

BEFORE THE
DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION
STATE OF CALIFORNIA

In the Matter of the Penalty Issued to:

PLUMAS DISTRICT HOSPITAL

Appellant.

HCAI No. 21-020C-HQF

PROPOSED DECISION

This matter was heard before Michelle Church-Reeves, Hearing Officer, Department of Health Care Access and Information (“HCAI”), successor to the Office of Statewide Health Planning and Development (“OSHPD”),¹ State of California, on Tuesday, December 21, 2021, beginning at 10:31 a.m.

HCAI was represented by Ty Christensen, Health Program Audit Manager II, and Tina Tran, Associate Governmental Program Analyst, Accounting and Reporting Systems Section.

Plumas Hospital District, owner and operator of Plumas District Hospital, collectively “Appellant,” was represented by Nicole Sigle, Controller, and Caleb Johnson, Chief Financial Officer.

Both documentary and testamentary evidence was received. The record was closed on Tuesday, December 21, 2021, at 11:06 a.m.

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¹ Stats. 2021, ch. 143, §§ 30, 31.

PROCEDURAL FINDINGS

1. On August 16, 2021, HCAI assessed a penalty against Appellant in the amount of \$39,400 for Plumas District Hospital's delinquent Hospital Quarterly Financial Utilization Report with the report period ended ("RPE") March 31, 2020.²
2. On August 16, 2021, HCAI assessed a penalty against Appellant in the amount of \$33,300 for Plumas District Hospital's delinquent Hospital Quarterly Financial Utilization Report with the RPE June 30, 2020.³
3. On August 16, 2021, HCAI assessed a penalty against Appellant in the amount of \$19,500 for Plumas District Hospital's delinquent Hospital Quarterly Financial Utilization Report with the RPE September 30, 2020.⁴
4. On August 16, 2021, HCAI assessed a penalty against Appellant in the amount of \$14,900 for Plumas District Hospital's delinquent Hospital Quarterly Financial Utilization Report with the RPE December 31, 2020.⁵
5. On August 24, 2021, HCAI assessed a penalty against Appellant in the amount of \$9,700 for Plumas District Hospital's delinquent Hospital Quarterly Financial Utilization Report with the RPE March 31, 2021.⁶
6. On August 24, 2021, HCAI assessed a penalty against Appellant in the amount of \$600 for Plumas District Hospital's delinquent Hospital Quarterly Financial Utilization Report with the RPE June 30, 2021.⁷
7. Appellant appealed the penalties by submitting six Request for Administrative Hearing forms, four forms dated August 20, 2021, and two forms dated August 31, 2021, respectively and received by the Hearing Office on September 1, 2021.

² Health & Saf. Code, § 128770.

³ Health & Saf. Code, § 128770.

⁴ Health & Saf. Code, § 128770.

⁵ Health & Saf. Code, § 128770.

⁶ Health & Saf. Code, § 128770.

⁷ Health & Saf. Code, § 128770.

8. Appellant requested consolidation of the above penalty appeals at the time it filed the Request for Administrative Hearing forms.
9. Appellant submitted its appeal within the required fifteen business days from receipt of the penalty letters.⁸
10. The hearing was conducted electronically using video and teleconferencing. No party objected to the use of video and teleconferencing or requested an in-person hearing.
11. HCAI submitted written exhibits to the Hearing Office and Appellant in advance of the hearing in a timely manner. Exhibits 1 through 66 were found to be authentic and relevant and admitted to the record.
12. Appellant submitted written statements to the Hearing Office and HCAI at the time of appeal. The written statements were found to be authentic and relevant and admitted to the record.

FACTUAL FINDINGS

1. Appellant was required under Health and Safety Code section 128740 to file the RPE March 31, 2020 Hospital Quarterly Financial Utilization Report by June 14, 2020.⁹ Penalties accrued from June 15, 2020, until July 13, 2021, when the report was filed.
2. In accordance with Health and Safety Code section 128770, HCAI assessed penalties in the amount of \$100 per day for 394 days for the late filing of Plumas District Hospital's RPE March 31, 2020 Report, resulting in a penalty amount of \$39,400.¹⁰
3. Appellant was required under Health and Safety Code section 128740 to file the RPE June 30, 2020 Hospital Quarterly Financial Utilization Report by August 14, 2020.¹¹ Penalties accrued from August 15, 2020, until July 13, 2021, when the report was filed.

⁸ Health & Saf. Code, § 128775. *See also* Cal. Code Regs. tit. 22, § 97052.

⁹ *See also* Cal. Code Regs. tit. 22, § 97051.

¹⁰ Health & Saf. Code, § 128770(a).

¹¹ *See also* Cal. Code Regs. tit. 22, § 97051.

