

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MISSOURI PROPERLY VERIFIED
CORRECTION OF DEFICIENCIES
IDENTIFIED DURING SURVEYS OF
NURSING HOMES**

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EXECUTIVE SUMMARY

Missouri properly verified the correction of deficiencies identified during surveys in 2014 of nursing homes participating in the Medicare and Medicaid programs.

WHY WE DID THIS REVIEW

Federal regulations require nursing and skilled nursing facilities (nursing homes) to submit correction plans to the Centers for Medicare & Medicaid Services (CMS) or to their respective State survey agency for certain deficiencies identified during surveys, such as nursing homes' failure to provide necessary care and services. State survey agencies must verify the correction of identified deficiencies by obtaining evidence of correction or through onsite reviews. Previous Office of Inspector General reviews found that the State survey agencies in Arizona, California, and Washington did not verify that selected nursing homes had corrected identified deficiencies. This review of the State survey agency in Missouri is part of an ongoing series of reviews of States' verification of correction of deficiencies.

Our objective was to determine whether the Missouri Department of Health and Senior Services (State agency) verified nursing homes' correction of deficiencies identified during surveys in calendar year (CY) 2014 in accordance with Federal requirements.

BACKGROUND

Nursing homes participating in the Medicare and Medicaid programs must meet certain specified requirements (Federal participation requirements), which cover such areas as quality of care, nursing services, and infection control. The State survey agency must conduct standard surveys to determine whether nursing homes are in compliance with Federal participation requirements. A standard survey is a periodic inspection to gather information about the quality of resident care furnished in a nursing home. A nursing home's noncompliance with a Federal participation requirement is defined as a deficiency. The State survey agency must report to nursing homes and CMS each deficiency identified during a survey, including the seriousness of the deficiency (known as the deficiency rating, which ranges from *A* through *L*). *A*-rated deficiencies are the least serious, and *L*-rated deficiencies are the most serious.

For all deficiencies except those rated *A*, nursing homes must submit for approval correction plans to the State survey agency or CMS. After a correction plan is submitted, the State survey agency or CMS must certify whether a nursing home is in substantial compliance with Federal participation requirements. A nursing home is in substantial compliance when identified deficiencies have the ratings *A* through *C*, which represent no greater risk than potential for minimal harm to resident health and safety.

The State survey agency must determine whether a nursing home is in substantial compliance by verifying correction of the identified deficiencies through obtaining evidence of correction (such as invoices verifying purchases or repairs or sign-in sheets verifying attendance of staff at inservice training) or conducting an onsite review (followup survey). Deficiencies rated *B* or *C* do not require verification of correction. The deficiency rating guides which verification method

the State survey agency uses. For less serious deficiencies (with the ratings *D* or *E*, or *F* without substandard quality of care), the State survey agency has the option to accept the nursing home's evidence of correction in lieu of conducting a followup survey (i.e., an onsite review) to determine substantial compliance. For more serious deficiencies (with the ratings *G* through *L*, or *F* with substandard quality of care), the State survey agency must conduct a followup survey to determine whether the nursing home is in substantial compliance.

As of November 28, 2016, the State agency had 7 regional offices with 167 surveyors to conduct surveys of approximately 1,100 nursing homes and other long term care facilities, approximately 500 of which participate in the Federal Medicaid and/or Medicare programs.

HOW WE CONDUCTED THIS REVIEW

According to CMS's deficiency data, the State agency identified 3,281 deficiencies that required a correction plan during CY 2014. We excluded from our review 1,143 deficiencies that (1) were not directly related to resident health services or (2) had the ratings *B* or *C*, which did not require verification of correction. The remaining 2,138 deficiencies had ratings that required the State agency to verify correction by either obtaining evidence of correction (2,033 deficiencies) or conducting a followup survey (105 deficiencies). We selected a stratified random sample of 100 deficiencies and reviewed State agency documentation to determine whether the State agency had verified the nursing homes' correction of the sampled deficiencies. We also interviewed State agency officials and employees regarding survey operations, quality assurance, and training.

RESULTS OF REVIEW

On the basis of our review of the 100 sampled deficiencies, we concluded that the State agency verified nursing homes' correction of deficiencies identified during surveys in CY 2014 in accordance with Federal requirements. Specifically, for all 100 sampled deficiencies, we determined that the State agency properly verified that the deficiencies were corrected. Accordingly, this report contains no recommendations.

