

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**KANSAS DID NOT ALWAYS VERIFY  
CORRECTION OF DEFICIENCIES  
IDENTIFIED DURING SURVEYS OF  
NURSING HOMES PARTICIPATING  
IN MEDICARE AND MEDICAID**

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# *Office of Inspector General*

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## Report in Brief

Date: September 2017  
Report No. A-07-17-03218

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES  
**OFFICE OF INSPECTOR GENERAL**



### Why OIG 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 agency for certain deficiencies identified during surveys. State agencies must verify the correction of identified deficiencies by obtaining evidence of correction or through onsite reviews. This review of the State agency in Kansas is part of an ongoing series of reviews of States' verification of correction of deficiencies.

Our objectives were to determine whether, in calendar year (CY) 2014, the Kansas Department of Aging and Disability Services, Survey, Certification and Credentialing Commission (State agency), (1) verified nursing homes' correction of deficiencies identified during surveys, and (2) conducted standard surveys for these nursing homes no later than 15 months after the last day of the previous standard surveys, in accordance with Federal requirements.

### How OIG Did This Review

We selected a stratified random sample of 100 deficiencies associated with 79 nursing homes and reviewed State agency documentation.

We then calculated, for each of the nursing homes represented in our sampled deficiencies, the interval of time between the standard surveys conducted in CY 2014 and the previous standard survey.

## Kansas Did Not Always Verify Correction of Deficiencies Identified During Surveys of Nursing Homes Participating in Medicare and Medicaid

### What OIG Found

The State agency did not always verify nursing homes' correction of deficiencies identified during surveys in CY 2014 in accordance with Federal requirements. We estimated that the State agency did not obtain the nursing homes' evidence of correction for 52 percent of the deficiencies identified during surveys in CY 2014.

We also estimated that the State agency could not provide sufficient evidence that corrective actions had been taken by nursing homes for 13 percent of the deficiencies identified during surveys in CY 2014.

Regarding our second objective, the State agency did not conduct required standard surveys within 15 months of the previous standard surveys for 35 of 79 nursing homes in CY 2014.

### What OIG Recommends and State Agency Comments

We recommend that the State agency improve its practices for verifying nursing homes' correction of identified deficiencies by obtaining nursing homes' evidence of correction, update controls and policies and procedures to ensure that survey system data is protected against unauthorized or unintended modification or loss, and develop and implement a correction plan to ensure that the interval between consecutive standard surveys does not exceed 15 months.

The State agency agreed with our findings and described corrective actions that it had taken or planned to take. Specifically, the State agency said that it had made immediate systemic changes to require evidence of correction and added that it had identified the survey system data loss in CY 2015 and had fixed the system. The State agency also described a number of corrective actions that it said it had taken to prioritize the completion of required standard surveys, and added that it would continue to monitor the frequency of surveys to improve compliance. The State agency referred to a number of open surveyor positions and to an analysis of competitive wages that had identified a need to reevaluate—in coordination with its Department Secretary and the CY 2018 session of the State legislature—the current wages for State agency surveyor positions.

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## **INTRODUCTION**

### **WHY WE DID THIS REVIEW**

Federal regulations require nursing and skilled nursing facilities (nursing homes) that participate in Medicare and Medicaid to submit corrective action plans (correction plans) to the Centers for Medicare & Medicaid Services (CMS) or to their respective State agency for certain deficiencies identified during surveys, such as nursing homes' failure to provide necessary care and services. State 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 some State agencies did not always verify that selected nursing homes had corrected identified deficiencies. This review of the State agency in Kansas 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.)

### **OBJECTIVES**

Our objectives were to determine whether, in calendar year (CY) 2014, the Kansas Department of Aging and Disability Services, Survey, Certification and Credentialing Commission (State agency), (1) verified nursing homes' correction of deficiencies identified during surveys, and (2) conducted standard surveys for these nursing homes no later than 15 months after the last day of the previous standard surveys, 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 (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 requirements<sup>1</sup> (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 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 agency must review all nursing home complaint allegations (42 CFR § 488.308(e)(2)).<sup>2</sup> Depending on the outcome of the review, the State 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 agency must report each deficiency identified during a survey on the appropriate CMS form<sup>3</sup> 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 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

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

<sup>2</sup> 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.

