

In the Matter of the Penalty Issued to:

**CATALINA ISLAND MEDICAL
CENTER**

Appellant.

HCAI No. 24-028C-HQF

The hearing concluded at 1:58 PM PST. Both documentary and testamentary evidence were received. The record was held open for Appellant to submit additional documentary evidence. Appellant submitted additional documentary evidence on January 30, 2025, without objection from HCAI. The record was closed on February 10, 2025, at 4:25 PM PST.

PROCEDURAL FINDINGS

1. On December 9, 2024, HCAI assessed penalties against Appellant in the amount of \$20,300, \$11,200, and \$2,000 (a total of \$33,500) for failing to timely file its reports or timely request extensions for three Hospital Quarterly Financial Reports.²
2. Appellant timely appealed the penalties within the required fifteen business days³ from receipt of the penalty letters by submitting a Request for Administrative Hearing form dated December 17, 2024, which was received by the HCAI Hearing Office on Monday, December 23, 2024.
3. Appellant requested the consolidation of the three appeals at the time of appeal. No party objected to the consolidation request and the consolidation was approved by the Hearing Office.
4. HCAI submitted written exhibits to the Hearing Office and Appellant in advance of the hearing in a timely manner. All exhibits were found to be authentic and relevant and were admitted to the record as Exhibits 1 through 19.
5. Appellant submitted a letter of explanation to the Hearing Office and HCAI at the time of appeal. This letter was found to be authentic and relevant and admitted to the record as Exhibit A. Appellant subsequently submitted additional exhibits at the request of the Hearing Officer following the hearing. These exhibits were found to be authentic and relevant and admitted to the record as Exhibits B through F.

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² Health & Saf. Code, § 128770. *See also* Exhibit 17.

³ Health & Saf. Code, § 128775. *See also* Cal. Code Regs. Tit. 22, § 97052.

FACTUAL FINDINGS

1. Appellant is an 8-bed general acute care hospital located in Avalon, California on Santa Catalina Island (“Catalina Island”) and it is the only hospital in Avalon that services approximately 4,000 year-round residents; Catalina Island also has about one million visitors who travel to Catalina Island annually.⁴
2. Appellant was required under Health and Safety Code section 128770 to file or timely request an extension for its Hospital Quarterly Financial Utilization Report for the Report Period Ending (“RPE”) date March 31, 2024⁵, by Wednesday, May 15, 2024.⁶
3. HCAI sent automated reminders to Appellant via email on Sunday, May 5, 2024, and Tuesday, May 14, 2024.⁷ A delinquent report reminder was automatically emailed to Appellant on Saturday, May 18, 2024.⁸ A delinquent report notice, dated May 22, 2024, was mailed to Appellant using General Logistics Systems (“GLS”) overnight mail and delivered on Friday, May 24, 2024.⁹
4. Penalties accrued from May 15, 2024, until Monday, December 4, 2024, when the untimely extension was requested.¹⁰ Appellant submitted its report on Friday, January 3, 2025, prior to the expiration of the extension.¹¹ In accordance with Health and Safety Code section 128770, subsection (a), HCAI assessed penalties in the amount of \$100 per day for 203 days, resulting in a total penalty amount of \$20,300.¹²
5. Appellant was required under Health and Safety Code section 128770 to file or timely request an extension for its Hospital Quarterly Financial Utilization Report for the RPE date Sunday, June 30, 2024, by Wednesday, August 14, 2024.¹³

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⁴ Catalina Island Health Web site <https://catalinaislandhealth.org/> [as of February 28, 2025].

⁵ Exhibit 1.

⁶ Health & Saf. Code, § 128770. *See also* Cal. Code Regs. Tit. 22, §§ 97051.

⁷ Exhibits 1 and 2.

⁸ Exhibit 3.

⁹ Exhibits 4 and 5.

¹⁰ Exhibit 17.

¹¹ Exhibit 19.

¹² Health & Saf. Code, § 128770. *See also* Exhibit 17.

¹³ Health & Saf. Code, § 128770. *See also* Cal. Code Regs. Tit. 22, §§ 97051.

