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OFFICE OF INSPECTOR GENERAL
OFFICE OF AUDIT SERVICES
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PHILADELPHIA, PENNSYLVANIA 19106-3499

JAN 18 2005

Report Number: A-03-04-00208

Seth D. Levy, Chief Executive Officer/Administrator
Jewish Home of Greater Harrisburg
4000 Linglestown Road
Harrisburg, Pennsylvania 17112

Dear Mr. Levy:

Enclosed are two copies of the Department of Health and Human Services, Office of Inspector General report entitled "Review of Nursing Facility Staffing Requirements at Jewish Home of Greater Harrisburg." This review was self-initiated and the audit objective was to determine whether Jewish Home of Greater Harrisburg was in compliance with Federal and State staffing laws and regulations for nursing homes.

The scope and objective of this review encompassed only certain specific requirements of the Federal and State staffing regulations. This review did not assess the general requirement of 42 CFR § 483.30 that: "The facility must have sufficient nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care . . ." Rather, it assessed compliance with the staffing requirements stated in 42 CFR § 483.30 (b):

- (1) The facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.
- (2) The facility must designate a registered nurse to serve as the director of nursing on a full time basis.
- (3) The director of nursing may serve as a charge nurse only when the facility has an average occupancy of 60 or fewer residents.

Pennsylvania adds additional requirements to the Federal staffing requirements concerning hours of direct care and employee background checks.

Should you have any questions or comments concerning the matters commented on in this report, please direct them to the Department official identified below.

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To facilitate identification, please refer to report number A-03-04-00208 in all correspondence relating to this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Virbitsky", with a long horizontal flourish extending to the right.

Stephen Virbitsky
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Nancy B. O'Connor, Acting Regional Administrator
Centers for Medicare & Medicaid Services - Region III
U.S. Department of Health and Human Services
150 South Independence Mall West, Suite 216
Philadelphia, Pennsylvania 19106-3499

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF NURSING FACILITY
STAFFING REQUIREMENTS AT
JEWISH HOME OF GREATER
HARRISBURG**



**JANUARY 2005
A-03-04-00208**

Office of Inspector General

<http://oig.hhs.gov>

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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 reports are made available to members of the public to the extent the information 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. Authorized officials of the HHS divisions will make final determination on these matters.



EXECUTIVE SUMMARY

BACKGROUND

The Omnibus Budget Reconciliation Act of 1987 established legislative reforms to promote quality of care in nursing homes. These reforms require nursing homes 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 CFR § 483.30 requires nursing homes 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 registered nurse for at least 8 consecutive hours a day, 7 days a week, 2) 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 home has an average daily occupancy of 60 or fewer residents), and 3) a licensed nurse designated to serve as a charge nurse on each tour of duty.

OBJECTIVE

The objective of our review was to determine whether Jewish Home of Greater Harrisburg (Jewish Home) was in compliance with Federal and State staffing laws and regulations for nursing homes. Jewish Home is located in Harrisburg, PA.

The scope and objective of this review encompassed only certain specific requirements of the Federal and State staffing regulations. This review did not assess the general requirement of 42 CFR § 483.30 that: “The facility must have sufficient nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care . . .” Rather, it assessed compliance with the staffing requirements stated in 42 CFR § 483.30 (b):

- (1) The facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.
- (2) The facility must designate a registered nurse to serve as the director of nursing on a full time basis.
- (3) The director of nursing may serve as a charge nurse only when the facility has an average occupancy of 60 or fewer residents.

Pennsylvania adds additional requirements to the Federal staffing requirements concerning hours of direct care and employee background checks.

SUMMARY OF FINDINGS

Based on our review of 72 direct care employees¹, Jewish Home generally complied with the Federal and State staffing laws and regulations that we reviewed. However, Pennsylvania regulations required nursing homes to obtain a State background check on all employees hired after July 1, 1997. Based on this criteria, Jewish Home was required to conduct State background checks on 45 of its current 72 direct care employees. A review of the 45 direct care employees disclosed that Jewish Home did not obtain a current State background check for 1 direct care employee. Jewish Home believed that a background check obtained when an employee previously worked at the home met the State background check requirement. However, the State required that all background checks for newly hired employees be less than 1 year old.

RECOMMENDATION

We recommend that Jewish Home assure that all newly hired employees have a background check that is less than 1 year old.