4. In accordance with Health and Safety Code section 128770, HCAI assessed penalties in the amount of \$100 per day for 333 days for the late filing of Plumas District Hospital's RPE June 30, 2020 Report, resulting in a penalty amount of \$33,300.¹²
5. On July 17, 2019, Appellant requested and was granted the 30-day extension for the RPE September 30, 2020 Hospital Quarterly Financial and Utilization Report through HCAI's System for Integrated Electronic Reporting and Auditing ("SIERA").
6. Following exhaustion of the extension, Appellant was required under Health and Safety Code section 128740 to file the RPE September 30, 2020 Hospital Quarterly Financial Utilization Report by December 30, 2020.¹³ Penalties accrued from December 31, 2020, until July 13, 2021, when the report was filed.
7. In accordance with Health and Safety Code section 128770, HCAI assessed penalties in the amount of \$100 per day for 195 days for the late filing of Plumas District Hospital's RPE September 30, 2020 Report, resulting in a penalty amount of \$19,500.¹⁴
8. Appellant was required under Health and Safety Code section 128740 to file the RPE December 31, 2020 Hospital Quarterly Financial Utilization Report by February 14, 2021.¹⁵ Penalties accrued from February 15, 2021, until July 13, 2021, when the report was filed.
9. In accordance with Health and Safety Code section 128770, HCAI assessed penalties in the amount of \$100 per day for 149 days for the late filing of Plumas District Hospital's RPE December 31, 2020 Report, resulting in a penalty amount of \$14,900.¹⁶
10. Appellant was required under Health and Safety Code section 128740 to file the RPE March 31, 2021 Hospital Quarterly Financial Utilization Report by May 15, 2021.¹⁷ Penalties accrued from May 16, 2021, until August 20, 2021, when the report was filed.

¹² Health & Saf. Code, § 128770(a).

¹³ *See also* Cal. Code Regs. tit. 22, § 97051.

¹⁴ Health & Saf. Code, § 128770(a).

¹⁵ *See also* Cal. Code Regs. tit. 22, § 97051.

¹⁶ Health & Saf. Code, § 128770(a).

¹⁷ *See also* Cal. Code Regs. tit. 22, § 97051.

11. In accordance with Health and Safety Code section 128770, HCAI assessed penalties in the amount of \$100 per day for 97 days for the late filing of Plumas District Hospital's RPE March 31, 2021 Report, resulting in a penalty amount of \$9,700.¹⁸

12. Appellant was required under Health and Safety Code section 128740 to file the RPE June 30, 2021 Hospital Quarterly Financial Utilization Report by August 14, 2021.¹⁹ Penalties accrued from August 15, 2021, until August 20, 2021, when the report was filed.

13. In accordance with Health and Safety Code section 128770, HCAI assessed penalties in the amount of \$100 per day for 6 days for the late filing of Plumas District Hospital's RPE June 30, 2021 Report, resulting in a penalty amount of \$600.²⁰

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

15. Under Health and Safety Code section 128770, a penalty may "be reviewed on appeal, and the penalty may be reduced or waived for good cause."²¹

16. Appellant made oral statements of facts it believes show good cause why its report was not submitted in a timely manner.

17. Appellant's representative testified that it transitioned to a new accounting system on or around August 1, 2019. Subsequently, Appellant transitioned to a new Electronic Health Records system on or around September 9, 2019. New queries needed to be programmed and run to gather the necessary data for the reports at issue. However, due to the training that took place prior to the transition, the new software alone did not cause the late reports, and Appellant was able to complete its RPE December 31, 2019 Report timely in March of 2020.

18. Appellant further testified that its ability to complete the reports timely was heavily impacted by COVID-19, which caused short staffing for the hospital and issues with network and data access due to remote working. Furthermore, most of Appellant's accounting staff chose to retire rather than deal with the effects of the COVID-19 pandemic, causing further staff

¹⁸ Health & Saf. Code, § 128770(a).

¹⁹ *See also* Cal. Code Regs. tit. 22, § 97051.

²⁰ Health & Saf. Code, § 128770(a).

²¹ Health & Saf. Code, § 128770(c).

shortages and knowledge gaps as the individuals who had been trained to use the new software left, including the previous Controller. Ms. Sigle was hired as the new Controller and obtained her SIERA account on or around September 14, 2020. However, Ms. Sigle did not have previous experience filing HCAI's Hospital Quarterly Financial Utilization Reports and needed training and staff to accomplish this task. Unfortunately, road closures and evacuations from the North Complex Fire disrupted hospital operations between September 2020 and December 2020.

