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**Increased Compliance Needed
With Nursing Home
Health And Sanitary Standards**

Department of Health, Education,
and Welfare

MWD-76-8

AUG. 18, 1975

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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

MANPOWER AND WELFARE
DIVISION

B-164031(3)

The Honorable
The Secretary of Health, Education,
and Welfare

Dear Mr. Secretary:

During 1973, we reviewed skilled nursing facility (SNF) compliance with selected Federal health and safety requirements for participation in the Medicaid and Medicare programs. We visited 115 facilities in 6 States--Connecticut, Florida, Kansas, Michigan, Ohio, and Oregon--of which 68 were participating in Medicaid and Medicare and 47 were participating in Medicaid only. We also obtained information on actions taken by the Department of Health, Education, and Welfare (HEW) to implement the President's Eight-Point Program announced in August 1971 to improve nursing home conditions and related patient care.

On May 28, 1971, we reported to the Congress ^{1/} that many skilled nursing homes visited in Michigan, New York, and Oklahoma were not adhering to Federal requirements and that health and safety of Medicaid and Medicare patients may have been jeopardized. The 1973 review was designed in part to follow up this report.

Overall, our 1973 visits indicated most homes were complying with the requirement for 24-hour coverage by at least one qualified nurse. Further, we noted that, except for the problems in meeting fire safety requirements, ^{2/} compliance with Federal requirements on physical environment and sanitation was relatively high. However, many SNFs in some States continued to have problems meeting requirements on the extent of care provided individual patients--specifically those concerning frequency of physician visits to patients and nursing care hours provided.

^{1/}"Problems in Providing Proper Care to Medicaid and Medicare Patients in Skilled Nursing Homes" (B-164031(3)).

^{2/}Our March 18, 1975, report to the Congress entitled "Many Medicare and Medicaid Nursing Homes Do Not Meet Federal Fire Safety Requirements" (MWD-75-46) discussed the major problems of compliance with fire safety standards in SNFs participating in Medicare and/or Medicaid.

BACKGROUND

Under Medicare and Medicaid, Federal expenditures for care to eligible SNF recipients totaled about \$1.3 billion in fiscal year 1974.

In October 1974, about 7,100 SNFs were participating in the Medicaid and/or Medicare programs, 3,000 in Medicaid only. HEW regulations require that State inspectors examine each SNF certified for participation in Medicare or Medicaid at least annually, to determine whether they are complying with Federal requirements providing for skilled nursing care and safe, sanitary living conditions.

THE EIGHT-POINT PROGRAM
TO IMPROVE NURSING HOME
CONDITIONS

Subsequent to our May 1971 report, the President, on August 6, 1971, announced an Eight-Point Program of actions to improve substandard conditions in Federal-program nursing homes.

HEW was made responsible for administering the Eight-Point Program. Generally, the program (1) increased emphasis on inspections to correct deficiencies or decertify substandard facilities, (2) increased training and Federal funding for State and Federal inspectors, (3) improved enforcement activity coordination within HEW, and (4) increased training of nursing home personnel.

Increase in certified homes
and decertified substandard facilities

Under the Eight-Point Program, HEW required all SNFs be inspected by July 1972. On July 1, 1972, of the 5,704 SNFs certified for participation in the Medicaid and Medicare programs, 4,415, or 77 percent, had received conditional 6-month certifications which indicated numerous deficiencies must be corrected to obtain 12-month certification. By December 31, 1973, 6,785 SNFs had been certified, of which 1,228, or 18 percent, had conditional 6-month certifications. This decrease in the percentage of SNFs receiving conditional certifications indicated many SNFs had improved enough to qualify for the normal 12-month certification. In January 1974, HEW reported that, since the beginning of the Eight-Point Program, more than 500 SNFs had withdrawn voluntarily or had been decertified for failing to comply with Federal standards.

