IDAHO DEPARTMENT OF HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

LESLIE M. CLEMENT - Administrator
DIVISION OF MEDICAID
Post Office Box 83720
Boise, Idaho 83720-0036
PHONE: (208) 334-5747
FAX: (208) 364-1811

January 18, 2008

HISway LLC
Attn: Ellen Hampton, Administrator
PO Box 108
Ola, ID 83657

Dear Ellen,

Thank you for submitting your agency's Plan of Correction for review of complaint dated December 11, 2007. Survey and Certification has reviewed and accepted the Plan of Correction in response to the Department's Compliance Review findings.

Your agency will be required to submit documentation to substantiate that you your Plan of Correction has been met. Documentation must be submitted within 10 working days of receipt of this letter.

You can reach me if you have any questions at 208-364-1906.

Thank you for your patience and accommodating us through the survey process.

Rebecca Fadness

Rebecca Fadness
Program Supervisor
DD Survey and Certification

IDAHO DEPARTMENT OF HEALTH & WELFARE

RESIDENTIAL HABILITATION COMPLIANCE REVIEW

AGENCY NAME: HISWAY, LLC

DATE(S): DECEMBER 11, 2007

NOTE: This document contains a listing of findings made by the survey team. The summary of survey findings is based on the survey team's professional knowledge and interpretation of IDAPA requirements. In the Column, "Agency's Plan for Compliance", the statement should reflect the agency's plan for compliance action and anticipated time for plan to be implemented.

SURVEY TEAM MEMBERS: Rebecca Fadness, Program Supervisor
Cyndy Jonsson, Clinician
Eric Brown, Medical Program Specialist

SURVEY FINDINGS

The following are deficient practices determined as a result of complaint investigation completed on November 16, 2007.

Deficiencies:	Agency's Plan for Compliance
16.04.17.201. ADMINISTRATION. **01. Scope.** Each residential habilitation agency must be organized and administered under one authority. If other than a single owner or partnership, the agency must have a governing board which assumes full legal responsibility for the overall conduct of the agency. (3-20-04) **03. Responsibilities.** The governing authority must assume responsibility for: (3-20-04) **c.** Providing a continuing and annual program of overall agency evaluation; and (7-1-95) **d.** Assuring that appropriate training, space requirements, support services, and equipment for staff or affiliated residential habilitation providers are provided to carry out assigned responsibilities; and (7-1-95) **FINDING:** Administrator reports that many attempts have been made with a parent of two of the participants living in the home to differentiate the person's role as a parent from the administration and management of the Residential Habilitation services provided to her children. However, the	1. **The Administrator will do all hiring and staff supervision.** 2. **Participants will be affected only by having a consistent atmosphere.** 3. **The Administrator is the responsible party.** 4. **The Administrator will be on site at least twice a week and in telephone communication twice a day – available by phone 24 hours a day.** 5. **Corrective action is in place – Formal memo to staff January 8, 2008.**