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INTRODUCTION

WHY WE DID THIS REVIEW

Federal regulations require nursing and skilled nursing facilities (nursing homes) to submit correction plans to the Centers for Medicare & Medicaid Services (CMS) or to their respective State survey agency for certain deficiencies identified during surveys, such as nursing homes' failure to provide necessary care and services. State survey agencies must verify the correction of identified deficiencies by obtaining evidence of correction or through onsite reviews. Previous Office of Inspector General (OIG) reviews found that the State survey agencies in Arizona, California, and Washington did not verify that selected nursing homes had corrected identified deficiencies. This review of the State survey agency in Missouri is part of an ongoing series of reviews of States' verification of correction of deficiencies. (Appendix A lists related OIG reports on nursing home compliance issues.)

OBJECTIVE

Our objective was to determine whether the Missouri Department of Health and Senior Services (State agency) verified nursing homes' correction of deficiencies identified during surveys in calendar year (CY) 2014 in accordance with Federal requirements.

BACKGROUND

Medicare and Medicaid Coverage of Nursing Homes

The Medicare and Medicaid programs cover care in skilled nursing and nursing facilities, respectively, for eligible beneficiaries in need of nursing services, specialized rehabilitation services, medically related social services, pharmaceutical services, and dietary services. Sections 1819 and 1919 of the Social Security Act (the Act) provide that nursing homes participating in the Medicare and Medicaid programs, respectively, must meet certain specified requirements (Federal participation requirements), such as quality of care, nursing services, and infection control. These sections also establish requirements for CMS and States to survey nursing homes to determine whether they meet Federal participation requirements. For both Medicare and Medicaid, these statutory participation and survey requirements are implemented in Federal regulations at 42 CFR part 483, subpart B, and 42 CFR part 488, subpart E, respectively.

Standard and Complaint Surveys of Nursing Homes

The Secretary of Health and Human Services (the Secretary) must use the State health agency, or other appropriate State agency, to determine whether nursing homes meet Federal participation requirements (the Act § 1864(a)). Further, the State must use the same State agency to determine whether nursing homes meet the participation requirements in the State Medicaid plan (the Act § 1902(a)(33)).

Under an agreement with the Secretary, the State agency must conduct standard surveys to determine whether nursing homes are in compliance with Federal participation requirements¹ (42 CFR § 488.305(a) and § 7200 of CMS's *State Operations Manual* (the Manual), Pub. No. 100-07). A standard survey is a periodic nursing home inspection, using procedures specified in the Manual, that focuses on a sample of residents selected by the State survey agency to gather information about the quality of resident care furnished to Medicare or Medicaid beneficiaries in a nursing home. A standard survey must be conducted at least once every 15 months (42 CFR § 488.308(a)).

The State survey agency must review all nursing home complaint allegations (42 CFR § 488.308(e)(2)).² Depending on the outcome of the review, the State survey agency may conduct a standard survey or an abbreviated standard survey (complaint survey) to investigate noncompliance with Federal participation requirements. A nursing home's noncompliance with a Federal participation requirement is defined as a deficiency (42 CFR § 488.301). Examples of deficiencies include a nursing home's failure to adhere to proper infection control measures or failure to provide necessary care and services.

Deficiencies and Deficiency Ratings

The State survey agency must report each deficiency identified during a survey on the appropriate CMS form³ and provide the form to the nursing home and CMS. These forms include (1) a statement describing the deficiency, (2) a citation of the specific Federal participation requirement that was not met, and (3) a rating for the seriousness of the deficiency (deficiency rating).

The State survey agency must determine the deficiency rating using severity and scope components (42 CFR § 488.404(b)). Each deficiency is given a letter rating of A through L, which corresponds to a severity and scope level. (A-rated deficiencies are the least serious, and L-rated deficiencies are the most serious.) Severity is the degree of or potential for resident harm and has four levels, beginning with the most severe: (1) immediate jeopardy to resident health or safety, (2) actual harm that is not immediate jeopardy, (3) no actual harm with potential for more than minimal harm but not immediate jeopardy, and (4) no actual harm with potential for minimal harm. Scope is the number of residents affected or pervasiveness of the deficiency in the nursing home and has three levels: (1) isolated, (2) pattern, and (3) widespread. The Manual provides information on the severity and scope levels used to determine the deficiency rating (§ 7400.5.1). Table 1 on the following page shows the letter for each deficiency rating and its severity and scope levels.

