



MAY - 3 2019

Administrator
Washington, DC 20201

The Honorable Robert P. Casey, Jr.
United States Senate
Washington, DC 20510

Dear Senator Casey:

Thank you for your letter about the Special Focus Facility (SFF) program. The Centers for Medicare & Medicaid Services (CMS) takes very seriously our responsibility to hold nursing facilities serving Medicare and Medicaid residents accountable for furnishing safe, quality care for our beneficiaries. Earlier this month, I emphasized CMS's commitment to nursing home safety by announcing our five-part plan to ensure the care provided in America's nursing homes is of the highest possible quality.¹ That plan focuses on strengthening requirements for nursing homes, working with states to enforce statutory and regulatory requirements, increasing transparency of nursing home performance, and promoting improved health outcomes for nursing home residents – all without unnecessary paperwork that keeps providers from focusing on residents.

The methodology for identifying facilities for the SFF program is based on the same methodology used in the health inspection domain of the Five-Star Quality Rating System.² The results of each facility's surveys for three cycles of inspection are converted into points based on the number of deficiencies cited and the scope and severity level of those citations. The more deficiencies that are cited, and the more cited at higher levels of scope and severity, the more points are assigned. The facilities with the most points in a state then become candidates for the SFF program. CMS informs nursing homes of their status as an SFF candidate in their individual monthly Five-Star Quality Rating System preview report. Stakeholders can also see which facilities could be candidates by accessing the data.medicare.gov website and downloading the "Provider Info" file.³ By sorting the column named, "Total Weighted Health Survey Score," in descending order, the facilities with the highest survey scores, which could be SFF candidates, appear at the top of the list.

The total number of SFF slots and total number of SFF candidates nationally are based on the availability of federal resources. Under the SFF program's requirements, states must survey these poor performing facilities at least once every six months, instead of once every 9-15 months (for non-SFFs). In 2010, there were 167 SFF slots and 835 candidates for the SFF

¹ <https://www.cms.gov/blog/ensuring-safety-and-quality-americas-nursing-homes>

² More information about Nursing Home Compare is available at: <https://www.cms.gov/medicare/provider-enrollment-and-certification/certificationandcompliance/downloads/usersguide.pdf>

³ <https://data.medicare.gov/Nursing-Home-Compare/Provider-Info/4pq5-n9py>

program. In 2014, federal budget reductions, as part of sequestration, led to a reduction in the number of slots nationally to 88, and the candidates were reduced to 440. The number of slots and facilities on the candidate list has remained unchanged since 2014, with sequestration still in place.

The number of nursing homes on the candidate list is based on five candidates for each SFF slot. CMS sends a list of candidate facilities to CMS regional offices and state agencies each month. State agencies then recommend a facility to be an SFF from the candidate list. We rely on the state agency to make the selection since they know their nursing homes and local markets best. The CMS regional office gives final approval based on the state's recommendations. More information on the SFF program and a list of the number of SFF slots and candidates by State is included in the Survey and Certification Memo 17-20-NH.⁴

The SFF candidate list is updated each month based on the most recent findings from surveys conducted in a state. A state only selects a facility from the candidate list if there is an open SFF slot in their state. SFF slots are opened when a facility either graduates from the SFF program, or is terminated from participating in the Medicare and Medicaid programs. Facilities typically remain as a candidate for the SFF program for approximately 18 months.

SFFs are expected to graduate from the program within 12-18 months. To graduate from the program, the facility needs have two standard surveys without serious deficiencies identified, at least 6 months apart. If facilities are unable to graduate, they are subject to increased enforcement actions or termination. There are infrequent cases where we have prolonged a facility's status as an SFF (e.g., for greater than 18 months) because of concerns about access to care if the facility were terminated. However, if a facility fails to improve, they will be terminated from participating in Medicare and Medicaid.

While the SFF candidate list is not released publicly, we are evaluating the authority to release this list, and will update you on our progress. We note that facilities that are candidates for the SFF program will typically have a very low star rating. So, consumers and other stakeholders are alerted to the quality of care issues in these facilities by viewing their star rating and survey results on the Nursing Home Compare website. We also note that stakeholders can understand which facilities are likely SFF candidates by accessing the data.medicare.gov website as are described above.

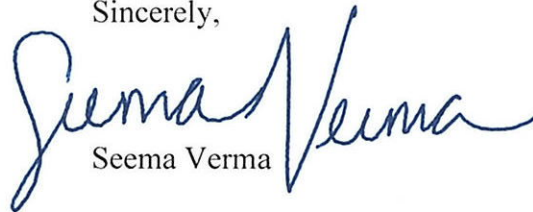
Regardless of participation in the SFF program, any facility that performs poorly on surveys and continues to jeopardize residents' health and safety will be subject to CMS enforcement remedies, such as civil money penalties, denial of payment for new admissions, or termination.

⁴ <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-17-20.pdf>

In addition to survey oversight, CMS has made great strides to improve the accuracy of data on Nursing Home Compare, including moving to new, more reliable sources for obtaining staffing and resident census data, as well as including more claims-based quality measures. For example, in March 2019, we announced significant changes to Nursing Home Compare and the Five Star Quality rating system in this regard. This includes a change to not display star ratings for SFFs in order to better highlight and emphasize the seriousness of being a SFF.

Information on all these changes can be found in CMS memorandum QSO 19-08-NH.⁵ These transparency and oversight initiatives are part of CMS's broader five-part plan to strengthen resident safety and health outcomes while providing consumers and their caregivers important information about care quality so they can make informed decisions. I appreciate your leadership on this important matter and I look forward to working with you to continue to improve the quality of nursing home care. I will also share a copy of this response with the co-signer of your letter.

Sincerely,



Seema Verma

⁵ <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/QSO19-08-NH.pdf>