<sup>3</sup> 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.

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 below shows the letter for each deficiency rating and its severity and scope levels.

**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 Plans

Nursing homes must submit for approval correction plans to the State 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.

After a nursing home submits a correction plan, the State agency or CMS must certify whether the nursing home is in substantial compliance with Federal participation requirements (the Manual § 7317.1).<sup>4</sup> 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 agency must determine whether there is substantial compliance by verifying correction of the identified deficiencies through obtaining evidence of correction<sup>5</sup> or conducting an onsite review (followup survey).<sup>6</sup> The deficiency rating guides which verification method the State agency uses. For less serious deficiencies (with the ratings

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

<sup>5</sup> Examples of evidence of correction include sign-in sheets of those attending inservice training and interviews with training participants.

<sup>6</sup> The State 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.



*D* or *E*, or *F* without substandard quality of care<sup>7</sup>), the State agency may accept the nursing home's evidence of correction in lieu of conducting a followup survey to determine substantial compliance. For more serious deficiencies (with the ratings *G* through *L*, or *F* with substandard quality of care), the State agency must conduct a followup survey to determine substantial compliance.

## **Kansas State Agency**

In Kansas, 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 May 19, 2017, the State agency had 5 regional offices with 61 surveyor positions (13 of which were vacant) to conduct surveys of 310 nursing homes and other long-term-care facilities that participate in the Federal Medicaid and/or Medicare programs.<sup>8</sup>

## **HOW WE CONDUCTED THIS REVIEW**

According to CMS's deficiency data, the State agency identified 3,132 deficiencies that required a correction plan during CY 2014. We excluded from our review 941 deficiencies that were not directly related to resident health services and 64 deficiencies that had the ratings *B* or *C*, which did not require verification of correction. The remaining 2,127 deficiencies (from a total of 302 nursing homes) had ratings that required the State agency to verify correction by either obtaining evidence of correction (1,949 deficiencies) or conducting a followup survey (178 deficiencies). We selected a stratified random sample of 100 deficiencies (which between them were associated with a total of 79 nursing homes) and reviewed State agency documentation to determine whether the State agency had verified the nursing homes' correction of the sampled deficiencies.

For each of the 79 nursing homes represented in our sampled deficiencies, we then calculated the interval of time between the standard survey conducted in CY 2014 (if one had been conducted) and the last day of that nursing home's previous standard survey. Where necessary, and as discussed below, we accessed the State agency's records for CY 2015 to obtain dates of completion of selected standard surveys conducted in that year.

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<sup>7</sup> The Manual, § 7001, defines "substandard quality of care" with reference to the lettered ratings discussed in this paragraph. CMS's website has elaborating information that cites to 42 CFR § 483. Subparagraphs of this regulation identify "Federal Regulatory Groups" and itemize, within each group, specific coded listings of possible issues. For instance, the Federal Regulatory Group identified as "Quality of Care" includes coded issue F327: "Sufficient Fluid to Maintain Hydration" and cites to 42 CFR § 483.25. Accordingly, a less serious deficiency can have a rating of *F* without substandard quality of care only if that deficiency (1) meets the severity and scope criteria as depicted in Table 1 and (2) does not feature any of the coded listings of possible issues for any of the Federal Regulatory Groups. This CMS information appears in <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Federal-Regulatory-Group-LTC.pdf> (accessed Jul. 17, 2017).

<sup>8</sup> Corresponding data for CY 2014 (our audit period) are not available.

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, Appendix C describes our statistical sampling methodology, and Appendix D contains our sample results and estimates.