AUDITEE RESPONSE

In a written response to our draft report, Jewish Home concurred with our finding and has taken action to assure that all newly hired employees have a background check that is less than 1 year old. Jewish Home has created an employee listing with background check dates that will be maintained by a Human Resources Associate who will report directly to the Chief Executive Officer/Administrator if any discrepancies are found. The full text of Jewish Home's response is included with this report as an Appendix.

¹ For purposes of this review, we defined direct care employees as any nursing staff who were eligible to provide direct care to residents.

TABLE OF CONTENTS

	Page
INTRODUCTION	1
BACKGROUND	1
OBJECTIVE, SCOPE, AND METHODOLOGY	1
Objective	1
Scope.....	1
Methodology	2
FINDINGS AND RECOMMENDATIONS	3
Invalid Background Check	3
RECOMMENDATION	4
AUDITEE RESPONSE	4
APPENDIX – JEWISH HOME OF GREATER HARRISBURG COMMENTS	

INTRODUCTION

BACKGROUND

The Omnibus Budget Reconciliation Act of 1987 established legislative reforms to promote quality of care in nursing homes. These reforms require nursing homes 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 CFR § 483.30 requires nursing homes 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 registered nurse for at least 8 consecutive hours a day, 7 days a week, 2) 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 home has an average daily occupancy of 60 or fewer residents), and 3) a licensed nurse designated to serve as a charge nurse on each tour of duty.

States are required to ensure that nursing homes 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 nursing home in the State. Through this process State Survey Agencies measure the quality of care at each nursing home by identifying deficiencies and assuring compliance with Federal and State requirements.

Pennsylvania has established staffing requirements that exceed the Federal standards. Under Pennsylvania State Code, title 28, part IV, subpart C, chapter 211.12, nursing homes are required to provide 2.7 hours of direct nursing care to each resident every day. The nursing homes are also required to provide a ratio of licensed nurses based on their number of residents. For example, a nursing home with between 60 and 150 residents is required to have 1 registered nurse on each shift for 24 hours a day.

Jewish Home is a 138 bed Medicare and Medicaid certified nursing home incorporated as a non-profit organization.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our review was to determine whether Jewish Home was in compliance with Federal and State staffing laws and regulations for nursing homes.

Scope

The scope and objective of this review encompassed only certain specific requirements of the Federal and State staffing regulations. This review did not assess the general requirement of 42 CFR § 483.30 that: “The facility must have sufficient nursing and related services to attain or maintain the highest practicable physical, mental, and

psychosocial well-being of each resident, as determined by resident assessments and individual plans of care . . .” Rather, it assessed compliance with the staffing requirements stated in 42 CFR § 483.30 (b):

- (1) The facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.
- (2) The facility must designate a registered nurse to serve as the director of nursing on a full time basis.
- (3) The director of nursing may serve as a charge nurse only when the facility has an average occupancy of 60 or fewer residents.

We also reviewed compliance with Pennsylvania regulations concerning hours of direct care and employee background checks.

We selected Jewish Home for review based on our analysis of data from the Centers for Medicare & Medicaid Services’s (CMS) Online Survey Certification and Reporting System.

We conducted our review at Jewish Home in Harrisburg, PA.

Methodology

To accomplish our objective we:

- obtained background, staffing and deficiency data for Jewish Home from the Online Survey Certification and Reporting System database through CMS’s Nursing Home Compare website;
- reviewed Federal and Pennsylvania State laws and regulations for nursing homes to determine the staffing standards to which Jewish Home was required to adhere;
- obtained staffing schedules, time and attendance records, and payroll records to determine the home’s direct care hours per resident per day, as well as the licensed nurse-to-resident ratio for a 2-week period from each month of October 2001, and April and November 2002;
- obtained and analyzed background checks for all direct care employees;
- conducted inquiries through Pennsylvania’s on-line license and certification systems to determine if all direct care employees were currently licensed or certified;

- reviewed the results of the two most recent Jewish Home standard surveys conducted by the State Survey Agency; and
- obtained an understanding of Jewish Home's procedures for recruiting, retaining and scheduling staff through meetings and discussions with personnel at the home.

Our review of internal controls was limited to obtaining an understanding of the controls concerning the hiring and scheduling of employees. The objective of our review did not require an understanding or assessment of the complete internal control structure at Jewish Home.

