (*See Pollock v. Tri-Modal Distribution*
22 *Services, Inc.* (2021) 11 Cal.5th 918, 945 [stating that statute of limitations are affirmative
23 defenses].) Respondent has the burden of proof to establish this affirmative defense. (*Id.*) Thus,
24 Respondent must provide evidence and establish when Appellant received the penalty notice—i.e.,
25 when Appellant came into possession of the penalty notice (Definition “Receive.” Merriam-Webster
26 Dictionary, <https://www.merriam-webster.com/dictionary/receive>. Accessed December 8, 2025).
27 Respondent raised the late appeal affirmative defense for the first time at the hearing. (Testimony of
28 Ty Christensen, starting at 4:32.)

1 Respondent’s evidence for its affirmative defense of a late appeal is tracking information
2 from its overnight mail contractor that states that it delivered the penalty notice on May 21, 2025 to
3 Appellant’s address and that it was signed for by “A. Catalan.” (Factual Finding No. 16.) Based on
4 the date of May 21, 2025, Appellant would have had until June 12, 2025 to file its appeal request.
5 Appellant filed its appeal on July 2, 2025. (Factual Finding No. 19.) However, Appellant presented
6 evidence that it received the penalty notice on June 30, 2025, when an executive administrator date-
7 stamped the penalty notice. (Factual Finding No. 18.) Thus, there is conflicting evidence on when
8 the penalty notice was received.

9 However, Respondent did not establish that Appellant actually received the penalty notice on
10 May 21, 2025. Respondent’s delivery was signed by “A. Catalan” but Appellant did not present any
11 evidence regarding who “A. Catalan” is and whether that individual was a proper person to deliver
12 the penalty notice to³ or even an employee or agent of Appellant. (Factual Finding Nos. 16 and 17.)
13 Without this information and because of Appellant’s conflicting evidence that it received the notice
14 weeks after the delivery to “A. Catalan”, Respondent did not establish when Appellant received the
15 penalty notice and thus, did not establish that Appellant’s appeal was late.⁴

16 **B. Good Cause was Established to Waive the Penalty**

17 Appellant’s primary argument why the penalty of \$5,200.00 should be reduced or waived is
18 that the Facility had problems obtaining information for the Quarterly Report because of its
19 transition to a new Electronic Medical Record (EMR) system that went live on November 1, 2024.
20 (Testimony of David Momberg, at 19:35.) Appellant also requests waiver or reduction of the
21 penalty because the Facility is financially distressed and because its administrative staff have been
22 diverted to work on the potential sale of the Facility, which was required by statute. (Appellant’s
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24 ³ Code of Civil Procedure section 416.10 only allows certain individuals to receive service of
25 summons on behalf of a corporation. Although this is not a court proceeding and this statute does
26 not apply in this case, the reasoning behind this requirement may be applicable here—that not every
27 employee of a company will know what to do if served and the goal is to notify those in the
28 company that are capable of dealing with the issue.

⁴ As discussed in more detail in the Notice of Rejection of Proposed Decision, dated
November 4, 2025, there are procedural and due process issues with how the affirmative defense
was presented and discussed during the hearing with Appellant. I do not address this issue in this
decision because it appears sufficient to determine the affirmative defense based on the evidence
presented by the parties. However, in the future, the legal standard for late appeals and how it is
addressed in the hearing process should be clarified.

1 Request for Administrative Hearing, dated July 1, 2025.)

2 **1. Legal Standard**

3 Health and Safety Code section 128770(c) allows HCAI to reduce or waive the penalty
4 against Appellant “for good cause.” “Good cause” is just “a good reason for a party's failure to
5 perform that specific requirement from which he seeks to be excused.” (*Waters v. Superior Court of*
6 *Los Angeles County* (1962) 58 Cal.2d 885, 893.) In general, in “determining the meaning of ‘good
7 cause’ in a particular context, the courts utilize common sense based upon the totality of the
8 circumstances.” (*Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.)

9 **2. Financial Distress Argument**

10 Appellant states the penalty should be reduced or waived because the Facility is financially
11 distressed. Appellant’s evidence for this argument is that the Facility received a Distressed Hospital
12 Loan from HCAI of twenty-eight million dollars. Appellant turned a profit in 2024 for the first time
13 in many years. (Factual Finding No. 1.)

14 Appellant’s evidence does not establish that the Facility is so financially distressed that the
15 \$5,200 penalty would have a substantial detrimental effect on the Facility and, for this reason, does
16 not establish good cause in itself. Appellant did not provide any detailed financial information about
17 its current status or why paying a \$5,200 fine would be detrimental to the Facility. Appellant’s
18 evidence was the twenty-eight million dollar Distressed Hospital Loan and this alone is insufficient
19 to show good cause. The loan occurred in 2023 and does not show the Facility’s current status or
20 indicate what the effect the \$5,200 penalty would have on the Facility. For this reason, Appellant’s
21 argument regarding the Facility’s financial distress does not justify waiver or reduction of the
22 penalty.

23 **3. Transition to EMR System and Potential Sale Argument**

24 Appellant argues that its transition to a new Electronic Medical Record (EMR) system on
25 November 1, 2024 and the problems from the new system establishes good cause to reduce or waive
26 the penalty. Appellant also argues that this situation was exacerbated because at the same time it
27 was dealing with the EMR issues, its staff was busy working on the legally-required negotiations to
28 sell the Facility. It is determined there is good cause to waive the \$5,200 penalty because of these

1 reasons.

2 The Facility needed to update its EMR system and it went live on November 1, 2024.
3 (Factual Finding No. 4.) The old EMR system was setup to handle HCAI reporting. (Factual
4 Finding No. 4.) Once the new EMR system went live, Appellant had to rebuild its ability to create
5 the Quarterly Report (Factual Finding No. 4) and also, could not obtain information from the new
6 system to create the Quarterly Report (Factual Finding No. 5). Appellant noted that it took a lot of
7 work and time to complete the HCAI reports because of the new EMR system. (Factual Finding No.
8 5.) Respondent supported this argument by stating that this situation was not unusual regarding a
9 facility transitioning to a new EMR system. (Factual Finding No. 6.)

10 During the time it was dealing with the EMR system issues, Appellant's staff was also
11 performing a lot of administrative work regarding the potential sale of the Facility, which was
12 required by California law. (Factual Finding No. 7.) In other words, Appellant's staff were required
13 to deal with another unusual and time-consuming situation in addition to dealing with problems from
14 the new EMR system.

15 Based on the unique issues Appellant faced, it is reasonable that Appellant was delayed by 52
16 days in submitting its Quarterly Report. For this reason, good cause was established to waive the
17 \$5,200.00 penalty. Appellant's submission history also supports this determination. Before the
18 Quarterly Report at issue, the Facility had timely filed the previous seven Quarterly Reports.
19 (Factual Finding No. 20.) This indicates that the Facility faced unique issues that prevented the
20 timely filing of the Quarterly Report.

21 C. Conclusion

22 HCAI determines that Respondent did not establish its late appeal affirmative defense as it
23 did not prove that Appellant received the penalty notice on May 21, 2025. HCAI determines there
24 was good cause to waive the \$5,200 penalty because of the problems from the Facility's new EMR
25 system and the extra work needed for the potential sale of the Facility during the time it needed to
26 submit the Quarterly Report.

27 ORDER

28 For the reasons discussed above, HCAI waives the \$5,200.00 penalty assessed against

1 Appellant for good cause.

2 Dated: December 10, 2025

IT IS SO ORDERED.

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JAMES YI, Attorney IV
FOR ELIZABETH A. LANDSBERG, Director
Department of Health Care Access and Information