

Long-Term Care Survey Alert

Survey Trends: GAO Wants CMS to Home In On Complaint Investigations

Find out the number of complaints survey agencies received and the % that resulted in F tags.

CMS recently got a "need to improve" mark from the Government Accountability Office.

A GAO report advised the agency to shore up "the reliability of its complaints database" and clarify guidance "for its state performance standards to assure more consistent interpretation."

Key stats: The report notes that "CMS' complaints data showed that state agencies received 53,313 complaints against nursing homes in 2009" (see the chart on page 53 for a rundown of the most frequent complaints). Nineteen percent of the complaints investigated and uploaded to CMS' national database that year were substantiated, which the GAO defined as surveyors citing the facility for at least one complaint-related federal deficiency. The GAO report doesn't say whether facilities investigated for complaints received F tags for unrelated deficiencies.

Bottom line: "The majority of allegations weren't substantiated due to lack of evidence to cite a federal deficiency," says **John Dicken**, a director of healthcare for the GAO. "There may have been deficiencies at the state level (related to state licensing issues) but those were not entered into the federal database," Dicken tells Eli.

Dicken goes on to note that "19 states had greater than 30 percent resulting in federal deficiencies -- and five states had less than 10 percent. Complaints alleging IJ were substantiated more frequently than less serious ones," he adds.

Another concern: "Twenty-eight state survey agencies failed the timeliness of investigations standard for either immediate jeopardy or actual harm-high complaints, the prioritization of complaints standard, or both," states the report.

Implications of GAO Findings

So can providers expect to see more forceful action in the complaint survey arena? Not in the view of attorney **Julia Krebs-Markrich**, with Reed Smith in Washington, D.C. She points out that the GAO reports refers to "lots of state agency staffing and workload issues related to the agencies' performance." Thus, "unless by some miracle, the state agencies get more support, i.e., money and additional staff, I would not anticipate a change."

But Krebs-Makrich says she doesn't "see survey agencies getting less tough with complaint surveys" (for tips on how to prevent and respond to complaint surveys, see the next issue of Long-Term Care Survey & Compliance Alert).

She also finds the 19 percent substantiation rate "suggests that we are spending lots of time and effort on an elaborate, complex and expensive system looking for problems that may not exist. This seems like a huge misallocation of resources. I think the priorities are somehow skewed and the money would be better spent putting it back into nursing homes thorough increased payment for staff training."

Editor's note: Read the GAO report at " www.gao.gov/new.items/d11280.pdf.