## FINDINGS

The State agency did not always verify nursing homes' correction of deficiencies identified during surveys in CY 2014 in accordance with Federal requirements. For the 100 sampled deficiencies, the State agency verified the nursing homes' correction of 48 deficiencies. Of the remaining 52 deficiencies, the State agency:

- did not obtain the nursing homes' evidence of correction for deficiencies, all of which had *D*, *E*, or *F* (without substandard quality of care) ratings (40 deficiencies), and
- was unable to provide sufficient evidence of correction (other than from CMS Forms completed during the survey process) that the State agency had used to verify that the nursing homes in question had taken corrective actions (12 deficiencies).

On the basis of our sample results, we estimated that the State agency did not obtain the nursing homes' evidence verifying correction of deficiencies in accordance with Federal requirements for 1,114 (52 percent) of the 2,127 deficiencies identified during surveys in CY 2014. The State agency's practice was to accept the nursing homes' correction plans as confirmation of substantial compliance without obtaining the required evidence of correction for less serious deficiencies.

On the basis of our sample results, we also estimated that the State agency could not provide sufficient evidence that corrective actions had been taken for 268 (13 percent) of the 2,127 deficiencies identified during surveys in CY 2014. Documentation that might have provided this evidence had been deleted from the State agency's survey database system.

With respect to our second objective, the State agency did not always conduct standard surveys of nursing homes in CY 2014 within 15 months of the previous standard surveys in accordance with Federal requirements. Of the 79 nursing homes represented in the 100 sampled deficiencies, the State agency conducted standard surveys of 73 nursing homes in CY 2014. For 38 of the 73 nursing homes, the State agency conducted standard surveys within 15 months of the previous standard surveys. However, the State agency's consecutive standard surveys of

the other 35 nursing homes exceeded the required 15-month period. State agency officials said that CMS had previously cited the State agency for exceeding the 15-month period between consecutive standard surveys. These officials added that current vacancies in staffing made it difficult to meet this requirement.

## **FEDERAL REQUIREMENTS**

For deficiencies rated *D* or *E*, or *F* not involving substandard quality of care, the State agency has the option to accept evidence of correction to confirm substantial compliance in lieu of conducting a followup survey (i.e., an onsite review) (the Manual § 7300.3). However, the State agency must conduct a followup survey to determine whether a nursing home is in substantial compliance for deficiencies rated *G* through *L*, or *F* involving substandard quality of care (the Manual § 7300.3).

Section 7317.1 of the Manual states: “While the plan of correction serves as the facility’s allegation of compliance in non-immediate jeopardy cases, substantial compliance cannot be certified and any remedies imposed cannot be lifted until facility compliance has been verified.... Also, it should be noted that this guidance applies to prospective, as well as currently participating, facilities.”

Section 7317.2 of the Manual lists examples of acceptable evidence of a nursing home’s correction of a deficiency, which 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.

Section I of Appendix P of the Manual states: “The [followup survey] is an onsite visit intended to verify correction of deficiencies cited in a prior survey.”

Section II.B.3 of Appendix P of the Manual states:

In accordance with §7317 [of the Manual], the State agency conducts a revisit, as applicable, to confirm that the facility is in compliance and has the ability to remain in compliance. The purpose of the [followup survey] is to re-evaluate the specific care and services that were cited as noncompliant during the original standard, abbreviated standard, extended or partial extended survey(s). Ascertain the status of corrective actions being taken on all requirements not in substantial compliance.

Federal regulations state: “The survey agency must conduct a standard survey of each SNF [skilled nursing facility] and NF [nursing facility] not later than 15 months after the last day of the previous standard survey” (42 CFR § 488.308(a)).

## **THE STATE AGENCY DID NOT ALWAYS VERIFY CORRECTION OF DEFICIENCIES**

The State agency did not always verify nursing homes' correction of deficiencies identified during surveys in CY 2014 in accordance with Federal requirements. For the 100 sampled deficiencies, the State agency did not verify the nursing homes' correction of 52 deficiencies.

