

## MDS Alert

### Industry Updates: See This Report Clearly

#### **SFFs and SFF candidates may face big changes to their buffer of secrecy.**

Industry chatter about Special Focus Facilities (SFFs) seems to be everywhere these days. The Centers for Medicare & Medicaid Services (CMS) is pushing policies to cut down on paperwork and red tape for facilities, but some wonder whether those efforts go hand in hand with delivering quality care and maintaining transparency for residents, residents' families, and the public, generally.

**Sen. Bob Casey Jr.** and **Sen. Pat Toomey**, both U.S. Senators serving Pennsylvania, put forth an inquiry about the somewhat secretive Special Focus Facility program, which is federally funded but operating on limited resources. In June 2019, the two senators released an investigative report: "Families' And Residents' Right To Know: Uncovering Poor Care In America's Nursing Homes."

The report is based on survey findings and a years-long investigation of Pennsylvania facilities, but the conclusions are not specific to the state. The report is sort of a middleman, in that its written for consumers (residents and residents' families) but is also full of useful information for facilities and long-term care staff, particularly in how federal oversight may be failing everyone.

#### **Understand the Context**

There are approximately 15,700 nursing homes across the nation, including some that are their area's only access to nursing care. Currently, there are only 88 slots for participating facilities in the SFF program, with more than 400 other facilities that are deemed "candidates" for the program. CMS provides states with their worst ranking facilities and states choose which facilities to recommend for SFF openings, as well as which to designate as candidates. SFF participants must undergo more frequent surveys (approximately every six months), while no one else, including SFF candidates, is subjected to the additional scrutiny.

The SFF program is supposed to "graduate" participating facilities within 12-18 months or prohibit them from receiving Medicare or Medicaid money, if the facilities don't step up their game.

The Nursing Home Compare website, which is designed to provide objective information and transparency to the public, shows how facilities are awarded one to five stars. SFF participants are assigned with a yellow traffic-caution symbol and no stars, and SFF candidates simply show their star rating, even if they are in just as rough shape as the SFF participants. Basically, only SFF facilities, the respective state in which they're located, and CMS know that those facilities have been tagged as candidates.

#### **Federal Communication to Public Deemed Confusing**

One of the most worrisome findings to the report's authors was the design and usability of the Nursing Home Compare website. Consumers who did not already have knowledge of the SFF program and its parameters were not presented with any contextual information while using Nursing Home Compare.

"Aside from recent actions by CMS to update Nursing Home Compare so that the website more clearly displays nursing homes that are SFF participants, it lacks detailed information or context on the SFF program. There is no information on Nursing Home Compare explaining the reason for a facility's participation in the program, the length of time it has been in the program or whether it has improved. Further, CMS does not include information on facilities that routinely cycle in and out of the SFF program," Casey and Toomey say.

The star ratings feature is supposed to be an objective articulation of how one facility compares to another, but Casey

and Toomey found that the SFF program and its candidates are not portrayed accurately.

If you've worked hard to get your facility's star rating as high as possible, especially through boosting your staffing and quality ratings, SFF candidates' star ratings may shock you.

After the two senators received the list of SFF candidates, they did an analysis on Nursing Home Compare and found the following:

- 27 percent of SFF candidate facilities were rated two stars,
- 48 percent of SFF candidates had a quality rating of three stars or higher,
- 49 percent of SFF candidates possessed a staffing rating of three stars or greater, and
- Nine SFF candidates were awarded perfect staffing and quality scores.

### See Which Questions Report Produced

Casey and Toomey included a letter to **Seema Verma**, current administrator for CMS, that included nine questions about how CMS goes about the SFF program, including the following summary:

1. A request for an explanation of its methodology in choosing SFF program participants and candidates,
2. how and why CMS maintains the program's size (it's been the same for five years),
3. how and when the SFF candidate list is updated,
4. which processes State Agencies use and which recommendations CMS makes in selecting candidates for the SFF program,
5. whether circumstances exist in which a facility might be bumped ahead for placement outside of the "rolling selection window,"
6. if there's any oversight (and how said oversight is conducted) for facilities that are not ultimately selected,
7. information about the circumstances and details surrounding facilities that cycle in and out of the SFF program or don't graduate at all and whether any agencies or organizations conduct oversight of these outliers,
8. a list of SFF candidates, and
9. detailed information on Pennsylvania-specific facilities that are in the SFF program or designated as candidates.

Although this report is written for current and potential residents and their families, as well as government legislators and officials, their findings and resulting questions are certainly of interest to the facilities that are playing by the rules and genuinely excelling at providing care and serving their residents' well-being.

For example, is a facility that you're collaborating with in, say, emergency situations, actually a candidate for the SFF program? Would your residents be endangered by an emergency if they are evacuated into that facility's care?

CMS's longer-term response (beyond CMS Administrator Seema Verma's response, see story, below) and the senators' push toward transparency should provide more answers and, perhaps, a more even ground for evaluating facilities, as well as better patient safety and care.