



DEPARTMENT OF HEALTH & HUMAN SERVICES  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF AUDIT SERVICES  
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SUITE 316  
PHILADELPHIA, PENNSYLVANIA 19106-3499

**JUL 26 2005**

Report Number: A-03-05-00200

Ronald Graybeal, Administrator  
Calvert Manor Healthcare Center  
1881 Telegraph Road  
Rising Sun, Maryland 21911

Dear Mr. Graybeal:

Enclosed are two copies of the Department of Health and Human Services, Office of Inspector General report entitled "Review of Nursing Facility Staffing Requirements at Calvert Manor Healthcare Center." This review was self-initiated and the audit objective was to determine whether Calvert Manor Healthcare Center was in compliance with Federal and State staffing laws and regulations for nursing homes.

The scope and objective of this review encompassed only certain specific requirements of the Federal and State staffing regulations. This review did not assess the general requirement of 42 CFR § 483.30 that: "The facility must have sufficient nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care . . ." Rather, it assessed compliance with the staffing requirements stated in 42 CFR § 483.30 (b):

- (1) The facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.
- (2) The facility must designate a registered nurse to serve as the director of nursing on a full time basis.
- (3) The director of nursing may serve as a charge nurse only when the facility has an average occupancy of 60 or fewer residents.

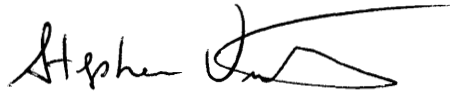
Maryland adds additional requirements to the Federal staffing requirements concerning employee background checks.

Should you have any questions or comments concerning the matters commented on in this report, please direct them to the Department official identified below.

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 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 which the Department chooses to exercise. (See 45 CFR Part 5).

Please refer to report number A-03-05-00200 in all correspondence relating to this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Virbitsky". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Stephen Virbitsky  
Regional Inspector General  
for Audit Services

Enclosure

**Direct Reply to HHS Action Official:**

Nancy B. O'Connor, Regional Administrator  
Centers for Medicare & Medicaid Services - Region III  
U.S. Department of Health and Human Services  
150 South Independence Mall West, Suite 216  
Philadelphia, Pennsylvania 19106-3499

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF NURSING FACILITY  
STAFFING REQUIREMENTS AT  
CALVERT MANOR HEALTHCARE  
CENTER**



**Daniel R. Levinson  
Inspector General**

**JULY 2005  
A-03-05-00200**

# ***Office of Inspector General***

**<http://oig.hhs.gov>**

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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 HHS divisions will make final determination on these matters.



## **EXECUTIVE SUMMARY**

### **BACKGROUND**

The Omnibus Budget Reconciliation Act of 1987 established legislative reforms to promote quality of care in nursing homes. These reforms require nursing homes 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 CFR § 483.30 requires nursing homes 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 home has an average daily occupancy of 60 or fewer residents).

### **OBJECTIVE**

The objective of our review was to determine whether Calvert Manor Healthcare Center (Calvert) was in compliance with Federal and State staffing laws and regulations for nursing homes. Calvert is located in Rising Sun, MD.

The scope and objective of this review encompassed only certain specific requirements of the Federal and State staffing regulations. This review did not assess the general requirement of 42 CFR § 483.30 that: “The facility must have sufficient nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care . . .” Rather, it assessed compliance with the staffing requirements stated in 42 CFR § 483.30 (b):

- (1) The facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.
- (2) The facility must designate a registered nurse to serve as the director of nursing on a full time basis.
- (3) The director of nursing may serve as a charge nurse only when the facility has an average occupancy of 60 or fewer residents.

Maryland adds additional requirements to the Federal staffing requirements concerning employee background checks.

## **SUMMARY OF FINDINGS**

Based on our review of all 114 direct care employees<sup>1</sup>, Calvert generally complied with the Federal and State staffing laws and regulations that we reviewed. However, Maryland regulations required nursing homes to obtain a State background check on all employees hired after September 30, 2000. The law required nursing homes to apply for a State criminal history record or request a background check from a private agency before an eligible employee may begin to work in the nursing home. Based on this criteria, Calvert was required to obtain State background checks on 69 of its 114 direct care employees. A review of the 69 direct care employees disclosed that Calvert did not request the background checks for 17 direct care employees before they were hired.

