



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General  
Offices of Audit Services

Report Number A-07-03-04022

December 3, 2003

Region VII  
601 East 12th Street  
Room 284A  
Kansas City, Missouri 64106

Elizabeth Irtz, Administrator  
Mariner Health of Denver  
895 S. Monaco Pkwy  
Denver, CO 80224

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Service's (OAS) final report entitled "*Audit of Nursing Facility Staffing Requirements at Mariner Health of Denver.*"

The audit objective was to evaluate whether Mariner Health of Denver (Mariner Health) was in compliance with Federal and State staffing laws and regulations for nursing facilities.

Mariner Health complied with Federal and State staffing laws and regulations with one exception. State regulations require facilities to provide annual in-service education for staff in certain critical areas including rehabilitation. However, even though Mariner's corporate office had developed a training seminar for rehabilitative services, the facility did not provide its nursing staff with rehabilitative nursing training on an annual basis. Quality of patient care can be enhanced with improved training. Therefore, we are recommending that Mariner review its annual in-service training program to assure that all mandated State required training is included for all staff.

Mariner Health of Denver has agreed with our recommendation and has agreed to revise and update its policies regarding the in-service education for Restorative and Rehabilitation Nursing.

The HHS action official named below will make final determination as to actions taken on all matters reported. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, OAS reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.) As such, within 10 business days after the final report is issued, it will be posted on the worldwide web at <http://oig.hhs.gov>.

To facilitate identification, please refer to Report Number A-07-03-04022 in all correspondence relating to this report.

Sincerely,

A handwritten signature in black ink that reads "James P. Aasmundstad For". The signature is written in a cursive style.

James P. Aasmundstad  
Regional Inspector General  
for Audit Services

**Direct Reply to HHS Action Official:**

Mr. Alex Trujillo  
Centers for Medicare and Medicaid Services  
Regional Administrator, Region VII  
1600 Broadway, Suite 700  
Denver, CO 80202

Enclosures---As stated

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**AUDIT OF NURSING FACILITY  
STAFFING REQUIREMENTS AT  
MARINER HEALTH OF DENVER**



**DECEMBER 2003  
A-07-03-04022**

# *Office of Inspector General*

<http://oig.hhs.gov/>

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The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

## *Office of Audit Services*

The OIG's Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations in order to reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout the Department.

## *Office of Evaluation and Inspections*

The OIG's Office of Evaluation and Inspections (OEI) conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the Department, the Congress, and the public. The findings and recommendations contained in the inspections reports generate rapid, accurate, and up-to-date information on the efficiency, vulnerability, and effectiveness of departmental programs.

## *Office of Investigations*

The OIG's Office of Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, or civil monetary penalties. The OI also oversees State Medicaid fraud control units, which investigate and prosecute fraud and patient abuse in the Medicaid program.

## *Office of Counsel to the Inspector General*

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the Department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

# ***Notices***

**THIS REPORT IS AVAILABLE TO THE PUBLIC  
at <http://oig.hhs.gov/>**

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services, reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.)

## **OAS FINDINGS AND OPINIONS**

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed as well as other conclusions and recommendations in this report represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the awarding agency will make final determination on these matters.



## **EXECUTIVE SUMMARY**

The objective of the audit was to determine whether Mariner Health of Denver (Mariner) was in compliance with Federal and State staffing laws and regulations for nursing facilities. Mariner is a 117 bed Nursing Facility located in Denver, Colorado. Mariner complied with Federal and State staffing laws and regulations with one exception.

Colorado regulations require facilities to provide annual in-service education for staff in certain critical areas including rehabilitation. However, even though Mariner's corporate office had developed a training seminar for rehabilitative services, the facility did not provide its nursing staff with rehabilitative nursing training on an annual basis. Quality of patient care can be enhanced with improved training. Therefore, we are recommending that Mariner review its annual in-service training program to assure that all mandated State required training is included for all staff.

## **INTRODUCTION**

### **BACKGROUND**

The Omnibus Budget Reconciliation Act of 1987 (OBRA 87) established legislative reforms to promote quality of care in nursing facilities (NFs). The OBRA 87 requires NFs to have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. Specifically, Title 42, Code of Federal Regulations, Section 483.30 requires NFs to provide sufficient nursing staff on a 24-hour basis. Sufficient nursing staff must consist of licensed nurses and other nursing personnel and include: 1) a licensed nurse designated to serve as a charge nurse on each tour of duty, 2) a registered nurse for at least 8 consecutive hours a day, 7 days a week, and 3) a registered nurse designated to serve as the director of nursing on a full time basis (the director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents).

States are required to ensure that NFs follow these Federal staffing standards at a minimum. Each State may implement its own staffing requirements that exceed these standards. Through the State survey and certification process, the State Survey Agency in each State is required to conduct periodic standard surveys of every NF in the State. Through this process State Survey Agencies measure the quality of care at each NF by identifying deficiencies and assuring compliance with Federal and State requirements.

Colorado has established staffing requirement that exceed the Federal standards. Under the Colorado Department of Public Health and Environment, Health Facilities Division,

Long Term Care Facilities, Chapter V, Section 7, NFs are required to provide 2.0 hours of nursing time per resident per day.