6. HCAI sent automated reminders to Appellant via email on Sunday, August 4, 2024, and Tuesday, August 13, 2024.¹⁴ A delinquent report reminder was automatically emailed to Appellant on Saturday, August 17, 2024.¹⁵ A delinquent report notice, dated August 20, 2024, was mailed to Appellant using GLS overnight mail and delivered on Wednesday, August 21, 2024.¹⁶

7. Penalties accrued from Friday, August 14, 2024, until Monday, December 4, 2024, when the untimely extension was requested.¹⁷ Appellant submitted its report on Friday, January 3, 2025, prior to the expiration of the extension.¹⁸ In accordance with Health and Safety Code section 128770, subsection (a), HCAI assessed penalties in the amount of \$100 per day for 112 days, resulting in a total penalty amount of \$11,200.¹⁹

8. Appellant was required under Health and Safety Code section 128770 to file or timely request an extension for its Hospital Quarterly Financial Utilization Report for the RPE date Monday, September 30, 2024, by Thursday, November 14, 2024.²⁰

9. HCAI sent automated reminders to Appellant via email on Monday, November 4, 2024, and Wednesday, November 13, 2024.²¹ A delinquent report reminder was automatically emailed to Appellant on Sunday, November 17, 2024.²² A delinquent report notice, dated November 25, 2024, was mailed to Appellant using GLS overnight mail and delivered on Tuesday, November 26, 2024.²³

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¹⁴ Exhibits 6 and 7.

¹⁵ Exhibit 8.

¹⁶ Exhibits 9 and 10.

¹⁷ Exhibit 17.

¹⁸ Exhibit 19.

¹⁹ Health & Saf. Code, § 128770.

²⁰ Health & Saf. Code, § 128770. *See also* Cal. Code Regs. Tit. 22, §§ 97051.

²¹ Exhibits 11 and 12.

²² Exhibit 13.

²³ Exhibits 14 and 15.

10. Penalties accrued from Thursday, November 14, 2024, until Monday, December 4, 2024, when the untimely extension was requested.²⁴ Appellant submitted its report on Friday, January 3, 2025, prior to the expiration of the extension.²⁵ In accordance with Health and Safety Code section 128770, subsection (a), HCAI assessed penalties in the amount of \$100 per day for 20 days, resulting in a total penalty amount of \$2,000.²⁶

11. These facts were substantiated both by oral statements made under oath by Mr. Christensen at the hearing and written exhibits.

12. Appellant made oral statements and referenced its appeal documents to explain why it demonstrated good cause regarding the late-filed reports at issue.²⁷

13. In its written statement Appellant explained that its cash reserves would have expired before summer 2024 due to significant losses providing care for Medi-Cal patients.²⁸ Additionally, the root cause of the late reports occurred because Appellant attempted to save the organization by terminating its contract with the Chief Financial Officer (“CFO”) and hiring a controller to stabilize finances.²⁹ HCAI emails were not received by Appellant because of the CFO’s departure and the new controller, Eric Campbell, was unaware of the report filing requirement.³⁰ Appellant concluded its written statement by explaining its financial viability is at risk and the penalties, if upheld, would be detrimental, likely resulting in closure of the facility.³¹

14. Mr. Noll testified that Appellant, on January 19, 2024, informed its community and Avalon City Council that it was 120 days away from closing and on March 19, 2024, it was 60 days away from closing its facility. Appellant accordingly restructured its organization, terminated the CFO’s contract and hired Controller Eric Campbell to avoid imminent closure.

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²⁴ Exhibit 17.

²⁵ Exhibit 19.

²⁶ Health & Saf. Code, § 128770. *See also* Exhibit 17.

²⁷ Exhibit A.

²⁸ Exhibit A.

²⁹ Exhibit A.

³⁰ Exhibit A.

³¹ Exhibit A.

15. The Hearing Officer admitted Exhibit A into the record and requested additional information from Appellant regarding its employee timelines and financial information and gave Appellant a deadline of Friday, January 31, 2025, to submit the additional information. Appellant, on January 30, 2025, provided additional information, including Appellant's amended 2023 Form 990, Healthcare on Catalina Island PowerPoint presentation, 2024 cash flow forecast, HCAI responses (which include employee titles and timeline information) and a 2025 cashflow forecast. HCAI did not object to Appellant's additional evidence and Exhibits B through F, which were found to be authentic, were admitted into the record on February 10, 2025. The Appellant's additional information substantiates Mr. Noll and Mr. Kielpinski's testimony at the hearing.

