

Why GAO Did This Study

CMS, the agency within HHS that manages Medicare and Medicaid, contracts with state survey agencies to investigate complaints about nursing homes from residents, family members, and others. CMS helps assure the adequacy of state complaint processes by issuing guidance, monitoring data that state survey agencies enter into CMS's database, and annually assessing performance against specific standards. Concerns have been raised about the timeliness and adequacy of complaint investigations and CMS's oversight. GAO examined (1) complaints received, investigated, and substantiated by state survey agencies; (2) whether those agencies were meeting CMS performance standards and other requirements; and (3) the effectiveness of CMS's oversight. In addition to analyzing CMS data on complaints and performance reviews, GAO examined CMS guidance and conducted interviews with officials from three high- and three low-performing state survey agencies and their CMS regional offices. GAO addressed data reliability concerns by reporting only data we determined to be reliable.

What GAO Recommends

GAO recommends that the CMS Administrator take several steps to strengthen oversight of complaint investigations, such as improving the reliability of its complaints database and clarifying guidance for its state performance standards to assure more consistent interpretation. HHS generally agreed with our recommendations.

View [GAO-11-280](#) or key components. For more information, contact John E. Dicken at (202) 512-7114 or dickenj@gao.gov.

NURSING HOMES

More Reliable Data and Consistent Guidance Would Improve CMS Oversight of State Complaint Investigations

What GAO Found

CMS's complaints data showed that state survey agencies received 53,313 complaints about nursing homes in 2009. The number and types of complaints varied among states. For example, 11 states received 15 or fewer complaints per 1,000 nursing home residents while 14 states received more than 45. State survey agencies assess the severity of a complaint and assign a priority level, which dictates if and when an investigation must be initiated. About 10 percent of complaints were prioritized as immediate jeopardy, requiring investigation within 2 working days of receipt, while 45 percent were prioritized as actual harm-high, requiring investigation within 10 working days of prioritization. State survey agencies investigated all but 102 complaints that required an investigation. Among investigated complaints, 19 percent were substantiated and resulted in the citation of at least one federal deficiency. The percentage of immediate jeopardy and actual harm-high complaints that were substantiated with at least one federal deficiency cited was higher if the investigation was initiated on time.

In CMS's performance assessment for fiscal year 2009, many state survey agencies had difficulty meeting some of CMS's nursing home complaint standards, most of which also assess performance with regard to incidents—specific care issues that nursing homes are required to report. In particular, 19 state survey agencies had difficulty investigating actual harm-high complaints and incidents within the required time frame. However, most states were able to meet other CMS standards—timely investigation of immediate jeopardy complaints and incidents and appropriate prioritization of complaints and incidents. Although CMS's performance assessment does not review state survey agencies' communication with complainants, CMS does expect the agencies to convey investigation findings according to CMS guidelines. GAO found state survey agencies had varied interpretations of those guidelines, and some provided limited information to complainants.

CMS's oversight of state survey agencies' complaint investigation processes, through its performance standards system and complaints database, is hampered by data reliability issues. While CMS's performance standards are consistent with certain key criteria for performance measures identified by GAO and other audit agencies, performance scores are not always reliable, due in part to inadequate sample sizes and inconsistent interpretation of some standards by CMS reviewers. In addition, CMS has not made full use of the information it collects. For example, in part because of data reliability concerns, CMS does not routinely use data from the complaints database to calculate certain measures that could enhance its understanding of agencies' performance. Although CMS requires state survey agencies that fail performance standards to develop corrective action plans, states' plans do not necessarily address the underlying causes of performance issues, such as staffing shortages.