Increased training of
State and Federal inspectors

The number of State health-care facility inspectors increased from about 1,500 in 1972 to over 2,000 in June 1974. An HEW official said 2,000 inspectors had been trained in making inspections to determine compliance with Federal requirements, including sanitation, fire safety, adequacy of nursing and physician services. This official further stated that HEW planned to continue training State inspectors.

Increased and extended Federal
funding of State inspection costs

The 1972 amendments to the Social Security Act initiated 100-percent Federal funding of State costs for inspecting Medicaid SNFs and intermediate care facilities from October 1972 through June 1974. HEW and State officials said that this time limit discouraged efforts to increase State staffs because some States were unwilling to absorb the additional costs once the full Federal funding stopped. However, the 100-percent funding was extended through June 1977 by passage of Public Law 93-368, approved August 7, 1974.

Increased Federal enforcement staff

Congress appropriated funds, beginning in fiscal year 1972, for an additional 150 HEW positions to make more validation reviews of State inspection efforts and upgrade State enforcement certification procedures. Between July 1972 and April 1974, HEW personnel visited about 700 SNFs, primarily those certified for both Medicare and Medicaid, to validate the States' determinations of compliance with health and safety requirements or to investigate complaints.

Coordination of long-term care matters

The Office of Nursing Home Affairs was established within HEW in November 1971 to coordinate long-term care enforcement matters, including improving conditions in nursing homes.

In fiscal year 1974, in response to the Under Secretary's directions to strengthen the regional directors' role in enforcement activities, the regional offices were given responsibility for all long-term care matters, including inspections and certifications of SNFs. However, the Office of Nursing Home Affairs would guide the regional offices. In the spring of 1974, the regional offices established long-term care units,

which were to report directly to regional directors. These units are responsible for enforcing Federal standards for all long-term care facilities.

Increased training for
nursing home personnel

During fiscal years 1973, 1974, and the first half of fiscal year 1975, HEW awarded contracts to States and professional organizations for training medical and allied health professionals working in nursing homes. An HEW headquarters official reported that, by December 1974, they had trained about 78,000 nursing home personnel.

Investigative units
to handle patients' complaints

Under the Eight-Point Program, the President directed HEW to assist the States in establishing investigative or ombudsman units to handle nursing home patient complaints. In June 1972, HEW awarded contracts for such units in Idaho, Pennsylvania, South Carolina, Wisconsin, and Michigan. In 1973, contracts were awarded to establish such units in Oregon and Massachusetts. All contracts were funded through June 30, 1975. The units were to investigate complaints of nursing home patients and their families about the quality of care provided, such as poorly trained or incompetent nursing staff. As of May 1975, HEW was studying the results of these ombudsman programs and planned to distribute the study to regional HEW and State officials for their review.

During fiscal year 1976, HEW plans to make limited support funds available to all 50 States for State-level nursing home ombudsman programs and for developing or promoting ombudsman activities.

Awarded contracts and studies
for reviewing long-term care

The President also directed HEW to review the use, standards, and practices of long-term care facilities and to develop a new Federal posture in the area of long-term care. Several contracts were awarded to evaluate the quality of long-term care and to examine data collection and analysis systems. Further evaluation was undertaken in fiscal year 1975 to determine a method for measuring quality of care in long-term care facilities as distinguished from measuring compliance with legislated and regulatory standards.

RESULTS OF GAO's 1973
REVIEW OF 115 SNFs

HEW policies provided an SNF would be eligible for participation in the Medicaid program if it had been inspected and was found to be fully complying with all Federal health and safety standards. In those instances where deficiencies with respect to any given standard were found, Medicaid participation was limited to a 6 month period, provided (1) there were reasonable prospects that deficiencies could be corrected within 6 months and the facility had an acceptable written plan for doing so, and (2) the deficiencies noted did not jeopardize patient health and safety. At the time of our review, the Medicaid survey form recommended for use by inspectors used the Medicare standards and factors approach, which described each health or safety standard and listed under each standard factors or guidelines for the inspector to use in determining whether a standard had been met. However, a deficiency determination designating an SNF as being in noncompliance with any specific standard depended almost entirely upon the inspector's professional judgment. In June 1975, this determination was still largely dependent upon the inspector's individual judgment, because HEW had not issued quantifiable criteria on when deficiencies constituted noncompliance.