¹ CMS and the State survey agency certify compliance with Federal participation requirements for State-operated and non-State-operated nursing homes, respectively (42 CFR § 488.330).

² An allegation of improper care or treatment of beneficiaries at a nursing home may come from a variety of sources, including beneficiaries, family members, and health care providers.

³ Form CMS-2567, Statement of Deficiencies and Plan of Correction, is used for all deficiencies except those determined to be isolated and with the potential for minimal harm. For these deficiencies, Form A, Statement of Isolated Deficiencies Which Cause No Harm with Only a Potential for Minimal Harm, is used.

Table 1: Severity and Scope Levels for Deficiency Ratings

SEVERITY			
Immediate jeopardy to resident health or safety	J	K	L
Actual harm that is not immediate jeopardy	G	H	I
No actual harm with potential for more than minimal harm but not immediate jeopardy	D	E	F
No actual harm with potential for minimal harm	A	B	C

Correction Process

Correction Plans

Nursing homes must submit for approval correction plans to the State survey agency or CMS for all deficiencies except A-rated deficiencies (with the severity level of no actual harm with potential for minimal harm and the scope level of isolated) (42 CFR § 488.402(d)). An acceptable correction plan must specify exactly how the nursing home corrected or plans to correct each deficiency (the Manual § 7304.4). Nursing homes use Form CMS-2567, Statement of Deficiencies and Plan of Correction, to submit correction plans.

Federal requirements state that after a nursing home submits a correction plan, “substantial compliance cannot be certified and any remedies imposed cannot be lifted until facility compliance has been verified” by the State survey agency or CMS (the Manual § 7317.1).⁴ A nursing home is in substantial compliance when identified deficiencies have ratings that represent no greater risk than potential for minimal harm to resident health and safety (A, B, or C).

The State survey agency must determine whether there is substantial compliance by verifying correction of the identified deficiencies through obtaining evidence of correction⁵ or conducting an onsite review (followup survey).⁶ The deficiency rating guides which verification method the State survey agency uses:

- For less serious deficiencies (with the ratings *D* or *E*, or *F* without substandard quality of care), the State survey agency has the option to accept the nursing home’s evidence of

⁴ The State survey agency provides the certification information to CMS on Form CMS-1539, Medicare/Medicaid Certification and Transmittal (the Manual § 2762).

⁵ Examples of acceptable evidence of a nursing home’s correction of a deficiency include invoices verifying purchases or repairs, sign-in sheets verifying attendance of staff at inservice training, or interviews with more than one training participant about training (the Manual § 7317.2).

⁶ The State survey agency is not required to verify the correction of deficiencies with the ratings *B* or *C*; however, correction plans are still required for deficiencies with those ratings.

correction in lieu of conducting a followup survey (i.e., an onsite review) to determine substantial compliance (the Manual § 7300.3).

- For more serious deficiencies (with the ratings *G* through *L*, or *F* with substandard quality of care), the State survey agency must conduct a followup survey to determine whether the nursing home is in substantial compliance (the Manual § 7300.3).⁷

State Survey Agency Process

State survey agencies use the Post-Certification Revisit Report, Form CMS-2567B, to report correction of deficiencies to CMS. This report conveys the name of the nursing home and identifies each deficiency by using a citation of the specific Federal participation requirement that was not met as well as the identification prefix code previously reported on the Form CMS-2567 (footnote 3).

Information reflected on the Form CMS-2567B is supported by documentation such as surveyors' notes, resident review worksheets, sign-in sheets of staff at inservice training, and other forms of acceptable evidence (footnote 5). The State agency is required to maintain this supporting documentation and data until the later of:

- one survey cycle,
- during the pendency of a hearing, or
- after the time period for filing an appeal has elapsed.⁸

After the later of these time periods, the supporting documentation can be destroyed after the Form CMS-2567 has been finalized, provided that the Form CMS-2567 has captured the information from the supporting documentation. After this point, according to CMS officials, the Form CMS-2567's Plan of Correction then becomes the evidence of the verification of the correction of the deficiency.