16. Appellant's documentation explains that Eric Campbell and his employee Leah Keeline, who are responsible for filing the reports, experienced significant family events and were out on protected leave for significant periods of unspecified time in 2024 and their absences contributed to the late-filed reports.³²

17. Appellant's amended fiscal year 2022-2023 Form 990 shows Appellant is a 501(c)(3) tax exempt organization and reported gross receipts and gross income of \$22,068,931, as well as expenses of \$19,255,227, resulting in revenue of \$2,813,704.³³ The Form 990 also shows Appellant's beginning year net assets of \$4,705,221 and prior period adjustments of \$1,773,330, resulting in net assets of \$9,292,255 for the 2022-2023 fiscal year.³⁴

18. Appellant also provided its 2024 and 2025 cash flow forecasts, which, among other financial information, detail beginning and ending bank balances (forecasted and actual) over a period of years between 2017-2026.³⁵

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³² Exhibit E.

³³ Exhibit B.

³⁴ Exhibit B.

³⁵ Exhibits D and F.

19. Appellant’s PowerPoint presentation slides (“slides”) show its historic net income decreased from over \$1.5 million in 2023 to well below \$500,000 in 2024.³⁶ Its investments and cash were also well below \$2 million in 2023 and 2024 according to the slides it submitted.³⁷ Appellant’s slides were used to inform the Avalon City Council of its impending insolvency as early as March 2024, with imminent closure of the facility by June 2024 as Medi-Cal reduced its reimbursements by 20.3%, creating a monthly \$300,000 shortfall; Appellant explained that it expects to lose 70% of its costs on every Medi-Cal patient.³⁸ Appellant also attributes its financial shortfall to the second denial of its appeal to the Federal Emergency Management Agency (“FEMA”) for a \$750,000 reimbursement of its COVID-19 expenditures mandated by Los Angeles County according to the slides.³⁹
20. Appellant’s documentation further explains that it attempted to find a merger partner and while Appellant previously secured \$2 million in funding, those funds would only keep the facility open until January 2025.⁴⁰ Appellant underwent substantial organizational changes to avoid closure and after receiving \$1 million in January 2025, Appellant’s new estimated date of insolvency is September 2025.⁴¹
21. These facts were substantiated by oral statements made under oath by Mr. Noll and Mr. Kielpinski at the hearing as well as written exhibits.

DISCUSSION AND LEGAL CONCLUSIONS

1. The issue here is whether Appellant had good cause, as required by Health and Safety Code section 128770, for failing to timely file its reports or timely request extensions by Wednesday, May 15, 2024, Wednesday, August 14, 2024, and Thursday, November 14, 2024, respectively, and whether the penalty should be waived in whole or in part.

³⁶ Exhibit C.

³⁷ Exhibit C.

³⁸ Exhibits C and E.

³⁹ Exhibit E.

⁴⁰ Exhibit E.

⁴¹ Exhibit E.

2. Under Health and Safety Code section 128770, subsection (c), a penalty may “be reviewed on appeal, and the penalty may be reduced or waived for good cause.” In *Waters v. Superior Court*, the California Supreme Court stated that, “good cause may be equated to a good reason for a party’s failure to perform that specific requirement from which he seeks to be excused.”⁴² Good cause must be directly related to the specific legal requirement which the party failed to perform and should be outside the reasonable control of the party.⁴³ Good cause is sometimes defined as circumstances beyond the party’s control, and not related to the party’s own negligent act or failure to act. On an individual basis, courts and administrative bodies have often found that hospitalization, incapacitation, accident involvement, or loss or unavailability of records may constitute good cause.⁴⁴ The determination of good cause in a particular context should utilize common sense based on the totality of the circumstances, including the underlying purpose of the statutory scheme.⁴⁵ Mere ignorance is not a strong showing of good cause.⁴⁶ A party’s diligence is a factor in determining good cause for an extension or a delay.⁴⁷ Every facility that reports information to HCAI is required to have a primary contact and if the primary contact changes, the facility is required to contact HCAI to designate another primary contact within 15 days.⁴⁸

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⁴² *Waters v. Super. Ct. of Los Angeles County* (1962) 58 Cal2d 885, 893 (hereafter *Waters*).

⁴³ *Waters, supra*, 58 Cal.2d 885,893 and Secretary of State, “Good Cause” Reasons for Waiving Late Campaign & Lobbying Filing Fees <https://www.sos.ca.gov/campaign-lobbying/good-cause-reasons-waiving-late-campaign-lobbying-filing-fees/> [as of December 4, 2019].

