DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General
Offices of Audit Services

Region VII
601 East 12th Street
Room 284A
Kansas City, Missouri 64106

Report Number A-07-03-04027

October 24, 2003

Ms. Sarah Delahoyde
Administrator
Pioneer Manor Nursing Home
900 W. 8th St.
Gillette, WY 82716

Dear Ms. Delahoyde:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Service's (OAS) final report entitled *"Audit of Nursing Facility Staffing Requirements at Pioneer Manor Care Center."*

The audit objective was to evaluate whether Pioneer Manor Care Center (Pioneer Manor) was in compliance with federal and state staffing laws and regulations for nursing facilities.

Pioneer Manor complied with Federal and State staffing laws and regulations with one exception. Specifically, Pioneer Manor did not always document that employees were subject to a reference check and verification that the employee was not excluded from Federal health care programs. Wyoming regulations require facilities to maintain personnel records for each employee and those should be current and available and should contain sufficient information to support placement in the position assigned. Additionally, Federal regulations state that no program payment will be made for anything an excluded person furnishes. The payment prohibition applies to anyone who employs or contracts with the excluded person. A review of personnel files for the 118 direct care employees disclosed:

- 45 of 118 personnel files did not include documentation that a reference check was performed.

- 34 of 118 personnel files did not include documentation that Pioneer Manor had verified that the employees were not excluded from Federal health care programs.

This occurred because Pioneer Manor did not have adequate policies and procedures in place. For the 34 employees who were missing exclusion verifications, we independently checked the OIG exclusion list and determined that none of the individuals had been excluded.

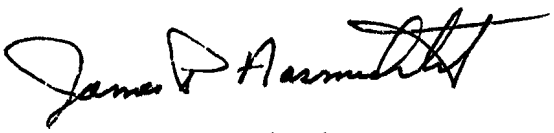
Verifying references is a critical step in ensuring that unfit individuals are not permitted direct contact with nursing home patients. Therefore, we recommend Pioneer Manor review and strengthen its internal controls to ensure that it obtain and maintain sufficient information to support placement in the position assigned.

Pioneer Manor has agreed with our recommendation and is revising and updating its policies regarding the pre-employment process.

The HHS action official named below will make final determination as to actions taken on all matters reported. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, OAS reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.) As such, within 10 business days after the final report is issued, it will be posted on the worldwide web at *http://oig.hhs.gov*. To facilitate identification, please refer to Report Number A-07-03-04027 in all correspondence relating to this report.

Sincerely,



James P. Aasmundstad
Regional Inspector General
for Audit Services

Direct Reply to HHS Action Official:

Mr. Alex Trujillo
Centers for Medicare and Medicaid Services
Regional Administrator, Region VII
1600 Broadway, Suite 700
Denver, CO 80202

Enclosures---As stated

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

AUDIT OF NURSING FACILITY STAFFING REQUIREMENTS AT PIONEER MANOR CARE CENTER

OCTOBER 2003
A-07-03-04027

Office of Inspector General

http://oig.hhs.gov/

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The OIG's Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations in order to reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout the Department.

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The OIG's Office of Evaluation and Inspections (OEI) conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the Department, the Congress, and the public. The findings and recommendations contained in the inspections reports generate rapid, accurate, and up-to-date information on the efficiency, vulnerability, and effectiveness of departmental programs.

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Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at http://oig.hhs.gov/

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services, reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.)

OAS FINDINGS AND OPINIONS

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed as well as other conclusions and recommendations in this report represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the awarding agency will make final determination on these matters.

EXECUTIVE SUMMARY

The objective of the audit was to determine whether Pioneer Manor Care Center (Pioneer Manor) was in compliance with Federal and State staffing laws and regulations for nursing facilities. Pioneer Manor is a 150 bed Nursing Facility located in Gillette, Wyoming. Pioneer Manor complied with Federal and State staffing laws and regulations with one exception.

Specifically, Pioneer Manor did not always document that employees were subject to a reference check and verification that the employee was not excluded from Federal health care programs. Wyoming regulations require facilities to maintain personnel records for each employee and those should be current and available and should contain sufficient information to support placement in the position assigned. Additionally, Federal regulations state that no program payment will be made for anything an excluded person furnishes. The payment prohibition applies to anyone who employs or contracts with the excluded person. A review of personnel files for the 118 direct care employees disclosed:

- 45 of 118 personnel files did not include documentation that a reference check was performed.