Most SNFs we visited in 1973 were complying with the Federal requirements pertaining to (1) 24-hour nursing services and a full-time qualified director of nursing services and (2) physical environment and sanitation standards. In contrast, our review indicated need for more compliance with Federal and State standards on frequency of physician visits to individual patients and hours of nursing care provided per patient per day.

Compliance with nursing coverage,
physical environment, and
sanitation standards

Nursing coverage

Federal regulations for participating SNFs require that

- nursing services be under the direction of a full-time, registered nurse director and
- there be at least one registered or qualified licensed practical nurse on duty at all times in charge of nursing services.

B-164031(3)

Of the 115 SNFs visited, all but three complied with the requirement for a full-time nursing director.

For the charge nurse requirement, we examined records for four weeks at each SNF and noted the following level of compliance for the 84 eight-hour shifts examined.

Level of compliance	Participating Skilled nursing homes in					
	Total		Medicare/ Medicaid		Medicaid only	
	Number	Percent	Number	Percent	Number	Percent
Full compliance	84	73	50	74	34	72
One partial or full shift missed	13	11	8	12	5	11
Two partial or full shifts missed	4	4	2	3	2	4
Three partial or full shifts missed	2	2	1	1	1	2
Four or more partial or full shifts missed	<u>12</u>	<u>10</u>	<u>7</u>	<u>10</u>	<u>5</u>	<u>11</u>
Total	<u>115</u>	<u>100</u>	<u>68</u>	<u>100</u>	<u>47</u>	<u>100</u>

As the above table shows, over 80 percent of the SNFs visited had either the required full 24-hour coverage by a qualified charge nurse or lacked such coverage for only one full or partial 8-hour shift during the entire 4-week period.

Physical environment and sanitation

To participate in Medicaid and Medicare, SNFs must be constructed, equipped, and maintained to insure the safety of patients and provide a functional, sanitary, and comfortable environment. Excluding the requirements relating to fire safety, we considered eight Federal factors pertaining to the physical environment and sanitation standards in reviewing the selected homes. Four of the more important factors follow:

- Were patient bedrooms adequately equipped and conveniently located near adequate toilet and bathing facilities?

- Were the facilities' electrical and mechanical systems designed, constructed, and maintained in accordance with recognized safety standards, and did they comply with applicable State and local regulations?
- Did the facilities provide sufficient housekeeping and maintenance personnel to maintain the interior and exterior of the facility in a safe, clean, orderly, and attractive manner?
- Were the kitchen or dietary areas adequate to meet food service needs and did such areas comply with local health or food handling codes?

Under HEW guidelines, designation of noncompliance with physical environment and sanitation requirements is largely a matter of judgement on the part of individual inspectors. Accordingly, an SNF cited for a relatively large number of deficiencies could still be considered in substantial compliance by a State inspector. Conversely, an SNF with only one deficiency, which the inspector considered sufficiently serious to jeopardize the health and safety of patients, could be designated in noncompliance with the applicable standard. Without uniform criteria for assessing the relative seriousness of any particular type of deficiency or of total deficiencies, we classified SNFs visited in terms of number of factors where deficiencies existed. As shown in the following table, we identified 26 SNFs with deficiencies in 1 or more of the 8 factors.

