

FOLLOW-UP REVIEW
OF THE
REGULATION OF NURSING HOMES, ADULT FOSTER CARE
HOMES, AND HOMES FOR THE AGED

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

October 2003

“...The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.”

– Article IV, Section 53 of the Michigan Constitution

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AUDITOR GENERAL

October 14, 2003

Mr. David C. Hollister, Director
Department of Consumer and Industry Services
Ottawa Building
Lansing, Michigan

Dear Mr. Hollister:

This is our report on our follow-up review of the 5 material findings (Findings 1, 2, 10, 11, and 12) and 8 related recommendations reported in the performance audit of the Regulation of Nursing Homes, Adult Foster Care Homes, and Homes for the Aged, Department of Consumer and Industry Services. That audit report was issued and distributed in April 2001; however, additional copies are available on request.

Our review disclosed that the Department of Consumer and Industry Services had complied with 7 recommendations and had substantially complied with 1 recommendation.

If you have any questions, please call me or Scott M. Strong, C.P.A., C.I.A., Director of Audit Operations.

AUDITOR GENERAL

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**REGULATION OF NURSING HOMES, ADULT FOSTER CARE
HOMES, AND HOMES FOR THE AGED
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
FOLLOW-UP REVIEW**

INTRODUCTION

This report contains the results of our follow-up review of the material findings and related recommendations reported in the performance audit of the Regulation of Nursing Homes, Adult Foster Care Homes, and Homes for the Aged (HFAs), Department of Consumer and Industry Services (CIS). The performance audit contained 5 material findings (Findings 1, 2, 10, 11, and 12) and 9 other reportable conditions.

PURPOSE OF REVIEW

The purpose of this follow-up review was to determine whether CIS had taken appropriate corrective measures in response to the 5 material findings.

BACKGROUND

CIS's Bureau of Health Systems is responsible for the licensing and certification of nursing homes in accordance with Sections 333.21711 - 333.21799e of the *Michigan Compiled Laws* (sections of the Public Health Code). The Division of Nursing Home Monitoring is within the Bureau of Health Systems. Its responsibilities include conducting Medicare certification surveys on new and established nursing homes. Based on the survey findings, the Bureau of Health Systems makes a recommendation to the Centers for Medicare and Medicaid Services (CMS), U.S. Department of Health and Human Services, for Medicare certification approval or denial. CMS makes the final determination of the nursing homes' certification status. The Division is also responsible for developing, monitoring, and conducting annual licensing survey

inspections to issue State licensure to nursing homes. There were approximately 430 licensed nursing homes operating throughout the State as of June 2003.

CIS's Bureau of Family Services is responsible for licensing and regulating HFA facilities in accordance with Sections 333.21301 - 333.21333 of the *Michigan Compiled Laws* (sections of the Public Health Code) and with the *Michigan Administrative Code*. The licensure process requires the Bureau of Family Services to conduct annual survey inspections of each facility. CIS is also responsible for investigating complaints received against HFAs as well as complaints received against assisted living facilities operating as nonlicensed HFAs. There were approximately 185 HFAs licensed by the State as of June 2003.

SCOPE

We reviewed CIS policies and procedures to determine whether there were any changes since our audit. We interviewed CIS personnel and performed various tests to determine whether the corrective action taken to comply with the recommendations related to our material findings was working as CIS had intended.

FOLLOW-UP REVIEW RESULTS

REGULATION OF NURSING HOMES

FINDING

1. Nursing Home Annual Survey Inspection Intervals

RECOMMENDATIONS

We recommend that CIS formalize and maintain adequate policies and procedures to effectively monitor, prioritize, and schedule annual survey inspections of nursing homes.

We also recommend that CIS conduct timely annual survey inspections of nursing homes in accordance with State and federal laws and regulations.

AGENCY PRELIMINARY RESPONSE

CIS agreed that the annual survey inspections of nursing homes were not conducted in a timely manner, resulting from inadequate staffing levels. CIS added additional staffing beginning in fiscal year 1999-2000. CIS also reorganized the Bureau of Health Systems, creating the Enforcement Division to handle complaint investigations and enforcement activity and the Division of Nursing Home Monitoring to complete the required annual surveys and related tasks. In September 1999, CIS implemented a report system to calculate survey intervals and identify homes with extended intervals and established performance goals, monthly management meetings to assess completion of the goals, and corrective action measures when goals were not met. As a result, CIS informed us that it is presently within the average 12-month standard and that no nursing home surveys are in excess of the 15-month standard.

FOLLOW-UP REVIEW CONCLUSION

We conclude that CIS had complied with these recommendations.

CIS implemented a scheduling program and related policies to ensure that nursing home surveys were conducted within the required 9- to 15-month federal requirement. In addition, CIS's scheduling program and related policies helped to

ensure that the average survey interval for all nursing homes did not exceed the maximum 12-month standard. Our review of CIS's compliance with survey intervals indicated that nursing home surveys were being completed in accordance with State and federal laws and regulations.

