

Long-Term Care Survey Alert

Survey Trends: CMS--Publicly Releases List Of Worst Performing Facilities

Here's what you need to know about the 'special focus facility' program.

The **Centers for Medicare & Medicaid Services**' recently published list of the 54 poorest of the poor-performing "special focus facilities" is not where any provider wants to end up. The public reporting of the list raises the stakes for all nursing facilities to understand how the special focus facility (SFF) program works -- and make necessary changes, if needed. The biggest question on everyone's mind is, of course, could this happen to my facility?

The answer: If your facility falls on the lower end of survey performance in its state, it could potentially end up in the SFF program. CMS created the SFF program in 1998 to give more attention to facilities with a poor record of survey performance. Each state is required to have a certain number of SFFs, for example, two or more based on the total number of facilities in the state, explains attorney **Howard Sollins**, partner with **Ober/Kaler** in Baltimore.

"Thus, what the list [of SFFs] identifies are certain nursing facilities with survey problems in a particular state, no matter how those facilities compare to regional or national peers," Sollins points out.

Next question: What happens to a facility once it's identified as an SFF?

CMS says that facilities in the program for 18 to 24 months are either close to "graduating" -- or they are close to ending their participation in Medicare and Medicaid. To graduate from the SFF program, a facility has to achieve survey results demonstrating no deficiencies greater than an E within 18 months, Sollins says.

Smart strategy: A facility in the SFF initiative should also implement comprehensive strategies, including quality assurance and other programs. The latter can help demonstrate that the facility doesn't deserve the more "draconian remedies" if they have a survey problem crop up before they get off the list, Sollins counsels.

Attorney **Jennifer Stiller** notes that the "imposition of remedies can take on a momentum of its own that can have a snowball effect." For example, if the facility is barred from admitting new residents, which is a common early remedy, that stops the flow of income, adds Stiller, in Haverford, PA.

A list worth checking in all cases: The **American Association of Homes & Services for the Aging** supports CMS' efforts to identify chronically poor performing facilities, says **Evvie Munley**, a senior policy analyst for the trade group. But AAHSA has heard of instances where facilities appeared on the list that should not have been on it, Munley says.

"The intent of CMS' public notice is to provide useful information for consumers to make educated decisions about nursing homes. So reporting of such facilities must be accurate and timely."

Editor's note: View the list at <http://www.cms.hhs.gov/CertificationandCompliance/Downloads/SFFList.pdf>.