### **The State Agency Did Not Obtain Nursing Homes' Evidence of Correction of Some Deficiencies**

Our review of documentation provided by the State agency found that for 40 sampled deficiencies, the State agency accepted the nursing homes' correction plans without obtaining evidence of correction. These deficiencies had *D*, *E*, or *F* ratings, which required the State agency to obtain, at a minimum, evidence of correction from the nursing homes before certifying their substantial compliance with Federal participation requirements.

For example, on February 10, 2014, the State agency completed a nursing home survey and identified several deficiencies, including a *D*-rated deficiency related to resident assessment. The surveyor noted: "Based on observation, interview, and record review, the facility failed to ensure completion of an accurate MDS (minimum data set) assessment for 1 resident ... related to dental care." To address this deficiency, the nursing home's correction plan listed one corrective action that focused on the affected resident and two additional corrective actions to ensure that the deficient practice would not recur.

Specifically, the first corrective action involved the completion of an accurate dental assessment for the affected resident. For the other two corrective actions, the correction plan stated: "Education will be provided to the MDS Coordinator regarding the accuracy of the MDS per the DON [Director of Nursing] by 2/28/14.... Residents will have assessments reviewed for accuracy regarding dental needs and revised per the RAI [resident assessment instrument] schedule by the MDS team."

However, the State agency did not obtain evidence from the nursing home to show that any of these corrective actions had taken place. Instead, the State agency issued a letter to the nursing home in question, which stated, "You have submitted a plan of correction in which you alleged that the deficiencies cited on the above referenced survey have been corrected.... Therefore, your facility is found to be in substantial compliance based on your credible allegation of compliance and the submitted plan of correction...."

On the basis of our sample results, we estimated that the State agency did not obtain the nursing homes' evidence of correction of deficiencies in accordance with Federal requirements for 1,114 (52 percent) of the 2,127 deficiencies identified during surveys in CY 2014.

The State agency's practice for addressing less serious deficiencies did not comply with Federal requirements. Specifically, a State agency official explained that the practice for less serious deficiencies was to accept the nursing homes' correction plans as confirmation of substantial

compliance without obtaining from the nursing homes the required evidence of correction of deficiencies.<sup>9</sup>

### **The State Agency Could Not Provide Nursing Homes' Evidence of Correction of Some Deficiencies**

Our review of documentation provided by the State agency also found that for 12 sampled deficiencies, the State agency was unable to provide sufficient evidence of correction (other than from CMS Forms completed during the survey process) that the State agency had used to verify that the nursing homes in question had taken corrective actions. Nine of the twelve deficiencies were less serious in that they had *D*, *E*, or *F* (without substandard quality of care) ratings; these required the State agency to obtain, at a minimum, evidence of correction from the nursing homes. The other three deficiencies were more severe and had ratings of *F* (with substandard quality of care), *G*, and *J*; these ratings required the State agency to conduct an onsite revisit (that is, a followup survey) to each nursing home in question to collect the evidence of correction from the facility itself.

For example, on August 14, 2014, the State agency completed a nursing home survey and identified a *G*-rated deficiency (actual harm that is not immediate jeopardy) related to resident behavior and facility practice. The surveyor noted: "Based on observation, interview, and record review, the facility failed to protect ... from abuse and mental anguish." To address this deficiency, the nursing home's correction plan listed three corrective actions that, the facility asserted, "... will continue to ensure residents are free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion."

However, the State agency was unable to provide us with evidence of correction to show that any of the corrective actions for this *G*-rated deficiency, or for the other 11 deficiencies, had actually taken place. The State agency was able to provide other forms of documentation, such as the Form CMS-670, used to document the time that the survey team spent performing the survey, and the Form CMS-2567B, which states that the nursing home had corrected those deficiencies previously reported and which includes the date that the State agency verified such corrective action. These documents, however, did not constitute sufficient evidence that the State agency could have used to verify that the nursing homes in question had taken corrective actions. Accordingly, these documents did not allow us to confirm that any of these 12 deficiencies had actually been corrected.

