

PUBLICATION

Surveys on Care Issues: Results Show Nursing Homes Should Redouble Quality Improvement Efforts

January 1, 2008

For years, the long term care industry has been battered by allegations in lawsuits that its motive is "profits over people." Study after study has identified quality of care problems in nursing homes and as a result, the industry has become one of the most highly regulated in the nation.

According to a May 15, 2008 Government Accountability Office report, state nursing home survey inspectors frequently understate care problems in nursing homes by either failing to cite a deficiency or by citing a deficiency at too low a level. The GAO relied on data from the Centers for Medicare & Medicaid Services, the federal agency responsible for ensuring the effectiveness of state surveys. Federal surveyors monitor the state survey process through the use of either comparative surveys or observational surveys. A comparative survey is an independent survey conducted by a federal survey team within 30 days of the state survey. Afterwards, the state and federal surveys are compared. During observational surveys, federal surveyors accompany a state survey team to a facility to evaluate the team's on-site survey performance. From fiscal 2002 through 2007, CMS conducted 976 comparative surveys and 4,023 observational surveys.

For that period, 15 percent of comparative surveys nationwide identified state surveys that failed to cite at least one G through L deficiency. In nine states, the federal surveyors found missed serious deficiencies in 25 percent or more of the surveys. Tennessee's rate of missed serious deficiencies was 26.3 percent; in New Mexico, South Carolina, South Dakota and Wyoming, the rate of missed serious deficiencies was 33.3 percent. At the D through F tag level, missed deficiencies were greater than 40 percent in all but five states. On average, state surveys failed to identify 2.5 D through F level deficiencies per survey. And in both categories of missed deficiencies, those most frequently missed were quality of care standards.

In this most recent as well as previous reports, the GAO has identified factors that may contribute to survey inconsistency and understatement of deficiencies by state survey teams. Some of those factors include confusion about the definition of actual harm; predictability of surveys; inadequate quality assurance processes at the state level; and inexperienced state surveyors due to poor retention.

In addition, the GAO identified weaknesses in management and oversight in the CMS monitoring program. CMS requires federal surveyors to track missed deficiencies on comparative surveys, but does not effectively track the extent of understatement of serious deficiencies. The GAO also found that CMS headquarters was not effectively managing the federal monitoring survey database. For example, the GAO found that the database contained incomplete information, as results from some comparative surveys were not included in the database.

The GAO made the following four recommendations:

1. Require regional [CMS] offices to determine if there was understatement when state surveyors cite a deficiency at a lower scope and severity level than federal surveyors do and track this information in the federal monitoring survey database;
2. Establish quality controls to improve the accuracy and reliability of information entered into the federal monitoring survey database;

3. Routinely examine comparative survey data and hold regional offices accountable for implementing CMS guidance that is intended to ensure that comparative surveys more accurately capture the conditions at the time of the state survey;
4. Regularly analyze and compare federal comparative and observational survey results.

The report is the 18th GAO report since mid-1998 to focus on nursing home quality of care and oversight.

On the same day the most recent GAO report was issued, the nation's lawmakers considered regulatory changes to require disclosure of ownership information for nursing homes. The recommendation comes in the wake of concerns that private equity firm ownership of nursing homes leads to the bleeding of resources from the nursing homes, resulting in poor quality care. Rep. Bart Stupak (D-Mich.), chairman of the House Energy and Commerce Subcommittee on Oversight and Investigations, acknowledged that chain ownership could improve quality of care through sharing of resources across facilities, but said that "at the same time chains have the potential to hide common problems and obscure responsibility for inadequate care."

Interestingly, earlier in the month, CMS proposed a \$770 million cut in Medicare payments to nursing homes for fiscal year 2009 to correct for an alleged erroneous increase resulting from a rule in 2005. The proposal was decried by the Alliance for Quality Nursing Home Care and the American Health Care Association, both of which are concerned that cuts will undermine nursing homes' ability to care for greater numbers of higher acuity patients.

The recent attention to nursing homes is nothing new. Since the enactment of the Nursing Home Reform Act of 1987, an entire industry has sprung up around regulation enforcement. And with millions of baby boomers nearing the age at which long term care becomes a necessity, the prospect of footing the bill has sent the legislature in overdrive.

The statistics are staggering: By 2030, over 70 million Americans (19.6% of the population) will be 65 or older, and Social Security, Medicare and Medicaid spending is projected to consume almost three quarters of federal revenue. One way to help solve the cost crisis is to reduce payments to nursing homes for allegedly substandard care rendered, and the GAO report can be seen as a call for surveyors to be much more stringent in their inspections.

Those in the nursing home industry can expect the scrutiny to continue and more governmental cost-saving measures to be enacted. Nursing homes, therefore, should redouble their efforts at quality improvement, focus on adequate training for caregivers, make sure staffing is appropriate for the acuity levels of their residents, and continue to work toward appropriate, meaningful and proper documentation.