Level of compliance	Participating skilled nursing homes					
	Total		Medicare/ Medicaid		Medicaid only	
	Number	Percent	Number	Percent	Number	Percent
No deficiencies observed	89	77	54	79	35	74
One deficiency factor	13	11	7	10	6	13
Two deficiency factors	10	9	6	9	4	9
Three or more deficiency fac- tors	<u>3</u>	<u>3</u>	<u>1</u>	<u>2</u>	<u>2</u>	<u>4</u>
Total	<u>115</u>	<u>100</u>	<u>68</u>	<u>100</u>	<u>47</u>	<u>100</u>

An example of a home with deficiencies in more than one factor follows. One Florida SNF had some patient rooms with no cubicle curtains, and only one chair and bedside table for

four patients, instead of the required chair and table for each patient. Further, the kitchen had insects crawling on the walls, garbage in open trash cans, and food being prepared in the dishwashing area.

Lack of compliance with
patient-care standards

To participate in Medicare and Medicaid, SNFs are required to insure (1) appropriate individual patient-care supervision by physicians and (2) sufficient qualified personnel to meet the total nursing needs of all patients. Our review of compliance with requirements for patient care was generally limited to those quantifiable standards or guidelines on the frequency of physician visits and the number of nursing hours per patient per 24-hour day.

Physicians not visiting SNF
Medicaid patients with
required frequency

At the time of our visits, HEW regulations required that, a physician visit SNF Medicaid patients at least once every 30 days. In January 1974, subsequent to our visits, this requirement was modified to provide physician visits once every 30 days for the first 90 days of an individual's stay and at intervals no longer than once every 60 days thereafter, provided the physician certifies in the patient's medical records that his condition does not require a visit every 30 days. However, under HEW instructions, the extent to which inadequate physician visits and insufficient remedial action taken by the facility constitutes noncompliance depends upon the individual State inspector's professional judgment.

We examined medical records at 115 SNFs on a sample basis to determine the frequency of physician visits to patients during the 12 months prior to our visits. 1/

1/Because Social Security Administration statistics show that about 93 percent of Medicare SNF patients are discharged or cease to be covered within 60 days of admission, it is assumed most of the patients in this category were covered by Medicaid.

The degree of compliance with the physician-visit requirement is summarized in the following table.

<u>Level of compliance</u>	<u>Number of SNFs</u>			
	<u>30-day interval</u>		<u>60-day interval</u> (note a)	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Full compliance	39	34	47	41
One or more patients not visited by a physician as re- quired	74	64	63	55
Incomplete data	<u>2</u>	<u>2</u>	<u>5</u>	<u>4</u>
Total	<u>115</u>	<u>100</u>	<u>115</u>	<u>100</u>

a/About 36 percent of the Medicare/Medicaid SNFs were in full compliance, and about 48 percent of the Medicaid-only SNFs were in full compliance.

An example of a home with serious deficiencies follows. At one SNF in Kansas, four of the nine patients' records reviewed showed the patients had not been visited by a physician in 12 months, and the records of three others showed they had not been visited by a physician for periods ranging from 7 to 11 months.

Compliance with the physician-visits requirement varied widely among the 6 States. For example, in Connecticut, Michigan, and Ohio, from 53 to 64 percent of the SNFs visited were in full compliance using the 60-day interval criteria, while in Kansas and Florida none and 15 percent of the SNFs, respectively, were in full compliance. Officials of noncomplying SNFs in Florida and Kansas told us they had contacted patients' physicians requesting they make the required visits, but as a practical matter, they had little control over whether or not the physicians did so.

In October 1974, HEW issued regulations which required that, by December 1975, SNFs must retain full- or part-time medical directors as appropriate for the needs of patients in the facility. The medical director is responsible for the overall coordination of medical care to ensure adequacy and propriety of medical services and to maintain surveillance of employee health status. HEW may waive this requirement, however, if the SNF is located in an area where the supply

of physicians is insufficient to permit compliance without reducing the availability of physicians, and if the SNF has made and is continuing to make a good faith effort to comply.

In our view, an important consideration in (1) determining the need for a full- or part-time medical director and (2) waiving the requirement for a medical director should be the extent of compliance with other Federal standards for physician involvement in patient care. An SNF with a prior record of obtaining less than required minimum physician involvement in the care of its patients would seem to be most in need of a full-time or part-time medical director.