- 34 of 118 personnel files did not include documentation that Pioneer Manor had verified that the employees were not excluded from Federal health care programs.

This occurred because Pioneer Manor did not have adequate policies and procedures in place. For the 34 employees who were missing exclusion verifications, we independently checked the OIG exclusion list and determined that none of the individuals had been excluded.

Verifying references is a critical step in ensuring that unfit individuals are not permitted direct contact with nursing home patients. Therefore, we recommend Pioneer Manor review and strengthen its internal controls to ensure that it obtain and maintain sufficient information to support placement in the position assigned.

INTRODUCTION

BACKGROUND

The Omnibus Budget Reconciliation Act of 1987 (OBRA 87) established legislative reforms to promote quality of care in nursing facilities (NFs). The OBRA 87 requires NFs to have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. Specifically, Title 42, Code of Federal Regulations, Section 483.30 requires NFs to provide sufficient nursing staff on a 24-hour basis. Sufficient nursing staff must consist of licensed nurses and other nursing personnel and include: 1) a licensed nurse designated to serve as a charge nurse on each tour of duty, 2) a registered nurse for at least 8 consecutive hours a day, 7 days a week, and 3) a registered nurse designated to

serve as the director of nursing on a full time basis (the director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents).

States are required to ensure that NFs follow these Federal staffing standards at a minimum. Each State may implement its own staffing requirements that exceed these standards. Through the state survey and certification process, the State Survey Agency in each State is required to conduct periodic standard surveys of every NF in the state. Through this process State Survey Agencies measure the quality of care at each NF by identifying deficiencies and assuring compliance with Federal and State requirements.

Wyoming has established staffing requirements that exceed the Federal standards. Under Wyoming Department of Health Aging Division, Rules and Regulations for Program Administration of Nursing Care Facilities, Chapter 11, Section 9(j)(i) require Nursing Care hours shall be two and one quarter (2.25) hours for each skilled resident in a Nursing Care Facility in each twenty-four (24) hour period, seven (7) days a week, and one and one half (1.5) hours for each resident who is not skilled in each twenty four (24) period, seven (7) days a week.

In addition, Section 5(b)(i) of the before mentioned regulation states that personnel records for each employee shall be current and available and shall contain sufficient information to support placement in the position assigned.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of the audit was to determine whether Pioneer Manor was in compliance with Federal and State staffing laws and regulations for nursing facilities. Based on our analysis of data from the Centers for Medicare and Medicaid Services' (CMS) Online Survey Certification and Reporting (OSCAR) System, we selected Pioneer Manor for review.

To accomplish our objective we:

- Obtained background, staffing and deficiency data for Pioneer Manor from the OSCAR database through CMS's Nursing Home Compare website;

- Reviewed Federal and Wyoming State laws and regulations for NFs to determine what staffing standards Pioneer Manor was required to adhere to;

- Obtained staffing schedules, time and attendance records and payroll records to determine the facility's direct care hours per resident per day;

- Obtained and analyzed background checks for all direct care employees to assure they adhere to the state requirements;

- Conducted inquiries through Wyoming's voice verification system and Office of Inspector General's on-line exclusion list to determine if all direct care employees were in good standing and/or license and certified;

- Reviewed the survey and certification process at the Wyoming State Survey Agency and analyzed the results of the two most recent standard surveys conducted at Pioneer Manor; and

- Obtained an understanding of Pioneer Manor's procedures for recruiting, retaining and scheduling staff through meetings and discussions with personnel at the facility.

Our review was conducted in accordance with the generally accepted government auditing standards. Our review of internal controls was limited to obtaining an understanding of the controls concerning the hiring and staffing of employees. The objective of our review did not require an understanding or assessment of the complete internal control structure at Pioneer Manor.

We conducted our review during July through August 2003 at Pioneer Manor in Gillette, Wyoming and the OIG office in Denver, Colorado.