In addition, the Colorado Department of Public Health and Environment, Health Facilities Division, Long Term Care Facilities, Chapter V, Section 4.3.3 requires NFs to provide annual inservice education for staff in a listing of topics, including but not limited to, infection control, fire prevention and safety, accident prevention, rehabilitative nursing, dietary, and behavior management.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

The objective of the audit was to determine whether Mariner was in compliance with Federal and State staffing laws and regulations for nursing facilities. Based on our analysis of data from the Centers for Medicare and Medicaid Services' (CMS) Online Survey Certification and Reporting (OSCAR) System, we selected Mariner for review.

To accomplish our objective we:

- Obtained background, staffing and deficiency data for Mariner from the OSCAR database through CMS's Nursing Home Compare website;
- Reviewed Federal and Colorado State laws and regulations for NFs to determine what staffing standards Mariner was required to adhere to;
- Obtained staffing schedules, time and attendance records and payroll records to determine the facility's direct care hours per resident per day;
- Obtained and analyzed background checks for all direct care employees to assure they adhere to the State requirements;
- Conducted inquiries through Colorado's on-line license and certification systems to determine if all direct care employees were in good standing;
- Reviewed the survey and certification process at the Colorado State Survey Agency and analyzed the results of the two most recent standard surveys conducted at Mariner;
- Obtained an understanding of Mariner procedures for recruiting, retaining and scheduling staff through meetings and discussions with personnel at the facility; and
- Obtained and reviewed the training and education programs for new and current staff.

Our review was conducted in accordance with the generally accepted government auditing standards. Our review of internal controls was limited to obtaining an understanding of the controls concerning the hiring and staffing of employees. The

objective of our review did not require an understanding or assessment of the complete internal control structure at Mariner.

We conducted our review during May through August 2003 at Mariner in Denver, Colorado and the OIG office in Denver.

## **FINDINGS AND RECOMMENDATION**

Mariner was generally in compliance with Federal and Colorado State staffing laws and regulations for nursing facilities. Specifically, Mariner scheduled its direct care employees in compliance with Federal staffing standards. We also determined that Mariner scheduled sufficient direct care employees to comply with the State requirement of 2.0 hours of nursing time per resident per day. In addition, all 96 direct care employees at Mariner Health of Denver were properly licensed and/or certified and were currently in good standing as determined by the State.<sup>1</sup>

However, Mariner did not comply with the State's Long Term Care Facilities regulations that require annual in-service training be provided to staff for rehabilitative nursing. While Mariner's corporate office developed a training seminar called "Run for Restorative," the seminar was not provided to this facility. Quality of patient care can be enhanced with improved training. Mariner officials agreed with our conclusions. In the future, the facility will include in their standard annual training, the rehabilitative nursing topic for the entire staff at this facility.

## **RECOMMENDATION**

We recommend that Mariner Health of Denver review its annual in-service training program to assure that all mandated State required training is included for all staff.

## **AUDITEE RESPONSE**

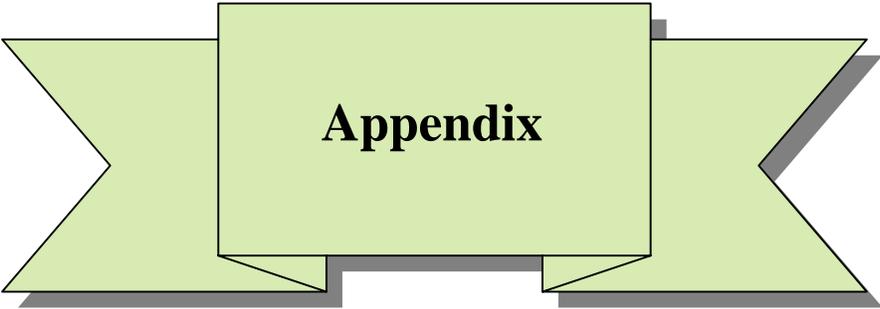
Mariner Health of Denver provided a written response to our draft report. Their response is included in its entirety as Appendix A.

Mariner Health of Denver has agreed with our recommendation and has agreed to revise and update its policies regarding the in-service education for Restorative and Rehabilitation Nursing.

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<sup>1</sup> For purposes of this review, we defined direct care employees as any nursing staff who are eligible to provide direct care to the residents. At Mariner, 96 of the employees required medical licenses or certifications to provide direct patient care to residents.

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November 21, 2003

Mr. James Korn  
Office of the Inspector General  
Offices of Audit Services  
Region VII  
601 East 12<sup>th</sup> Street  
Room 284A  
Kansas City, Missouri 64106

RE: A-07-03-04022

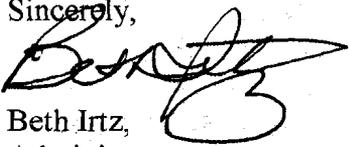
Dear Mr. Korn,

This letter is our formal response to your office regarding the written report regarding "Audit of Nursing Facility Staffing Requirements at Mariner Health of Denver" from September 24, 2003. Mariner Health of Denver has reviewed and revised our annual inservice calendar to include education for Restorative and Rehabilitative Nursing. The Director of Nursing and the Staff Development Coordinator have reviewed the Colorado Regulations for inservice education and revised Mariner Health of Denver's annual inservice education calendar to include each of the areas.

I hope this written response meets your expectations. You can reach me at 303-321-3110, if you have any questions.

Thank you.

Sincerely,

  
Beth Irtz,  
Administrator