

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

In the Matter of the Penalty Issued to:

**BEAR VALLEY COMMUNITY
HOSPITAL**

Appellant.

HCAI No. 24-026-HQF

PROPOSED DECISION

This matter was heard before Michelle Church-Reeves, Hearing Officer, Department of Health Care Access and Information (“HCAI”), State of California, beginning on Wednesday, December 4, 2024, at 1:29 PM PST.

HCAI was represented by Ty Christensen, Manager, Accounting and Reporting Systems Section. Tina Tran, Associate Governmental Program Analyst, Accounting and Reporting Systems Section and Camille Dixon, Attorney, Legal Office were also present on behalf of HCAI.

Bear Valley Community Healthcare District, owner and operator of Bear Valley Community Hospital,¹ collectively, “Appellant,” was represented by Wendy Zimmerman, Controller. Jim Schlenker, Chief Financial Officer, was also present on behalf of Appellant.

Both documentary and testimonial evidence was received. The matter was submitted for decision and the record was closed on December 4, 2024, at 1:57 PM PST.

¹ Department of Public Health, CalHealth Find Database
<https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/FacilityDetail.aspx?facid=630017416> [as of December 4, 2024].

PROCEDURAL FINDINGS

1. On October 22, 2024, HCAI assessed a penalty against Appellant in the amount of \$3,100 for its late-filed Hospital Quarterly Financial Report.²
2. Appellant appealed the penalty by submitting a Request for Administrative Hearing form dated October 24, 2024, and received by the HCAI Hearing Office on October 25, 2024.
3. Appellant submitted its appeals within the required fifteen business days from receipt of the penalty letters.³
4. HCAI submitted written exhibits to the Hearing Office and Appellant in advance of the hearing in a timely manner. Exhibits 1 through 12 were found to be authentic and relevant and admitted to the record.
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.

FACTUAL FINDINGS

1. Appellant was required under Health and Safety Code section 128770 to file or request an extension for its Hospital Quarterly Financial Utilization Report for the Report Period Ending (“RPE”) date June 30, 2024 by Wednesday, August 14, 2024.⁴
2. HCAI sent an automated reminder to Appellant via email on Sunday, August 4, 2024⁵ On Monday, August 5, 2024, Appellant requested and received the sole 30-day extension for its report.⁶ Following exhaustion of the extension, the report at issue was due on Friday, September 13, 2024.
3. HCAI sent automated reminders to Appellant via email on Tuesday, September 3, 2024,

² Health & Saf. Code, § 128770. *See also* exhibit 9.

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

⁴ Health & Saf. Code, § 128770. *See also* Cal. Code Regs. Tit. 22, §§ 97051.

⁵ Exhibit 1.

⁶ Exhibit 2.

and Thursday, September 12, 2024.⁷ A delinquent report reminder was automatically emailed to Appellant on Monday, September 16, 2024.⁸

4. A delinquent report notice, dated September 23, 2024, was mailed to Appellant using GLS overnight mail and delivered on Tuesday, September 24, 2024.⁹

5. Penalties accrued from Friday, September 13, 2024 until Monday, October 14, 2024 when the report was filed.¹⁰

6. In accordance with Health and Safety Code section 128770, subsection (a), HCAI assessed penalties in the amount of \$100 per day for thirty-one days, resulting in a total penalty amount of \$3,100.¹¹ These facts were substantiated both by oral statements made under oath by Mr. Christensen at the hearing and written exhibits.

7. Appellant submitted exhibits with its appeal and made oral statements of facts it believes show good cause why the report at issue was not submitted in a timely manner.

8. In its written statement Appellant stated that the facility is located in the San Bernardino Mountains and was “deeply affected by The Line Fire.” Many employees were required to evacuate, and the facility itself evacuated its long-term care patients during a portion of the time period at issue.¹²

9. Ms. Zimmerman testified that her residence was close to the Line Fire, and she was required to evacuate shortly after the fire first started on Thursday, September 5, 2024.¹³ By Tuesday, September 10, 2024, the facility was preparing to evacuate its long-term care patients, and most staff were ordered to shelter in place. Ms. Zimmerman worked from a hotel room for a period of time and was unable to access the full information and resources required to prepare and file the report at issue in addition to having to handle emergency requirements due to the natural disaster. She was unable to begin working on the report at issue until approximately the

⁷ Exhibits 3 and 4.

⁸ Exhibit 5.

⁹ Exhibits 6 and 7.

¹⁰ Exhibit 8.

¹¹ Health & Saf. Code, § 128770.

¹² Exhibit A.

¹³ See also California Governor’s Proclamation of a State of Emergency, https://www.gov.ca.gov/wp-content/uploads/2024/09/2024.09.07.SOE-Line-Fire.FINAL_.pdf [as of January 7, 2025].

end of the third week of September. Ms. Zimmerman was able to prepare the report in approximately two and one half to three weeks, well under the 45-days allowed by statute and regulation.

10. In addition, Mr. Schlenker testified that the Air Quality Index (“AQI”) reached 1300, prompting shelter in place orders as that AQI is well over the hazardous limit of 301.¹⁴ Residents were advised to shelter in place or evacuate depending on their proximity to the fire and evacuation zone. Appellant evacuated its long-term care patients and shut down all routine care for a period of approximately 10 days. Appellant reduced staffing to levels required only to operate 24-hour emergency care. In or around the third week of September, as evacuation orders were reduced to evacuation warnings and the AQI improved, Appellant resumed limited operations but was still focused on patient care and unable to dedicate resources to complete its report. In late September, the Line Fire flared up and some zones were placed under evacuation warning again, but the facility did not move patients a second time and was able to resume some non-emergency duties such as preparing the report at issue.

11. These facts were substantiated by oral statements made under oath by Ms. Zimmerman and Mr. Schlenker at the hearing as well as written exhibits.¹⁵ Exhibit A was provided to the Hearing Officer and HCAI in a timely manner prior to the hearing.

12. Exhibit 11 showed that Appellant has a history of filing required reports in a timely manner except Ms. Zimmerman’s first report as Controller in June 2023.¹⁶

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 for its report or request an extension by Wednesday, May 15, 2024, and whether the penalty should be waived in whole or in part.

¹⁴ See also Environment Protection Agency Air Quality Index Basis, <https://www.airnow.gov/aqi/aqi-basics/> [as of January 7, 2025].

¹⁵ Exhibit A.

¹⁶ See also exhibit 12.

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.”¹⁷ 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.¹⁸ 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.¹⁹ 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.²⁰

3. A party’s diligence is a factor in determining good cause for an extension or a delay.²¹ Appellant has shown a history of submitting its reports timely outside of Ms. Zimmerman’s initial report filing as Controller for Appellant.²² Here, the substantiated facts show that Appellant was impacted by a natural disaster clearly outside the control of Appellant. It was reasonable and necessary for Appellant to prioritize patient and staff welfare and follow the evacuation warnings and legally enforceable evacuation orders. As of the hearing date, the fire was still only 98% contained. In addition, Appellant filed the report at issue within the normal timeline of 45-days once operations were able to resume. This further supports the assertion that

¹⁷ *Waters v. Super. Ct. of Los Angeles County* (1962) 58 Cal.2d 885, 893 (hereafter *Waters*).

¹⁸ *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].

¹⁹ 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.

²⁰ *Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.

²¹ *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.

²² Exhibits 11 and 12.

PROPOSED ORDER

The assessed penalty is waived for good cause.

Dated: January 17, 2025

//original signed//

MICHELLE CHURCH-REEVES
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: January 17, 2025

//original signed//

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