On the basis of our sample results, we estimated that the State agency could not provide sufficient evidence that corrective actions had been taken for 268 (13 percent) of the 2,127 deficiencies identified during surveys in CY 2014.

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<sup>9</sup> However, if a nursing home had serious deficiencies in addition to the less serious deficiencies, the State agency would verify the correction of both types of deficiencies during its followup survey.

According to State agency staff, documentation that might have provided the required evidence existed in the form of files in the Automated Survey Processing Environment (ASPEN) software, which the State agency used to conduct and document the surveys, but these files had been deleted from the database system. Specifically, State agency personnel explained that the ASPEN database software used in the survey process could be modified after the completion of a survey, to the point that some files within the database had been deleted.

### **THE STATE AGENCY DID NOT CONDUCT CONSECUTIVE STANDARD SURVEYS WITHIN 15 MONTHS FOR ALL NURSING HOMES**

The State agency did not always conduct standard surveys of nursing homes in CY 2014 within 15 months of the previous standard surveys in accordance with Federal requirements. Of the 79 nursing homes represented in the 100 sampled deficiencies, the State agency conducted standard surveys of 73 nursing homes in CY 2014. For 38 of the 73 nursing homes, the State agency conducted standard surveys within 15 months of the previous standard surveys.

However, the State agency exceeded the required 15-month period between consecutive standard surveys for the other 35 nursing homes. For example, on October 13, 2014, the State agency completed a nursing home standard survey for which the previous standard survey had been completed on June 20, 2013, a period of 15.5 months. The longest interval between consecutive standard surveys of a particular nursing home was more than 18 months.

For the 73 nursing homes in our sample selection for which a standard survey was conducted in CY 2014, the average interval between each nursing home's CY 2014 survey and its previous standard survey was 14.5 months.<sup>10, 11</sup>

State agency officials said that CMS had previously cited the State agency for exceeding the 15-month period between consecutive standard surveys. These officials added that the current number of vacancies within the survey teams made it difficult to meet this requirement. At the time of our fieldwork, the State agency's staffing levels had 13 vacancies for 61 available positions to conduct standard surveys of nursing homes at least once every 15 months.

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<sup>10</sup> Federal regulations state: "The statewide average interval between standard surveys must be 12 months or less..." (42 CFR § 488.308(b)(1)). Because our random sample was based on deficiencies and not on nursing homes themselves, the average interval was calculated for only those 73 nursing homes in our sample selection for which a standard survey was conducted in CY 2014. Thus, the average interval that we offer in this paragraph is not a calculation of the statewide average. For that reason, we offer this information (and the regulatory citation that underpins it) for illustrative purposes rather than as an actual finding.

<sup>11</sup> Six of the 79 nursing homes represented in the 100 sampled deficiencies did not have standard surveys in CY 2014 because the State agency had conducted its previous surveys late in CY 2013. When the State agency conducted its next standard surveys of these six nursing homes in CY 2015, the intervals of those surveys exceeded the 15-month Federal requirement for consecutive standard surveys in five of the six cases.

## RECOMMENDATIONS

We recommend that the State agency:

- improve its practices for verifying nursing homes' correction of identified deficiencies by obtaining nursing homes' evidence of correction for less serious deficiencies,
- update internal and information system controls and formal policies and procedures to ensure that survey system data is protected against unauthorized or unintended modification or loss, and
- develop and implement a correction plan to ensure that the interval between consecutive standard surveys does not exceed 15 months for individual nursing home surveys.

## STATE AGENCY COMMENTS

In written comments on our draft report, the State agency agreed with our findings and described corrective actions that it had taken or planned to take. Regarding our first finding, the State agency said that it had completed an internal audit in September 2016 and had then made immediate systemic changes to require evidence of correction for less serious deficiencies. With respect to the survey system data loss, the State agency said that it had identified this issue in CY 2015 and added that the system had been fixed.

