

# Nursing Homes and Choice in Long-Term Care



The Centers for Medicare & Medicaid Services (CMS) is building on President Biden’s historic **Action Plan for Nursing Home Reform** to improve safety and quality of care in the nation’s nursing homes, creating a long-term care system where people can live with dignity. These efforts focus on improving safety and quality of care, holding nursing homes accountable for the care they provide, and making quality and facility ownership information more transparent so current and potential residents and their loved ones can make informed decisions.

CMS is equally committed to expanding access to care in the Medicaid program for home- and community-based services (HCBS) and will continue efforts to ensure people receive high-quality long-term services and supports that meet their needs in the setting of their choice.

## ACTIONS TO DATE

### Establishing Safe Minimum Staffing Standards

- On September 16, 2023, CMS published the **Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting** (CMS-3442-P) proposed rule that seeks to establish comprehensive minimum nurse staffing requirements. This rule would hold nursing homes accountable for providing safe and high-quality care for the over 1.2 million residents living in Medicare- and Medicaid-certified nursing homes.
  - Under the proposal, nursing homes would be required, at a minimum, to ensure a registered nurse is on-site 24/7 and provide residents with a minimum of .55 hours of care from an RN per resident per day and 2.45 hours of care from a nurse aide per resident per day, as well as comply with enhanced facility assessment requirements to ensure residents’ needs are met.
  - CMS also proposed a requirement for states to collect and report on the percentage of Medicaid payments for services in nursing facilities and intermediate care facilities for individuals with intellectual disabilities that are spent on compensation (primarily pay and benefits) for direct care workers and support staff. This builds upon CMS’ **recent proposals** to support compensation for direct care workers in home and community-based settings and to publish Medicaid data on average hourly rates for home care services. In combination, these proposals will increase transparency related to direct care workers’ compensation and help support and stabilize the long-term care workforce.
- The proposed rule was informed by the Nursing Home Staffing Study, over 3,000 comments received in a 2023 Request for Information, public listening sessions, an analysis of Payroll-Based Journal and survey data, existing literature, and extensive stakeholder engagement.
- As part of the **HHS Workforce Initiative**, CMS is working with the Health Resources and Services Administration and other partners to invest over \$75 million in a nursing home staffing campaign that will include financial incentives, such as scholarships and tuition reimbursement. This program builds on recent Administration investments in the nursing workforce.

## Increasing Transparency

- In January 2022, for the first time ever, CMS began **posting staff turnover rates and weekend staffing levels** for nursing homes on Nursing Home Care Compare, CMS’ informational website that families and prospective residents use to learn about facilities. Staffing in nursing homes has a substantial impact on the quality of care and outcomes residents experience. Access to this information helps consumers understand more about each nursing home facility’s staffing environment and choose a facility that provides the highest quality of care and best meets the needs of their loved one. These new measures were also incorporated into the Nursing Home Five Star Quality Rating System in July 2022.
- In November 2023, CMS issued the “**Disclosures of Ownership and Additional Disclosable Parties Information for Skilled Nursing Facilities and Nursing Facilities**” final rule (88 FR 80141), which would require the disclosure of certain ownership, managerial, and other information regarding Medicare skilled nursing facilities (SNFs) and Medicaid nursing facilities. CMS believes that increased transparency about nursing home owners and operators can help hold these parties accountable for the quality of care they furnish.
- In 2022 and 2023, CMS allowed consumers to view deficiency citations that were issued against facilities for noncompliance with Medicare requirements and are being **disputed by the facility**.
- In 2022 and 2023, CMS also published information related to **nursing home ownership for the first time**. This new information helps consumers, stakeholders, and regulators understand more details about the owners of facilities, such as which facilities are affiliated with the same owners but have different corporate names, as well as quality ratings of facilities under common ownership.

## Enhancing Accountability and Oversight

- In **January 2023**, CMS began new audits of nursing homes’ records to ensure that residents are not improperly diagnosed with schizophrenia and inappropriately prescribed dangerous antipsychotic medications. Nursing homes found to have inappropriately diagnosed residents also have their Five Star Quality Rating reduced.
- CMS is expanding audits of the direct care staffing data that nursing homes must report to ensure that federal and state inspectors, as well as residents and their families have accurate information. This information is included in Nursing Home Care Compare.
- CMS is undertaking new analyses of state inspection findings to ensure cited deficiencies result in appropriate consequences, particularly in incidences involving resident harm.
- In October 2022, CMS released a memo introducing **revisions to the Special Focus Facility (SFF) Program, which outlines** more demanding requirements for completion of the program for poor-performing facilities and has increased enforcement actions for facilities that fail to demonstrate improvement. The revisions include:
  - Strengthening the criteria for successful program completion by adding a threshold that prevents a facility from exiting based on the total number of deficiencies cited. Facilities will no longer be able to “graduate” from the program’s enhanced scrutiny without demonstrating systemic improvements in quality.
  - Terminating Medicare/Medicaid participation for facilities with Immediate Jeopardy findings on any two surveys while in the SFF, thereby leading to a loss of federal funding for facilities that don’t improve.
  - Increasing enforcement actions through more severe, escalating enforcement remedies for SFF Program facilities that have continued noncompliance and little or no demonstrated effort to improve performance.

- Incentivizing sustainable improvements by extending the monitoring period and maintaining readiness to impose progressively severe enforcement actions against facilities whose performance declines after graduation from the SFF Program.

## Ensuring Taxpayer Dollars Support Safe, Adequate, and Dignified Nursing Home Care

- In August 2023, CMS published a final rule updating Medicare payment policies and rates for skilled nursing facilities under the **FY24 Skilled Nursing Facility Prospective Payment System (SNF PPS)** (88 FR 53200). In this final rule, CMS adopted four new quality measures and finalized several policy changes in the Skilled Nursing Facility Value-Based Purchasing Program (SNF-VBP), which awards incentive funding to facilities based on quality performance. These include new and updated quality measures on nursing staff turnover and COVID-19 Vaccine Up to Date for residents and health care personnel.
- In June 2022, CMS issued CMS Memorandum **QSO-22-19-NH**, which included updated and new guidance in the **State Operations Manual (SOM)** to address issues that significantly affect residents of LTC facilities. The guidance included a requirement to have at least a part-time Infection Preventionist.
- CMS' memorandum in June 2022 also advanced recommendations related to resident room capacity. CMS emphasized the benefits of reducing the number of residents in each room, given lessons learned during the COVID-19 pandemic regarding preventing infections and the importance of residents' rights to privacy and a home-like environment.

## Expanding Access to Care for Home and Community-Based Services (HCBS)

- Over the past several decades, HCBS has become a critical component of the Medicaid program and part of a larger framework of progress across the federal government toward community integration of older adults and people of all ages with disabilities. In May 2023, CMS published a proposed rule, **Ensuring Access to Medicaid Services (88 FR 27960)**, which includes several proposed requirements focused on improving access to and the quality of HCBS. CMS is currently reviewing comments on the proposed rule, which includes changes intended to strengthen necessary safeguards to ensure health and welfare, promote health equity for people receiving Medicaid-covered HCBS, and achieve a more consistent and coordinated approach to administering policies and procedures across Medicaid HCBS programs.