Calvert had internal procedures for obtaining background checks by requesting them before hiring an employee. However, Calvert did not follow its internal procedures sufficiently enough to assure that it requested background checks on all employees before they began to work in the nursing home.

## **RECOMMENDATION**

We recommend that Calvert review and strengthen its internal controls to assure that it requests State background checks on all new direct care employees before the employees are hired.

## **AUDITEE RESPONSE**

In a written response to our draft report, Calvert concurred with our finding and has taken action to assure that it requests background checks before a employee is hired. Calvert has revised its procedures by implementing a system that will request the background check during the initial new hire meeting with the department director or the Director of Human Resources. The new hire will only begin their orientation after the background check is received and reviewed. Calvert will also perform periodic audits on its personnel records to assure completion of all records in an appropriate time frame. The full text of Calvert's response is included with this report as an Appendix.

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<sup>1</sup> For purposes of this review, we defined direct care employees as any nursing staff who were eligible to provide direct care to residents.

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## **INTRODUCTION**

### **BACKGROUND**

The Omnibus Budget Reconciliation Act of 1987 established legislative reforms to promote quality of care in nursing homes. These reforms require nursing homes 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, CFR, § 483.30 requires nursing homes 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 home has an average daily occupancy of 60 or fewer residents).

States are required to ensure that nursing homes 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 nursing home in the State. Through this process State Survey Agencies measure the quality of care at each nursing home by identifying deficiencies and assuring compliance with Federal and State requirements.

Maryland had established staffing requirements that exceed the Federal standards. Under the Code of Maryland Regulations, title 10, subtitle 07, chapter 02, regulation 12, nursing homes are required to provide 2.00 hours of direct nursing care to each resident every day. The nursing homes are also required to provide a ratio of registered nurses based on their number of residents. For example, a nursing home with between 100 and 199 residents is required to have 2 registered nurses on full-time.

Calvert is a 136 bed Medicare and Medicaid certified privately owned nursing home.

### **OBJECTIVE, SCOPE, AND METHODOLOGY**

#### **Objective**

The objective of our review was to determine whether Calvert was in compliance with Federal and State staffing laws and regulations for nursing homes.

#### **Scope**

The scope and objective of this review encompassed only certain specific requirements of the Federal and State staffing regulations. This review did not assess the general requirement of 42 CFR § 483.30 that: “The facility must have sufficient nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and

individual plans of care . . .” Rather, it assessed compliance with the staffing requirements stated in 42 CFR § 483.30 (b):

- (1) The facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.
- (2) The facility must designate a registered nurse to serve as the director of nursing on a full time basis.
- (3) The director of nursing may serve as a charge nurse only when the facility has an average occupancy of 60 or fewer residents.

We also reviewed compliance with Maryland regulations concerning employee background checks.

We selected Calvert for review based on our analysis of data from the Centers for Medicare & Medicaid Services’s (CMS) Online Survey Certification and Reporting System.

## **Methodology**

To accomplish our objective we:

- obtained background, staffing and deficiency data for Calvert from the Online Survey Certification and Reporting System database through CMS’s Nursing Home Compare website;
- reviewed Federal and Maryland State laws and regulations for nursing homes to determine the staffing standards to which Calvert was required to adhere;
- obtained staffing schedules, time and attendance records, and payroll records to determine the home’s direct care hours per resident per day, as well as the licensed nurse-to-resident ratio for a 2-week period from each month of March, July, and December 2002;
- obtained and analyzed background checks for all direct care employees;
- conducted inquiries through Maryland’s on-line license and certification systems to determine if all direct care employees were currently licensed or certified;
- reviewed the results of the two most recent Calvert standard surveys conducted by the State Survey Agency; and
- obtained an understanding of Calvert’s procedures for recruiting, retaining, and scheduling staff through meetings and discussions with personnel at the home.

Our review of internal controls was limited to obtaining an understanding of the controls concerning the hiring and scheduling of employees. The objective of our review did not require an understanding or assessment of the complete internal control structure at Calvert.

Our review was conducted in accordance with generally accepted government auditing standards.

