GAO Report Prompts Hearing on Nursing Homes

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The Government Accountability Office has called on the Centers for Medicare and Medicaid Services to strengthen enforcement for nursing facilities that violate federal quality standards, particularly those with histories of deficiencies. The Senate Special Committee on Aging called attention to the Government Accountability Office report in a hearing.

The GAO report that prompted the hearing focused on 63 nursing facilities with a history of serious quality problems that had been the subject of earlier GAO reviews in 1998 and 1999. GAO found that a small but significant share of nursing homes continue to experience quality of care problems, with almost one in five nursing homes cited for serious deficiencies (those that caused actual harm or placed residents in immediate jeopardy) in fiscal year 2006.

According to Sen. Herb Kohl (D-Wisc.), committee chair, "This is unacceptable and raises questions about how and why our enforcement system is failing."

Kathryn G. Allen, director, health care—Medicaid and private health insurance issues, at GAO, acknowledged CMS improvements in enforcement, including implementation of an immediate sanctions policy for nursing homes with repeat violations of resident harm. It also is developing a new enforcement management data system. However, the GAO review revealed that, despite improvements in federal enforcement policies, many nursing homes continue to "cycle in and out of compliance, harming residents while avoiding sanctions."

GAO also cited significant variation across states in the citation of serious deficiencies and in the understatement of deficiencies.

Civil monetary penalties (CMPs) might not provide sufficient incentive to maintain compliance, according to GAO, as they are not collected until appeals are exhausted.

In addition, CMPs are typically on the low end of the allowable range. For example, the median CMP per day ranged from $350 to $500, significantly below the maximum of $3,000 per day.

In addition, GAO said, the complexity of CMS's immediate sanctions policy hampered its effectiveness, "allow[ing] some homes with the worst compliance histories—the very homes the policy was de-

Federal Team Arrests 38 for Medicare Fraud

A multiagency "strike force" targeting fraudulent Medicare billing related to infusion therapy and durable medical equipment recently made 38 arrests.

The arrests, all in south Florida, mark the first phase of operations of the team of federal, state, and local investigators. The team began its operations in March using both real-time analysis of billing data from Medicare and claims data extracted from the Health Care Information System.

In May, the departments of Justice and Health and Human Services jointly announced that the multiagency team had obtained indictments of individuals and health care companies alleged to have collectively billed the Medicare program for more than $142 million. The charges include conspiracy to defraud the Medicare program, criminal false claims, and violations of the antikickback statutes.

The antifraud efforts drew praise from Senate Finance Committee Chairman Max Baucus (D-Mont.).

"Federal health dollars are just too scarce to lose to fraud and abuse in Medicare," he said in a statement. "I'm glad to see the Justice Department taking this new, more aggressive stance against scams that endanger Medicare patients and that rob all taxpayers who contribute to America's health care programs."

Sen. Baucus had recently expressed concern about reports of durable medical equipment fraud in South Florida. In one recent instance, the Health and Human Services inspector general found that many medical device suppliers were not at their advertised addresses but were still billing Medicare for millions of dollars in reimbursement.

—Mary Ellen Schneider

signed to address—to escape immediate sanctions."

That policy allows nursing facilities 15 days from the date of the notice to correct deficiencies and avoid sanctions.

Often, that has meant no imposition of immediate sanctions and only temporary compliance.

According to the GAO, half of the homes studied cycled in and out of compliance from 2000 to 2006.

GAO also reported that termination of nursing homes from Medicare and Medicaid was infrequent.

GAO recommended that CMS should take these steps:

► Seek legislative changes to collect civil monetary penalties prior to exhaustion of appeals. Payments could be refunded with interest if deficiencies are modified or overturned on appeal.

► Issue guidance regarding consistency of CMPs, such as the standardized CMP grid that was piloted in 2006.

► Increase use of discretionary denials of payment for new admissions to help ensure speedier implementation of appropriate sanctions.

► Expedite development of national enforcement reports.

► Expand the CMS tool Nursing Home Compare to include information on implemented sanctions, such as the amount of CMPs and the durations of denial of payments for new admissions, and nursing homes subjected to immediate sanctions.

CMS has agreed to seek legislative authority to impose civil monetary penalties while an appeal is underway, according to Dr. James Randolph Farris, administrator of the CMS Dallas regional office. Dr. Farris also described CMS's particular attention to "Special Focus Facilities," which have been subject to more frequent surveys and "decisive" punitive action if significant improvements are not achieved and sustained. ■