⁴⁴ Fair Political Practices Commission, Guidelines for Waiving Late Fines (Nov. 2017) <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/FilingOfficer/700FO-Folder/Late%20Fine%20Guidelines.pdf> [as of November 15, 2022]. See also *Waters, supra*, 58 Cal.2d 885, 893.

⁴⁵ *Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.

⁴⁶ *Tsingaris v. State of California* (1979) 91 Cal.App.3d 312, 314.

⁴⁷ *People v. Financial & Surety, Inc.* (2016) 2 Cal.5th 35, 47. See also *Wang v. Unemployment Ins. Appeals Bd.* (1990) 225 Cal.App.3d 412, 420.

⁴⁸ Health & Saf. Code, § 128810. See also Cal. Code Regs. Tit. 22, §§ 97041.1.

3. Here, the substantiated facts show that Appellant requested untimely extensions on December 4, 2024, for report periods ending March 31, 2024, June 30, 2024, and September 30, 2024, and Appellant filed its reports prior to the extension deadline on January 3, 2025, resulting in a total penalty of \$33,500.⁴⁹ Mr. Noll testified that Appellant informed the Avalon City Council on January 19, 2024, that it was 120 days away from closing and on March 19, 2024, it was 60 days away from closing its facility. Appellant subsequently restructured its organization, terminated the CFO's contract and hired a controller.⁵⁰

4. Appellant's written response further explains that John Lovrich, Appellant's previous CFO, was responsible for filing the reports until his contract was terminated and he left the facility on March 27, 2024.⁵¹ Eric Campbell was hired, as a cost savings measure, and is currently the Appellant's controller; however, Mr. Campbell was unaware of the filing requirement at the time and the report reminders were not received because of John Lovrich's departure.⁵² Appellant is required to update the System for Integrated Electronic Reporting and Auditing ("SIERA") within 15 days with a contact user if the contact user changes.⁵³ In addition to email reminders and delinquency notices, HCAI also mailed the delinquency notices to Appellant's facility via GLS, and the delinquency notices were all signed for by the facility.⁵⁴

5. Notwithstanding Mr. Campbell's lack of knowledge about the report filing requirement and not being a contact user in SIERA, someone at Appellant's facility received physical delinquency notices for each of the reporting periods and Appellant did not timely act on those notifications to address the outstanding reports until December 3, 2024, and subsequently requested an untimely extension on December 4, 2024.⁵⁵ While the contact user explanation provided by Appellant is insufficient for purposes of waiving the imposed penalties at issue, good cause also takes common sense based on the totality of the circumstances into account.⁵⁶

⁴⁹ Exhibit 17.

⁵⁰ Exhibit E.

⁵¹ Exhibit E.

⁵² Exhibits A and E.

⁵³ Health & Saf. Code, § 128810. *See also* Cal. Code Regs. Tit. 22, §§ 97041.1.

⁵⁴ Exhibits 4, 5, 9, 10, 14, and 15.

⁵⁵ Exhibit 16.

⁵⁶ *Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.

6. Appellant further explained that its priority to keep the facility open was more urgent than filing the reports and it was in the process of restructuring the organization.⁵⁷ Ms. Keeline and Mr. Campbell, who are responsible for filing the reports, also experienced significant family events and were out on protected leave for significant periods of unspecified time in 2024, which contributed to the late-filed reports.⁵⁸ This explanation could constitute good cause; however, Appellant did not provide the dates of Ms. Keeline's and Mr. Campbell's protected absences, so it is unclear whether those absences excuse Appellant's failure to timely file the reports.

7. Appellant provided financial information to support its claim of financial hardship.⁵⁹ Appellant also emphasized in its written statement that its priority at the time was making sure the hospital acquired the necessary funding to remain open because it is the only hospital on Catalina Island and filing the reports would be futile if the facility closed, so it prioritized funding, restructuring its organization, and keeping its 130 staff members employed over report compliance.⁶⁰

8. Review of Appellant's amended fiscal year 2022-2023 Form 990 shows Appellant is a 501(c)(3) tax exempt organization and reported gross receipts and gross income of \$22,068,931, as well as expenses of \$19,255,227, resulting in revenue of \$2,813,704.⁶¹ The Form 990 also shows Appellant's beginning year net assets of \$4,705,221, prior period adjustments of \$1,773,330, resulting in net assets of \$9,292,255 for the 2022-2023 fiscal year.⁶² It appears Appellant's financial circumstances began to change for the worse around that time. Appellant also provided its 2024 and 2025 cash flow forecasts, which, among other financial information, detail beginning and ending bank balances (forecasted and actual) over a period of years between 2017-2026 and demonstrate an insufficient revenue stream to continuously fund the operations of the facility.⁶³

⁵⁷ Exhibit E.