Administrators attempts have not been successful. Review of communication records, W-4 forms, and interview with staff indicate that the parent of two of the resident watches staff through closed circuit camera and continuously provides direct instruction to staff regarding all participants living in the home. Supporting documentation indicates that the administrator continues to allow the parent to complete administrative functions including hiring staff, setting wages, and providing written instruction to staff regarding all operations. There is noted documentation in communication logs that the administrator of HIS Way does not take administrative actions relating to business operations independent of the outside party	
16.04.17.202. Administrator. An administrator is responsible and accountable for implementing the policies and procedures approved by the governing authority. (3-20-04) **03. Responsibilities.** The administrator, or his designee, must assume responsibility for: (3-20-04) **b.** Developing and implementing policies and procedures for staff and affiliated residential habilitation provider training, quality assurance, evaluation, and supervision; and (7-1-95) **g.** Ensuring that agency personnel, and affiliated providers including those providing services under arrangement, practice within the bounds set forth by the applicable state licensure boards. (7-1-95) **FINDING:** Interview with agency Administrator, staff interview and supporting documentation indicated that an outside party completes staff schedules, gives staff direct training and instruction, and participates in hiring and firing of staff. Supporting documentation was gathered to support this allegation from communication logs, W-4 forms, fire drill report. All documents had initials or statements from an outside party regarding hiring, wages, instruction, and training of staff. **FINDING:** Interview with agency Administrator indicated that an outside party gives direction to Administrator through home communication logs and direct interaction regarding hiring and firing or staff, staff schedules, training, and program implementation. Documentation and staff interviews support direction given to Administrator. Communication logs state that the schedules are required to be submitted to the outside party, and clear directives were documented from the outside party to the Administrator.	1. **The Administrator will take more aggressive action to manage the day to day operations.** 2. **Participants privacy will continue to be protected.** 3. **The Administrator will monitor with staff support.** 4. **The Administrator will be on site at least twice a week and in telephone communication at least twice a day, available 24 hours a day.** 5. **Corrective action is in place – Formal memo to staff January 8, 2008.**

IDAHO DEPARTMENT OF HEALTH & WELFARE

16.04.17.402. 01. Responsibilities. Each residential habilitation agency must develop and implement a written policy outlining the personal, civil, and human rights of all participants. The policy protects and promotes the rights of each participant and includes the following: (3-20-04) **d.** Provide each participant with the opportunity for personal privacy and ensure privacy during provision of services; (3-20-04) **FINDING:** Closed circuit cameras were visually present in the common areas of the home. Interview with staff indicated that the camera footage was being directly monitored by an outside party from her home in Boise. The participants are not being provided the opportunity for personal privacy and ensured privacy during provision of services.	**This area is under investigation. Consent for camera observation has been given by Participants or their Guardians. No outside monitoring is being done at the present time. The bedrooms and bathrooms are not monitored. The Administrator can from time to time review the tapes for training and review of Participant Rights in place. In this particular home two Participants are not verbal. Investigation and findings will be complete March 1, 2008.**
Provider Agreement 1. Compliance: The Provider specifically agrees that it is required to comply with the Health Insurance Portability and Accountability Act (HIPAA), Sections 262 and 264 of Public Law 104-191, 42 USC Section 1320d, and federal regulations at 45 CFR Parts 160 and 164. The Provider shall comply with all amendments of HIPAA and federal regulations made during the term of the Contract. **FINDING:** Through the review of documentation it appears that the agency is not compliant with HIPAA regulation. Outside party had documented access to participant records. Agency did not assure confidentiality of participant records.	**1. All Participant records are in a locked cabinets. Administrator or designee will be present at time records are accessed.** **2. One Participant is her own Guardian. Her privacy will be insured.** **3. The Administrator will be responsible for this issue.** **4. One key opens the cabinets. Administrator will be consulted for key.** **5. Corrective action is in place – Formal memo January 8, 2008.**
16.04.17.302.SERVICE PROVISION PROCEDURES. **04. Medication Standards.** The agency must maintain a policy describing the program's system for handling participant medications which is in compliance with the IDAPA 23.01.01, "Rules of the Board of Nursing." (3-20-04) **FINDING:** Interview with Agency administrator and staff confirmed that medication belonging to a participant was removed from the participant's home by an outside party. Medication was not properly secured by the RH agency.	**1. All medication on site is properly packaged.** **2. The med cabinets are locked.** **3. The Administrator will monitor compliance.** **4. Incoming medication will be properly packaged and reviewed at the pharmacy before pickup.** **5. Corrective action is in place – Formal memo January 8, 2008.**

Compliance report completed by : Rebecca Fadness

Date: _____

Agency Administrator Signature: Ellen Hampton

Date: _January 7, 2008_____

IDAHO DEPARTMENT OF
HEALTH & WELFARE

Plan of correction accepted: Rebecca Jadnes

Date: 1/18/07