Regarding our second finding, the State agency said that it has been reviewing survey outcomes with CMS since CY 2014 in an effort to improve the frequency of surveys. The State agency alluded to an internal 12.9-month goal for the completion of consecutive standard surveys, and described corrective actions oriented on the achievement of that goal. The State agency said that these actions included the prioritization of nursing homes to be surveyed, the redistricting of the survey regions, the implementation of management position changes, and the creation of a new training plan for new surveyors.

The State agency added that it would continue to monitor the frequency of surveys to improve its compliance. The State agency also stated that it had 18 open surveyor positions as of August 11, 2017, and referred to an analysis of competitive wages that had identified a need to reevaluate—in coordination with its Department Secretary and the CY 2018 session of the State legislature—the current wages for State agency surveyor positions.

The State agency's comments appear in their entirety as Appendix E.

**APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS**

<b>Report Title</b>	<b>Report Number</b>	<b>Date Issued</b>
<i>Missouri Properly Verified Correction of Deficiencies Identified During Surveys of Nursing Homes</i>	<a href="#"><u>A-07-16-03217</u></a>	3/17/17
<i>Arizona Did Not Always Verify Correction of Deficiencies Identified During Surveys of Nursing Homes Participating in Medicare and Medicaid</i>	<a href="#"><u>A-09-16-02013</u></a>	10/20/16
<i>Oregon Properly Verified Correction of Deficiencies Identified During Surveys of Nursing Homes Participating in Medicare and Medicaid</i>	<a href="#"><u>A-09-16-02007</u></a>	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>	<a href="#"><u>A-09-13-02039</u></a>	7/09/15
<i>Nursing Facilities' Compliance With Federal Regulations for Reporting Allegations of Abuse or Neglect</i>	<a href="#"><u>OEI-07-13-00010</u></a>	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>	<a href="#"><u>A-09-12-02037</u></a>	6/04/14
<i>Adverse Events in Skilled Nursing Facilities: National Incidence Among Medicare Beneficiaries</i>	<a href="#"><u>OEI-06-11-00370</u></a>	2/27/14
<i>Skilled Nursing Facilities Often Fail To Meet Care Planning and Discharge Planning Requirements</i>	<a href="#"><u>OEI-02-09-00201</u></a>	2/27/13
<i>Federal Survey Requirements Not Always Met for Three California Nursing Homes Participating in the Medicare and Medicaid Programs</i>	<a href="#"><u>A-09-11-02019</u></a>	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>	<a href="#"><u>A-09-09-00114</u></a>	9/21/11



## APPENDIX B: AUDIT SCOPE AND METHODOLOGY

### SCOPE

According to CMS's deficiency data, the State agency identified 3,132 deficiencies that required a correction plan during CY 2014. We excluded from our review 941 deficiencies that were not directly related to resident health services and 64 deficiencies that had the ratings *B* or *C*, which did not require verification of correction. The remaining 2,127 deficiencies (from a total of 302 nursing homes) had ratings that required the State agency to verify correction by either obtaining evidence of correction (1,949 deficiencies) or conducting a followup survey (178 deficiencies). We selected for review a stratified random sample of 100 deficiencies, which between them were associated with a total of 79 nursing homes.

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, which included fieldwork at the State agency's office in Topeka, Kansas, from November 2016 to April 2017.

### 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 corrections 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 3,132 deficiencies<sup>12</sup> that required a correction plan and were identified during standard and complaint surveys of Kansas nursing homes in CY 2014;

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<sup>12</sup> This figure does not include *A*-rated deficiencies.