Missouri State Agency

In Missouri, the State agency determines whether nursing homes meet Federal participation requirements and recommends to CMS whether nursing homes should be certified for participation in the Medicare and Medicaid programs. As of November 28, 2016, the State agency had 7 regional offices with 167 surveyors to conduct surveys of approximately 1,100

⁷ The followup survey is an onsite review whose purpose is "... to re-evaluate the specific care and services that were cited as noncompliant during the original ... survey(s). Ascertain the status of corrective actions being taken on all requirements not in substantial compliance" as noted in the original surveys (the Manual, Appendix P, § II.B.3). See also the Manual, Appendix P, section I, as well as the discussion in "Standard and Complaint Surveys of Nursing Homes" earlier in this report.

⁸ CMS, State Survey Agency Directors letter, Jul. 2, 2010, subject: Questions Related to State Agency (SA) Records Management Policy for Paper and Electronic Formats.

nursing homes and other long term care facilities, approximately 500 of which participate in the Federal Medicaid and/or Medicare programs.⁹

HOW WE CONDUCTED THIS REVIEW

According to CMS's deficiency data, the State agency identified 3,281 deficiencies that required a correction plan during CY 2014. We excluded from our review 1,143 deficiencies that (1) were not directly related to resident health services or (2) had the ratings *B* or *C*, which did not require verification of correction. The remaining 2,138 deficiencies had ratings that required the State agency to verify correction by either obtaining evidence of correction (2,033 deficiencies) or conducting a followup survey (105 deficiencies). We selected a stratified random sample of 100 deficiencies and reviewed State agency documentation to determine whether the State agency had verified the nursing homes' correction of the sampled deficiencies. We also interviewed State agency officials and employees regarding survey operations, quality assurance, and training.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B describes our audit scope and methodology and Appendix C describes our statistical sampling methodology.

RESULTS OF REVIEW

On the basis of our review of the 100 sampled deficiencies, we concluded that the State agency verified nursing homes' correction of deficiencies identified during surveys in CY 2014 in accordance with Federal requirements. Specifically, for all 100 sampled deficiencies, we determined that the State agency properly verified that the deficiencies were corrected. Accordingly, this report contains no recommendations.

⁹ Corresponding data for CY 2014 (our audit period) are not available.

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>Arizona Did Not Always Verify Correction of Deficiencies Identified During Surveys of Nursing Homes Participating in Medicare and Medicaid</i>	<u>A-09-16-02013</u>	10/20/16
<i>Oregon Properly Verified Correction of Deficiencies Identified During Surveys of Nursing Homes Participating in Medicare and Medicaid</i>	<u>A-09-16-02007</u>	3/14/16
<i>Washington State Did Not Always Verify Correction of Deficiencies Identified During Surveys of Nursing Homes Participating in Medicare and Medicaid</i>	<u>A-09-13-02039</u>	7/09/15
<i>Nursing Facilities' Compliance With Federal Regulations for Reporting Allegations of Abuse or Neglect</i>	<u>OEI-07-13-00010</u>	8/15/14
<i>CMS's Reliance on California's Licensing Surveys of Nursing Homes Could Not Ensure the Quality of Care Provided to Medicare and Medicaid Beneficiaries</i>	<u>A-09-12-02037</u>	6/04/14
<i>Adverse Events in Skilled Nursing Facilities: National Incidence Among Medicare Beneficiaries</i>	<u>OEI-06-11-00370</u>	2/27/14
<i>Skilled Nursing Facilities Often Fail To Meet Care Planning and Discharge Planning Requirements</i>	<u>OEI-02-09-00201</u>	2/27/13
<i>Federal Survey Requirements Not Always Met for Three California Nursing Homes Participating in the Medicare and Medicaid Programs</i>	<u>A-09-11-02019</u>	2/27/12
<i>Unidentified and Unreported Federal Deficiencies in California's Complaint Surveys of Nursing Homes Participating in the Medicare and Medicaid Programs</i>	<u>A-09-09-00114</u>	9/21/11

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

According to CMS's deficiency data, the State agency identified 3,281 deficiencies that required a correction plan during CY 2014. We excluded from our review 1,143 deficiencies that (1) were not directly related to resident health services or (2) had the ratings *B* or *C*, which did not require verification of correction. The remaining 2,138 deficiencies had ratings that required the State agency to verify correction by either obtaining evidence of correction (2,033 deficiencies) or conducting a followup survey (105 deficiencies). We selected for review a stratified random sample of 100 deficiencies.