Our review was conducted in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

Jewish Home generally complied with the Federal and State staffing laws and regulations that we reviewed. Jewish Home scheduled sufficient direct care employees to comply with Federal staffing standards as well as both the State licensed nurse-to-resident ratio and the 2.70 hours of direct care per resident per day requirement. All 72 direct care employees at Jewish Home were properly licensed and/or certified and were currently in good standing as determined by the State. However, Jewish Home did not obtain a current background check for one direct care employee.

Invalid Background Check

The Pennsylvania Older Adults Protective Services Act (Protective Services Act) required nursing homes to obtain a State background check on all employees hired after July 1, 1997. For employees hired between July 1, 1997 and June 30, 1998, nursing homes had until July 1, 1999 to obtain the background checks. As of July 1, 1998, the nursing home must obtain a State background check within 30 days for any job applicant who has resided in the State within the previous 2 years. If the applicant had not resided within the State at any time during the previous 2 years, the nursing home was also required to obtain a Federal background check within 90 days. If the applicant provided a background check, it was required to be less than a year old. However, if the background check was not provided at the time of application, the Protective Services Act allowed the nursing home to hire the applicant on a provisional basis for no longer than the 30 or 90 day period while waiting for the background check. If the background check was not received within the required timeframe, the employee was not eligible to work directly with residents until the background check was received and found in good standing in accordance with the Protective Services Act requirements.

Jewish Home provided a background check for one direct care employee that was dated more than 1 year prior to the employee's hire date. Jewish Home hired an employee on September 10, 2001 based on a background check dated October 9, 1998. The employee

previously worked at the facility, and Jewish Home did not obtain a new background check when the employee was re-hired. Jewish Home believed that the background check obtained when the employee previously worked at the home met the State background check requirement. Because the employee had not worked at Jewish Home for approximately 3 years, the background check that the facility already had when the employee was re-hired was too old and did not meet the State requirement that a background check must be less than 1 year old. Jewish Home agreed with our conclusion and obtained a current background check for the employee. The background check did not list any offense that would preclude the employee from working directly with the residents.

RECOMMENDATION

We recommend that Jewish Home assure that all newly hired employees have a background check that is less than 1 year old.

AUDITEE RESPONSE

In a written response to our draft report, Jewish Home concurred with our finding and has taken action to assure that all newly hired employees have a background check that is less than 1 year old. Jewish Home has created an employee listing with background check dates that will be maintained by a Human Resources Associate who will report directly to the Chief Executive Officer/Administrator if any discrepancies are found. The full text of Jewish Home's response is included with this report as an Appendix.

APPENDIX

November 24, 2004

Report Number: A-03-04-00208

Mr. Michael Walsh, Audit Manager
Department of Health & Human Services
Office of Inspector General
Office of Audit Services
150 S. Independence Mall West
Philadelphia, Pennsylvania 19106-3499

Dear Mr. Walsh:

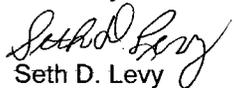
The Jewish Home of Greater Harrisburg agrees with the Findings and Recommendations stated in the Department of Health and Human Services, Office of Inspector General, Draft Review of Nursing Facility Staffing Requirements dated November 2004.

A current criminal background check was obtained (during the site visit) for the employee in question. The background check did not list any offense that would preclude the employee from working directly with the residents.

Criminal background checks will be reviewed by the Human Resource Associate to assure accuracy and that all newly hired employees have a background check that is less than one year old. Lists will be maintained by the Human Resource Associate, which will include the criminal background check date updated as indicated. Any discrepancy will be reported immediately to the CEO/Administrator.

The Jewish Home of Greater Harrisburg wishes to express its appreciation to the Department of Health and Human Services Office of the Inspector General for being asked to participate in this review. Please feel free to contact me if you have any further questions or require any additional information.

Sincerely,


Seth D. Levy
CEO/Administrator



The Jewish Home
OF GREATER HARRISBURG, INC.

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Rehabilitation Services
Respite Care
4000 Linglestown Road
Harrisburg, PA 17112
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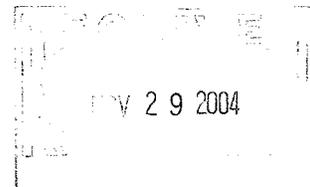
The Residence
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Phone: 717.540.9400
Fax: 717.441.8583

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ACKNOWLEDGMENTS

This report was prepared under the direction of Stephen Virbitsky, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff who contributed include:

Michael Walsh, *Audit Manager*

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Ronald Hall, *Auditor*

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.