Adequacy of nursing staffing

Although Federal regulations require that an SNF have a sufficient number of qualified nursing staff to meet the total nursing needs of all patients, the regulations do not provide any specific quantitative requirements. An HEW official advised us that merely meeting quantitative ratios of nursing care would not assure quality care. The official added that HEW was undertaking efforts to establish criteria to judge the quality of care in SNFs by patient condition (e.g., number of bedsores).

Pending development of new criteria, existing HEW guidelines recommend, but do not require, that as a minimum, 2.25 hours of nursing care per patient per day is sufficient to meet staffing needs in an SNF. However, for those States having specific staffing standards, inspectors use, and HEW accepts, such State standards for determining compliance. We noted almost one-half of SNFs visited did not meet the applicable staffing standards and there were variances among State standards.

The degree of noncompliance with State staffing standards in each of the six States reviewed is summarized in the following table. For each of the SNFs visited, we calculated total available nursing department staffing (including nurse's aides) in relation to total patients over a selected four-week period.

<u>State</u>	<u>Minimum hours of nursing care per patient per day</u>	<u>Number of SNFs visited</u>	<u>Number of SNFs not on compliance (note a)</u>	<u>Percent of SNFs not in compliance</u>
Connecticut	b/1.60	15	3	20
Florida	b/2.00	20	17	85
Kansas	c/2.25	15	9	60
Michigan	b/2.00	25	13	52
Ohio	1.60	25	8	32
Oregon	2.50	<u>15</u>	<u>3</u>	<u>20</u>
		<u>115</u>	<u>53</u>	<u>46</u>

a/The extent of compliance with the nurse-patient ratio requirement was approximately the same for Medicare/Medicaid SNFs and for Medicaid-only SNFs.

b/State standards were expressed in terms of a nurse-patient ratio for each 8-hour shift (example--one nurse to ten patients). For comparability, we converted the State ratio to hours of care per patient day.

c/Kansas did not have specific criteria of its own. Accordingly, we used HEW's guidelines, because State officials indicated they also used HEW criteria as a guideline.

To obtain additional information on State nursing-staff requirements, we sent questionnaires to the 43 States ¹/ not included in our review, the District of Columbia, and ³ territories. Of the 41 States and territories responding, 11 had not established a standard or did not provide enough data to compute a ratio. For the 30 States which had computable ratios and for the 6 States reviewed, the minimum standards varied.

Twenty-five of the 36 States' minimum staffing standards fell between 2 and 2.5 hours of nursing care per patient per day. However, there were variances in State staffing standards on either end of this range. Nine State standards were below 2 hours of nursing care per patient per day, and two State standards exceeded 2.5 hours of nursing care per patient day. The standards ranged from 1.2 hours of nursing care per day in Alabama to about 3.5 hours a day in Arkansas and Maine.

¹/Arizona did not have a Medicaid program at the time of our review.

ADDITIONAL PLANS ANNOUNCED BY HEW
IN 1974 TO IMPROVE THE NURSING
HOME PROGRAM

In June 1974, the Under Secretary of HEW announced a Long-Term Care Facility Improvement Campaign. One of its goals was to obtain basic data on actual quality of care being provided in SNFs. Between August and November 1974, HEW personnel made unannounced visits on a nationwide basis to 295 randomly selected SNFs and obtained information on 3,454 patients in the facilities. Data was collected on primary illnesses of the patients, facility deficiencies, such as, fire safety deficiencies, frequency of physician visits, nutritional needs of patients, drug usage, and dental needs of patients. Among other things, the study indicated there was insufficient involvement of physicians in the care of patients in long-term care facilities.

The Under Secretary also announced the following plans:

- A Management Information System was to be developed to satisfy the demand for instant information on SNF inspections and certifications. HEW officials said the system had become operational in March 1975, linking data between headquarters and regional and State levels.
- A statistical index was to be developed for the costs of providing services in various geographic areas of the country, in order to further develop SNF and ICF reimbursement formulas.
- A system was to be established for uniform inspection and rating of long-term care facilities throughout the country.