- removed 1,005 deficiencies that:
  - were not directly related to resident health services<sup>13</sup> or
  - had the ratings *B* or *C* (not requiring verification of correction);
- developed a stratified random sample from the remaining 2,127 deficiencies (from a total of 302 nursing homes) by:
  - 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;<sup>14</sup>
- estimated the number and percentage of deficiencies in the sampling frame for which the State agency did not verify the nursing homes’ correction in accordance with Federal requirements;
- reviewed consecutive standard surveys for each nursing home associated with the deficiencies in our stratified random sample to determine the time interval between the standard survey conducted in CY 2014 (if one had been conducted) and the last day of that nursing home’s previous standard survey;
- where necessary, accessed and reviewed the State agency’s records for CY 2015 to obtain dates of completion of standard surveys conducted in that year of nursing homes not surveyed in CY 2014; and
- discussed the results of our review with State agency officials on May 10, 2017.

See Appendix C for the details of our statistical sampling methodology and Appendix D for our sample results and estimates.

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<sup>13</sup> We excluded deficiencies that were related to physical environment; residents’ rights; admission, transfer, and discharge rights; dietary services; quality of life; and administration.

<sup>14</sup> Documentation included surveyor notes, training sign-in sheets, and invoices verifying purchase and repairs, if available.

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 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 3,132 deficiencies that required a correction plan and were identified during standard and complaint surveys of Kansas nursing homes in CY 2014. CMS extracted the data from the Certification and Survey Provider Enforcement Reporting system. We then removed 1,005 deficiencies as shown in Table 2.

**Table 2: Deficiencies Removed**

<b>Reason for Removing Deficiencies</b>	<b>No. of Deficiencies Removed</b>
Not directly related to resident health services	941
Had the ratings <i>B</i> or <i>C</i> (not requiring verification of correction)	64
<b>Total</b>	<b>1,005</b>

After we removed these deficiencies, the sampling frame consisted of 2,127 deficiencies.

### SAMPLE UNIT

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

### SAMPLE DESIGN

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

**Table 3: Number of Deficiencies in Each Stratum**

<b>Stratum</b>	<b>Description</b>	<b>No. of Deficiencies</b>
1	Deficiencies with ratings of <i>D</i> or <i>E</i> , or <i>F</i> without substandard quality of care	1,949
2	Deficiencies with ratings of <i>G</i> through <i>L</i> , or <i>F</i> with substandard quality of care	178
<b>Total</b>		<b>2,127</b>

**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 used 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.

**APPENDIX D: SAMPLE RESULTS AND ESTIMATES**

**Table 4: Sample Results**

<b>Stratum</b>	<b>No. of Deficiencies</b>	<b>Sample Size</b>	<b>No. of Deficiencies Not Verified by the State Agency</b>
1	1,949	70	40
2	178	30	0
<b>Total</b>	<b>2,127</b>	<b>100</b>	<b>40</b>

**Table 5: Estimated Statewide Number and Percentage of Deficiencies for which the State Agency Did Not Obtain Nursing Homes' Evidence of Correction  
(Limits Calculated at the 90-Percent Confidence Level)**

	<b>No. of Deficiencies Not Verified</b>	<b>Percentage of Deficiencies Not Verified</b>
Point estimate	1,114	52%
Lower limit	926	44%
Upper limit	1,301	61%

**Table 6: Sample Results**

<b>Stratum</b>	<b>No. of Deficiencies</b>	<b>Sample Size</b>	<b>No. of Deficiencies Evidence of Correction Not Provided by State Agency</b>
1	1,949	70	9
2	178	30	3
<b>Total</b>	<b>2,127</b>	<b>100</b>	<b>12</b>

**Table 7: Estimated Statewide Number and Percentage of Deficiencies for which the State Agency Could Not Provide Support That Corrective Actions Had Been Taken  
(Limits Calculated at the 90-Percent Confidence Level)**

	<b>No. of Deficiencies Not Verified</b>	<b>Percentage of Deficiencies Not Provided</b>
Point estimate	268	13%
Lower limit	141	7%
Upper limit	396	19%