19. Finally, in 2021, Appellant began making progress on the delinquent reports, and hired a consultant to assist with training new staff on the software and how to generate the queries needed to prepare the reports at issue. By approximately May 2021 or June of 2021, the consultant was able to program the software and train staff on how to generate reports from within the two programs and prepare the HCAI reports. Appellant was able to prepare and file four of the delinquent reports before all accounting staff were quarantined in July and August of 2021. In addition, the Dixie Fire caused road closures and evacuations that further disrupted hospital operations between July 2021 and October 2021. Despite these events, the final two reports were submitted immediately after accounting staff were allowed to return to work following COVID-19 protocols. Throughout these events, patient care was the primary concern and focus of hospital management. However, the combined disruptions to operations and financial hardships of the North Complex and Dixie fires in addition to the COVID-19 pandemic, would be further impacted by the large amount of the penalties assessed by statute.

20. These facts were substantiated by oral statements made under oath by Mr. Johnson at the hearing. Ms. Sigle provided additional information as a witness by request.

21. HCAI's exhibit 66 shows that Appellant filed its subsequent Hospital Quarterly Financial Utilization Report in a timely manner and further shows that Appellant filed reports prior to the reports at issue timely.

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 file six Hospital Quarterly Financial Utilization Reports for Plumas District Hospital beginning on June 14, 2020, and ending on August 14, 2021, and whether the penalties should be waived in whole or in part.

2. 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.”²² 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.²³

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.²⁴ 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.²⁵

3. Appellant asserts the reports at issue were late due to multiple overlapping factors to include: a change of accounting and Electronic Health Records software; followed by impacts from the COVID-19 pandemic; staff vacancies and training of new staff; and disruptions due to two separate fires, the North Complex and Dixie Fires and associated road closures and evacuations. The substantiated facts show that those events occurred almost sequentially and were clearly outside the control of Appellant.

4. A party’s diligence is a factor in determining good cause for an extension or a delay.²⁶

²² *Waters v. Super. Ct. of Los Angeles County* (1962) 58 Cal.2d 885, 893 (hereafter *Waters*).

²³ *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].

²⁴ 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 December 4, 2019]. See also *Waters, supra*, 58 Cal.2d 885, 893.

²⁵ *Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.

²⁶ *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.

Following the change of software and initial impacts of the COVID-19 pandemic, Appellant experienced staff vacancies which caused staffing shortages and knowledge gaps. Appellant did take prompt steps to hire new staff and attempted to train them on their reporting requirements, however, this was delayed due to the impacts of the North Complex Fire. Appellant took the step to hire a consultant to assist staff once hospital operations were returning to a non--emergency state in the beginning of 2021. After four of the delinquent reports were filed, all financial staff were ill and quarantined due to COVID-19, as well as impacted by the Dixie Fire, and unable to complete the remaining two delinquent reports for an additional month. Once staff were trained and delinquent reports were filed, Appellant did file its subsequent Hospital Quarterly Financial Utilization Report timely.

5. Due to the proximity in time of the software changes; the beginning of the COVID-19 pandemic; the staff vacancies and subsequent training and knowledge gaps; the emergency road closures and evacuations relating to the North Complex Fire and then the Dixie Fire; and the illness and quarantine of all financial staff due to contracting COVID-19, Appellant has shown good cause for waiver of all penalties. Appellant is allowed 45 days to prepare the reports at issue following the end of a calendar quarter with the option to request one 30-day extension.²⁷ The additional time Appellant took to prepare the reports at issue with the assistance of its consultant beginning in 2021 are waived for good cause due to the additional training and programming requirements as well as the COVID-19 outbreak and pursuant to the Governor's Emergency Orders related to the COVID-19 pandemic granting additional extensions and waivers of penalties.²⁸

6. These facts taken together demonstrate that Appellant was subject to multiple sequential and overlapping natural disasters including the COVID-19 pandemic and two separate fires which were outside the reasonable control of Appellant for an extended period. The Appellant acted with due diligence under the circumstances and with reasonable haste to provide the late reports. Therefore, the substantiated facts show good cause for waiver of the penalties.

²⁷ Health & Saf. Code, § 128740(a). *See also* Cal. Code Regs. tit. 22, § 97051.

²⁸ Governor's Exec. Order No. N-55-20 (April 22, 2020).

PROPOSED ORDER

The assessed penalties are waived for good cause.

Dated: December 30, 2021

//original signed//

MICHELLE L. CHURCH-REEVES
Hearing Officer
Department of Health Care Access and Information

DECISION

Pursuant to Health and Safety Code section 128775 and California Code of Regulations, title 22, section 97054, after due consideration of the record, the Proposed Decision is:

Accepted

Rejected

Dated: January 11, 2022

//original signed//

ELIZABETH A. LANDSBERG
Director
Department of Health Care Access and Information