FINDINGS AND RECOMMENDATIONS

Pioneer Manor was generally in compliance with Federal and Wyoming State staffing laws and regulations for nursing facilities. Pioneer Manor scheduled its direct care employees in compliance with Federal staffing standards. We also determined that Pioneer Manor scheduled sufficient direct care employees to comply with the state requirement of 2.25 nursing care hours for each resident in a 24 hour period, seven days a week. In addition, all 118 direct care employees at Pioneer Manor were properly licensed and/or certified and were currently in good standing as determined by the state.[1]

However, Pioneer Manor did not always have sufficient information in personnel files to support placement in the position assigned. Specifically, a review of 118 personnel files disclosed:

- 45 of 118 personnel files did not include documentation that a reference check was performed.

- 34 of 118 personnel files did not include documentation that Pioneer Manor had verified that the employees were not excluded from Federal health care programs.

The State's Department of Health, Aging Division regulation requires sufficient information be maintained to support placement in the position assigned. In addition, 42 CFR 1001.1901 states that no payment will be made by Medicare, Medicaid, or other

[1] For purposes of this review, we define direct care employees as any nursing staff who are eligible to provide direct care to the residents.

healthcare programs for any item or service furnished by an excluded individual or entity. The payment prohibition applies to anyone who employs or contracts with the excluded person.

Pioneer Manor places reliance on the State certification system to conduct background checks as part of the licensing/certification process. Pioneer Manor also utilizes reference checks and reviews the OIG exclusion lists to ensure staff is adequately qualified for the position. However, for 45 direct care employees subject to reference checks and 34 direct care employees subject to exclusion list review, Pioneer Manor did not comply with background check documentation by maintaining sufficient current and available information to support placement in the position assigned by excluding reference check and exclusion list documentation respectively.

This occurred because Pioneer Manor did not have adequate policies and procedures in place. For the 34 employees who were missing exclusion verifications, we independently checked the OIG exclusion list and determined that none of the individuals had been excluded.

Verifying references is a critical step in ensuring that unfit individuals are not permitted direct contact with nursing home patients. Because Pioneer Manor had not hired any excluded individuals to provide direct patient care, residents were not endangered by this exception.

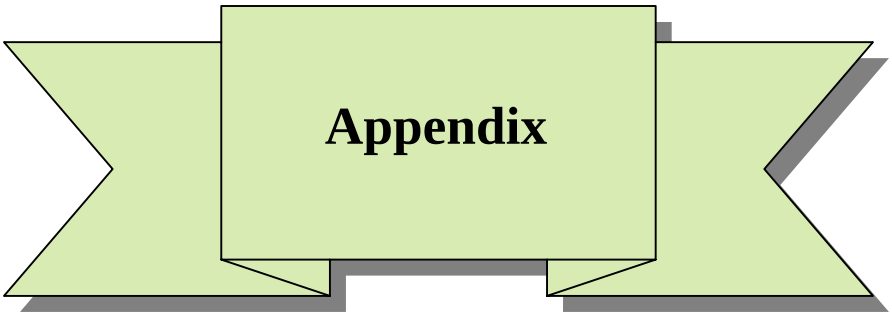
RECOMMENDATION

We recommend that Pioneer Manor Care Center review and strengthen its internal controls to assure that it obtain and maintain sufficient information to support placement in the position assigned.

AUDITEE RESPONSE

Pioneer Manor provided a written response to our draft report. Their response is included in its entirety as Appendix A.

Pioneer Manor has agreed with our recommendation and is revising and updating its policies regarding the pre-employment process.


Appendix

PIONEER MANOR NURSING HOME
900 W. 8th St., Gillette, WY 82716
(307) 682-4709 • FAX (307) 682-2662

October 15, 2003

James P. Aasmundstad
Regional Inspector General for Audit Services
Office of Inspector General
601 East 12th St.
Room 284A
Kansas City, Missouri 64106

Dear Mr. Aasmundstad:

Thank you for sharing with us your findings from your audit which was conducted in August at Pioneer Manor.

Upon your findings and recommendations, we have revised and updated policies regarding the facility's pre-employment process. Please find our new Pre-employment Verification policy, Manager's Pre-hire Checklist, Reference Check Form and our current corporation's policy on Excluded/Ineligible People and Entities.

Please notify my office if you have any questions or concerns.

Sincerely,

Sara Delahoyde

Sara Delahoyde, Administrator