We did not review the overall internal control structure of the State agency or the nursing homes associated with the selected sample items. Rather, we reviewed only those internal controls related to our objective.

We conducted our audit from July to December 2016.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance;
- interviewed CMS officials to gain an understanding of the State agency's oversight responsibilities for nursing homes and CMS's guidance to the State agency regarding verification of correction of deficiencies identified during nursing home surveys;
- interviewed State agency officials and employees regarding survey operations, quality assurance, and training;
- obtained from CMS a database containing 3,281 deficiencies¹⁰ that required a correction plan and were identified during standard and complaint surveys of Missouri nursing homes in CY 2014;
- removed 1,143 deficiencies that:
 - were not directly related to resident health services,¹¹ or
 - had the ratings *B* or *C* (not requiring verification of correction);
- developed a stratified random sample from the remaining 2,138 deficiencies by:

¹⁰ This figure does not include A-rated deficiencies.

¹¹ We excluded deficiencies that were related to residents' rights; admission, transfer, and discharge rights; and administration.

- creating 2 strata, representing deficiencies that required the State agency to obtain, at a minimum, evidence of correction (stratum 1) and that required the State agency to conduct a followup survey (stratum 2) and
- selecting a total of 100 sample units, consisting of 70 sample units from stratum 1 and 30 sample units from stratum 2;
- reviewed State agency documentation for each sampled deficiency to determine whether the State agency had verified the nursing home's correction of the deficiency;¹² and
- discussed the results of our review with State agency officials on January 24, 2017.

See Appendix C for the details of our statistical sampling.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹² Documentation included required Forms CMS-2567 and CMS-2567B and related records as well as surveyors' notes and training sign-in sheets, if available.

APPENDIX C: STATISTICAL SAMPLING METHODOLOGY

POPULATION

The population consisted of all health deficiencies identified during nursing home surveys conducted by the State agency in CY 2014 and that required the State agency to verify the correction of deficiencies.

SAMPLING FRAME

We obtained from CMS a Microsoft Excel spreadsheet containing 3,281 deficiencies that required a correction plan and were identified during standard and complaint surveys of Missouri nursing homes in CY 2014. CMS extracted the data from the Certification and Survey Provider Enforcement Reporting system. We then removed 1,143 deficiencies as shown in Table 2.

Table 2: Deficiencies Removed

Reason for Removing Deficiencies	No. of Deficiencies Removed
Not directly related to resident health services	1,032
Had the ratings <i>B</i> or <i>C</i> (not requiring verification of correction)	111
Total	1,143

After we removed these deficiencies, the sampling frame consisted of 2,138 deficiencies.

SAMPLE UNIT

The sample unit was a health deficiency that was identified during a nursing home survey in CY 2014 and that required the State agency to verify the correction.

SAMPLE DESIGN

We used a stratified random sample containing two strata. Table 3 details the deficiency ratings and number of deficiencies in each stratum.

Table 3: Number of Deficiencies in Each Stratum

Stratum	Description	No. of Deficiencies
1	Deficiencies with ratings of <i>D</i> or <i>E</i> , or <i>F</i> without substandard quality of care	2,033
2	Deficiencies with ratings of <i>G</i> through <i>L</i> , or <i>F</i> with substandard quality of care	105
Total		2,138

SAMPLE SIZE

We selected a total of 100 sample units, consisting of 70 sample units from stratum 1 and 30 sample units from stratum 2.

SOURCE OF RANDOM NUMBERS

We generated the random numbers for each stratum using the OIG, Office of Audit Services (OAS), statistical software.

METHOD FOR SELECTING SAMPLE UNITS

We consecutively numbered the sample units in each stratum. After generating random numbers for each stratum, we selected the corresponding frame items.

ESTIMATION METHODOLOGY

We planned to use the OIG, OAS, statistical software to estimate the statewide number and percentage of deficiencies for which the State agency did not verify the nursing homes' correction of deficiencies in accordance with Federal requirements. However, because the State agency properly verified that the nursing home deficiencies were corrected, no estimation was necessary.