CONCLUSIONS

Under the August 1971 Eight-Point Program, more SNFs have been unconditionally certified for participation in Medicaid and Medicare and more substandard SNFs have been de-certified; expanded training has been provided to State and Federal inspectors; HEW's enforcement staff has been increased; increased training has been provided to nursing home personnel; and to some extent, the establishment of the Office of Nursing Home Affairs has centralized the responsibility for activities previously carried out by several HEW organizations.

Our 1973 visits to 115 SNFs in 6 States indicated that, except for deficiencies relating to fire safety standards, there was relatively high compliance with Federal standards pertaining to the physical environment and sanitation. However, our visits indicated more needs to be done to obtain compliance with Federal guidelines and/or State standards on adequacy of patient care. More than one-half the SNFs visited were not complying with the quantitative standard for frequency of physician visits to patients, and almost one-half of the SNFs were not meeting State standards or Federal guidelines for number of nursing care hours provided to patient.

The incidence of noncompliance with the requirement for physician visits was most pronounced in two States. Officials of SNFs in the two States said that compliance with the physician visits standards was sometimes difficult; therefore, the effective implementation and enforcement of HEW's October 1974 regulations requiring SNFs to retain full- or part-time medical directors may be a practical solution to the problem of insuring appropriate supervision by physicians in the care of SNF patients. In our opinion, the implementation and enforcement of this requirement should be expedited in those States and for those facilities with a poor history of meeting Federal standards aimed at insuring appropriate physician involvement in the care of SNF patients. Further, any waivers of the new requirement should include an evaluation of past compliance with such Federal standards.

HEW's plans for developing a nationwide uniform inspection and rating system for long-term care facilities has merit; however, we question whether the existing variations in State minimum nursing staffing standards for SNFs are compatible with the HEW objective of uniformity. Because the adequacy of nursing care should be a key element in developing a uniform rating system, we believe the feasibility of HEW's planned uniform inspection and rating project depends upon the acceptance of more uniform standards. This could be accomplished by adopting the Federal minimum guidelines as a baseline standard for rating SNFs or by reviewing State minimum standards for measuring the adequacy of nursing care to assure that such standards would be acceptable minimums.

Further, we believe that HEW's plans for additional training of State inspectors (see p. 3) should aid in assuring more uniform interpretations by inspectors on whether a nursing home has deficiencies which are serious enough for the home to be considered "not in compliance" with physical environment and sanitation requirements.

RECOMMENDATIONS TO THE SECRETARY, HEW

We recommend that implementation and enforcement of HEW's October 1974 regulations requiring SNFs to retain medical directors (1) be expedited and emphasized in those States and for those facilities not meeting Federal standards aimed at insuring appropriate physician involvement in the care of patients, and (2) include instructions requiring that any waivers of the requirement consider past compliance with these standards.

We recommend also that, in implementing its plans to develop a uniform inspection and rating system, HEW review State minimum standards for measuring adequacy of nursing care to assure such standards are acceptable minimums for the purpose of establishing a uniform system.

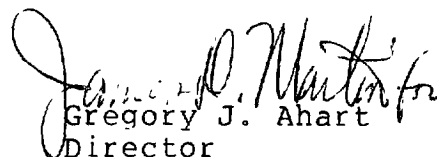
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As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions he has taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report and the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this letter to the Chairmen of the Government Operations and Appropriations Committees of the House of Representatives and the Senate, the Chairmen of the House Committees on Interstate and Foreign Commerce, and Ways and Means; the Chairmen of the Senate Committees on Finance, and the Special Committee on Aging, and the Director of the Office of Management and Budget.

We will be pleased to discuss this report with you or your representatives.

Sincerely yours,


Gregory J. Ahart
Director

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