FINDING

2. Performance and Documentation of Nursing Home Annual Surveys and Revisits

RECOMMENDATION

We recommend that CIS improve its controls to ensure that nursing home surveys and revisits are performed and documented in accordance with federal regulations.

AGENCY PRELIMINARY RESPONSE

CIS agreed with the finding and informed us that it is confident that the specific procedures for which deficiencies were noted were performed; however, the appropriate documentation was missing from the applicable files. CIS has instructed the surveyors to ensure that the required documentation is appropriately placed and maintained in the files.

FOLLOW-UP REVIEW CONCLUSION

We conclude that CIS had substantially complied with this recommendation.

CIS conducted in-service training programs for each of its nursing home surveying teams, reemphasizing the need to ensure that proper sample sizes were calculated and that all procedures performed to complete the nursing home surveys were properly documented and that this documentation was placed in the nursing home survey file. Our review of CIS's compliance with performance and documentation of nursing home annual surveys and revisits indicated that CIS was calculating proper sample sizes and was documenting the nursing home surveys conducted.

REGULATION OF HOMES FOR THE AGED

FINDING

10. HFA Annual Surveys

RECOMMENDATIONS

WE AGAIN RECOMMEND THAT CIS CONDUCT ANNUAL SURVEYS OF HFAs IN A TIMELY MANNER, AS REQUIRED BY STATE LAW.

We also recommend that CIS maintain formal policies and procedures to effectively monitor, prioritize, and schedule the required HFA annual surveys.

AGENCY PRELIMINARY RESPONSE

CIS agreed with the finding. During the audit period, there were only two licensing staff members assigned to regulate approximately 175 HFAs. CIS informed us that, since the reassignment of the HFA Program in January 2000, two additional licensing staff members were added and a compliance plan has been established to ensure that all annual licensing inspections are done on a 12-month cycle.

FOLLOW-UP REVIEW CONCLUSION

We conclude that CIS had complied with these recommendations.

CIS increased its HFA surveying staff to a total of nine surveyors. Also, CIS moved the HFA licensing information from the CareNet System to the Bureau Information Tracking System (BITS), allowing it to better monitor licensing activities and survey intervals. The HFA Handbook was developed to implement formal policies and procedures related to HFA licensing. Finally, the surveying process for HFAs was also changed to ensure that the surveys conducted were sufficient to determine that the HFAs were in compliance with State laws. Our review of CIS's compliance with HFA survey intervals disclosed that CIS conducted HFA surveys on a timely basis. Our review also disclosed that CIS improved procedures conducted during the annual HFA surveys to ensure that the surveys were sufficient to determine if HFAs were in compliance with State licensing requirements.

FINDING

11. Follow-Up of Survey Deficiencies

RECOMMENDATIONS

We recommend that CIS ensure that HFAs correct deficiencies found in annual surveys in a timely manner.

We also recommend that CIS establish and maintain formal policies and procedures to adequately address its role and responsibilities in the survey process.

AGENCY PRELIMINARY RESPONSE

CIS agreed with the finding. CIS informed us that it will provide assurance that HFAs correct deficiencies in a timely manner and establish and maintain formal policies and procedures addressing the roles and responsibilities in the survey process.

FOLLOW-UP REVIEW CONCLUSION

We conclude that CIS had complied with these recommendations.

CIS implemented policies and procedures related to the HFA survey process, including procedures related to the corrective action plan. Our review disclosed that CIS was requiring HFA facilities to submit corrective action plans based upon citations noted in the annual surveys and was completing follow-up on HFA facilities that did not timely submit corrective action plans for approval.

FINDING

12. HFA Complaint Investigations

RECOMMENDATION

We recommend that CIS conduct timely investigations of complaints received against HFAs.

AGENCY PRELIMINARY RESPONSE

CIS agreed with the finding. During the audit period, there were only two surveyors assigned to regulate the HFA Program. CIS informed us that, since the reassignment of the HFA Program to the Bureau of Regulatory Services in January 2000, two additional surveyors were added to the HFA staff. CIS indicated that a compliance plan has been developed to ensure that all annual, initial, complaint, and follow-up inspections are done in a timely manner. In addition, the Bureau of Regulatory Services has assumed full responsibility for the handling and tracking of complaints that were formerly handled by the Complaint Intake Unit, Bureau of Health Systems. CIS informed us that it established complaint investigation procedures in accordance with statutory mandate and integrated those procedures with the Bureau's Division of Adult Foster Care Licensing special investigations procedures. CIS implemented the procedures in March 2000 and all complaint investigations have been initiated and completed in accordance with the new established time frames.

FOLLOW-UP REVIEW CONCLUSION

We conclude that CIS had complied with this recommendation.

CIS implemented complaint investigation procedures to ensure timely investigation of complaints received. Our review disclosed that CIS was properly investigating complaints received in a timely manner.