⁵⁸ Exhibit E.

⁵⁹ Exhibits B, C, D, E, and F.

⁶⁰ Exhibit E.

⁶¹ Exhibit B.

⁶² Exhibit B.

⁶³ Exhibits D and F.

9. Exhibit C shows Appellant's historic net income decreased from over \$1.5 million in 2023 to well below \$500,000 in 2024. Its investments and cash were also well below \$2 million in 2023 and 2024.⁶⁴ Appellant informed Avalon City Council of its impending insolvency as early as March 2024, with imminent closure of the facility by June 2024 as Medi-Cal reduced its reimbursements by 20.3%, creating a monthly \$300,000 shortfall; Appellant explained that it expects to lose 70% of its costs on every Medi-Cal patient.⁶⁵ Another contributing factor to Appellant's financial shortfall was the second denial of its appeal to FEMA for a \$750,000 reimbursement of its COVID-19 expenditures mandated by Los Angeles County.⁶⁶

10. Appellant tried but was ultimately unsuccessful in locating a merger partner and while Appellant previously secured \$2 million in funding, those funds would only keep the facility open until January 2025.⁶⁷ Appellant underwent substantial organizational changes to avoid closure and after receiving \$1 million in January 2025, Appellant's new estimated date of insolvency is September 2025.⁶⁸

11. It appears Appellant's report compliance efforts were superseded by financial setbacks outside of its control. The reduced Medi-Cal reimbursements and denied FEMA reimbursement are events outside of Appellant's control. Appellant requested additional funds, notified Avalon City Council of the facility's imminent closure and tried but was unable to find a merger partner to save the facility. It also underwent substantial organizational changes to address its financial shortfall. These events occurred in 2024, when the reports at issue were due and being prepared.

12. The purpose of the statute is to encourage report compliance of necessary health data; however, Appellant's situation needs to be balanced with common sense. Appellant redirecting its efforts to keep the facility operating and 130 staff employed to provide medical care to the public is a greater priority than a report filing requirement. Appellant's position is persuasive; if it did not focus all its efforts and resources on keeping the facility open, the reports would not be filed anyway because the facility would close due to insolvency. Additionally, Appellant has

⁶⁴ Exhibit C.

⁶⁵ Exhibits C and E.

⁶⁶ Exhibit E.

⁶⁷ Exhibit E.

⁶⁸ Exhibit E.

provided substantiation to support its position that it faces insolvency and upholding penalties in the amount of \$33,500 will only exacerbate Appellant's existing financial difficulties. The reports were all filed on January 3, 2025, and the harm associated with the late-filed reports was very minimal compared to the harm associated with upholding \$33,500 in penalties on a facility that faces closure before the end of 2025.

13. As a matter of public policy, closing the only general acute care hospital on Catalina Island is not in the interest of the 4,000 residents that need access to healthcare from the facility or the million annual tourists that may find themselves in need of medical care while visiting Catalina Island. In addition, the closure of the facility would also result in the loss of 130 jobs.

14. The substantiated facts demonstrate that Appellant was impacted by circumstances clearly outside its control and acted with due diligence under the circumstances. Therefore, based on the totality of the circumstances, the substantiated facts show good cause for waiver of the penalties assessed in the total amount of \$33,500.

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PROPOSED ORDER

The assessed penalties in the total amount of \$33,500 for the late-filed reports for periods March 31, 2024, June 30, 2024, and September 30, 2024, are waived for good cause.

Dated: February 28, 2025

//original signed//

CAMILLE DIXON
Hearing Officer
Department of Health Care Access and Information

DECISION

Pursuant to Health and Safety Code section 128775, after due consideration of the record, the Proposed Decision is:

☒ Accepted

☐ Rejected

Dated: March 17, 2025

//original signed//

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