APPENDIX E: STATE AGENCY COMMENTS

Survey, Certification and Credentialing  
Commission  
New England Building  
612 South Kansas Avenue  
Topeka, KS 66603-3404



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Timothy Keck, Secretary  
Codi Thurness, Commissioner

Sam Brownback, Governor

August 14, 2017

Patrick Cogley  
Regional Inspector General for Audit Services  
Department of Health and Human Services  
Office of Inspector General  
Office of Audit Services, Region VII  
601 E. 12<sup>th</sup> Street, Room 0429  
Kansas City, MO 64106

Dear Mr. Cogley

Thank you for the opportunity to review and comment on the Office of Inspector General's draft audit reported dated July 26, 2017 titled "Kansas Did Not Always Verify Correction of Deficiencies Identified During Surveys of Nursing Homes Participating in Medicare and Medicaid."

The Kansas Department for Aging and Disability Services; Survey, Certification, and Credentialing Commission has reviewed the draft report and we are in concurrence with the findings. The Commission's corrective action plan is attached.

The findings and recommendations from the audit were taken seriously. Steps were taken in 2016 (prior to the audit) to correct the deficiencies in our process. Feedback such as this is always value added as we seek to improve the surveying of nursing homes in Kansas.

If you have additional questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Codi Thurness".

Codi Thurness  
Commissioner Survey, Certification, and Credentialing Commission  
Kansas Department for Aging and Disability Services

Kansas Department for Aging and Disability Services  
Kansas State Agency Response to Office of Inspector General Audit  
Report Number: A07-17-03218

- Findings 1: The State Agency (SA) did not always verify nursing homes' correction of deficiencies identified during surveys in CY 2014 in accordance with the Federal requirements (40 deficiencies). The SA's practice for addressing less serious deficiencies was to accept the nursing homes' correction plans as confirmation of substantial compliance without obtaining the required evidence of correction of deficiencies. The SA was also unable to provide sufficient evidence of correction (other than CMS 2567B form during survey process) that the SA had used to verify the nursing homes in question had taken corrective actions (12 deficiencies).
- State Agency Response: Kansas has reviewed the documentation provided and agrees with the finding.
- Improvement Plan: September 2016 (prior to the audit), completed an internal audit of the survey practices. Review of the State Operations Manual (SOM) Chapter Seven was completed.
- The SA made immediate systemic changes to require evidence of correction for substantial compliance to verify correction and acceptance of the correction plan with the Plan of Correction staff.
- Ongoing compliance with this process is monitored by the Director of Survey and Certification to ensure verification of correction of deficiencies is evidenced when determining the Plans of Correction confirmation of substantial compliance.
- In 2015 the SA had determined data had been lost due to software issues. The system was fixed and continues to function without concerns. The Director of Survey and Certification monitors for continued compliance.



Kansas Department for Aging and Disability Services  
Kansas State Agency Response to Office of Inspector General Audit  
Report Number: A07-17-03218

Findings 2: The SA did not conduct consecutive standard surveys within 15 months for all nursing homes.

State Agency Response: Kansas has reviewed the documentation provided and agrees with the finding.

Improvement Plan: Since 2014 the SA has been reviewing survey outcomes with Centers for Medicare and Medicaid (CMS) in an effort to improve frequency of surveys.

April 1, 2017 the SA prioritized the nursing homes with a survey window outside of the 12.9 month goal. These facilities were assigned to 6 teams to be surveyed until the State is in compliance with the 15 month survey time frame.

August 1, 2017 the SA redistricted the survey regions, made management positions changes, created a new detailed training plan for new surveyors. All districts continued completing surveys on the facilities outside the 12.9 survey frequency goal. The Director of Survey and Certification will continue to monitor the survey frequency in an effort to improve the SA's compliance.

The SA has 18 surveyor positions open as of August 11, 2017. An analysis of competitive wages for Registered Nurses in the state has determined a need to re-evaluate the current wages of the SA surveyor positions with the Secretary for KDADS along with the Legislative Session in 2018.