## **FINDINGS AND RECOMMENDATIONS**

### **FINDINGS**

Calvert generally complied with the Federal and State staffing laws and regulations that we reviewed. Calvert scheduled sufficient direct care employees to comply with Federal staffing standards as well as both the State licensed nurse-to-resident ratio and the 2.00 hours of direct care per resident per day requirement. All 114 direct care employees at Calvert were properly licensed and/or certified and were currently in good standing as determined by the State. However, Calvert did not request the background check for 17 direct care employees before they were hired.

#### **State Criteria for Background Checks**

Maryland Code, title 19, subtitle 1902 required nursing homes to obtain a background check on all employees hired after September 30, 2000. The law requires nursing homes to either apply for a State criminal history record or request a private agency to conduct a background check. The background check must be requested by the nursing home before an eligible employee may begin to work in the nursing home.

#### **Untimely Background Check Requests**

Calvert did not request the State required background checks for 17 direct care employees before they were hired. Calvert ultimately requested and obtained the background checks for all 17 employees. However, Calvert allowed these employees to start working directly with residents before requesting the State required background checks. The range of time these employees work directly with residents before Calvert requested their background check was 1 to 28 days. Once received, the background checks did not contain anything that would have precluded the employees from being hired. Therefore, these employees may continue to work directly with the residents.

Calvert had internal procedures for requesting background checks but did not follow these procedures sufficiently enough to assure that it was in compliance with State requirements for all direct care employees. As a result, Calvert was at risk of hiring direct care staff with a criminal history that would preclude them from working in a nursing home, and possibly endangering the residents.

## **RECOMMENDATION**

We recommend that Calvert review and strengthen its internal controls to assure that it requests State background checks on all new direct care employees before the employees are hired.

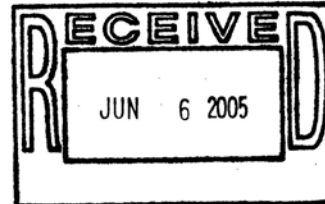
## **AUDITEE RESPONSE**

In a written response to our draft report, Calvert concurred with our finding and has taken action to assure that it requests background checks before a employee is hired. Calvert has revised its procedures by implementing a system that will request the background check during the initial new hire meeting with the department director or the Director of Human Resources. The new hire will only begin their orientation after the background check is received and reviewed. Calvert will also perform periodic audits on its personnel records to assure completion of all records in an appropriate time frame. The full text of Calvert's response is included with this report as an Appendix.

# **APPENDIX**



*Our family caring for your family*



June 4, 2005

Report Number: A-03-05-00200

Calvert Manor Healthcare Center concurs with the finding that criminal background checks were not available for 17 direct care employees before they were hired, which was discovered during an audit between February 10-14, 2003 by the Department of Health and Human Services.

Prior to a review and revision of our practices, a new hire would complete the criminal background application on the first day of orientation, if the individual had not previously completed the form giving permission for Calvert Manor to receive the background information. Without an awareness that the background check was outstanding, the staffing coordinator scheduled new hires to continue the orientation period. For most of the new employees, the background checks were received prior to the new employee working with residents unsupervised by a Calvert Manor trainer. Certainly, the exception was the one employee whose background check was not received for 28 days after hire. This unintentional oversight was not discovered until the human resource staff assembled the new employee's personnel file and was rectified promptly. As your report indicates, no problems resulted from the contents of the background checks or to the safety of the residents.

Since this issue has come to our attention, we have initiated several corrective actions.

New hire appointments – New hires are scheduled to meet with the department director or the Director of Human Resources prior to starting work. During this meeting, the criminal background check application is completed, then faxed to our agent for processing. The new hire is scheduled to begin the orientation period after the results are received and reviewed by the human resources staff.

Quality Improvement Audits – Periodic audits are conducted on personnel records to monitor for completion of all records in an appropriate time frame.

As a facility dedicated completely to providing the quality care our residents need and deserve, we will continue to make every effort to ensure our hiring practices coincide with our high resident care standards.

Ronald L. Graybeal, Administrator

## ACKNOWLEDGMENTS

This report was prepared under the direction of Stephen Virbitsky, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff who contributed include:

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Gladys Guadalupe, *Auditor*

Ronald Hall, *Auditor*

Lynne Pohler, *Auditor*

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.