



Highlights of [GAO-07-241](#), a report to the Ranking Minority Member, Committee on Finance, U.S. Senate

Why GAO Did This Study

In 1998 and 1999 reports, GAO concluded that enforcement actions, known as sanctions, were ineffective in encouraging nursing homes to maintain compliance with federal quality requirements: sanctions were often rescinded before being implemented because homes had a grace period to correct deficiencies. In response, the Centers for Medicare & Medicaid Services (CMS) began requiring immediate sanctions for homes that repeatedly harmed residents. Using CMS enforcement and deficiency data, GAO (1) analyzed federal sanctions from fiscal years 2000 through 2005 against 63 homes previously reviewed and (2) assessed CMS's overall management of enforcement. The 63 homes had a history of harming residents and were located in 4 states that account for about 22 percent of homes nationwide.

What GAO Recommends

GAO recommends that the CMS Administrator (1) develop an administrative process for collecting civil money penalties more expeditiously and seek legislation to implement this process effectively, as appropriate; (2) strengthen its immediate sanctions policy; (3) expand its oversight of homes with a history of harming residents; and (4) improve the effectiveness of its enforcement data systems. CMS generally concurred with GAO's recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-07-241.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Kathryn G. Allen at (202) 512-7118 or allenk@gao.gov.

NURSING HOMES

Efforts to Strengthen Federal Enforcement Have Not Deterred Some Homes from Repeatedly Harming Residents

What GAO Found

From fiscal years 2000 through 2005, the number of sanctions decreased for the 63 nursing homes GAO reviewed that had a history of serious quality problems, a decline consistent with nationwide trends. While the decline may reflect improved quality or changes to enforcement policy, it may also mask survey weaknesses that understate quality problems, an issue GAO has reported on since 1998. Although the number of sanctions decreased, the homes generally were cited for more deficiencies that caused harm to residents than other homes in their states. Almost half of the homes reviewed continued to cycle in and out of compliance; 19 did so 4 times or more. These homes temporarily corrected deficiencies and, even with sanctions, were again found out of compliance on subsequent surveys. Several weaknesses appeared to undermine the effectiveness of the sanctions implemented against the homes reviewed. First, civil money penalties (CMP), which by statute are not paid while under appeal—a process that can take years—were generally imposed at the lower end of the allowable dollar range. For example, the median per day CMP ranged from \$350 to \$500, significantly below the maximum of \$3,000 per day. Second, CMS favored the use of sanctions that give homes more time to correct deficiencies, increasing the likelihood that the sanctions would not be implemented. Thus, more than half of the denial of payment for new admissions (DPNA) that CMS imposed were the type that give homes 3 months to correct deficiencies rather than those that only give homes up to 15 days. Third, there was no record of a sanction for about 22 percent of the homes reviewed that met CMS's criteria for immediate sanctions, a problem GAO also identified in 2003; moreover, 60 percent of DPNAs imposed as immediate sanctions were not implemented until 1 to 2 months after citation of the deficiency. Finally, involuntary termination of homes from participating in the Medicare or Medicaid programs was rare because of concerns about access to other nearby homes and resident transfer trauma; 2 of the 63 homes reviewed were involuntarily terminated because of quality problems.

CMS's management of enforcement is hampered by the complexity of its immediate sanctions policy and by its fragmented and incomplete data. Its policy allows some homes with the worst compliance histories to escape immediate sanctions. For example, a home cited with a serious deficiency and that has not yet corrected an earlier serious deficiency is spared an immediate sanction. Such rules may in part explain why the 63 homes reviewed only had 69 instances of immediate sanctions over a 6-year period despite being cited 444 times for deficiencies that harmed residents. Although CMS initiated development of a new enforcement data system 6 years ago, it is fragmented and has incomplete national reporting capabilities. CMS is taking additional steps to improve nursing home enforcement, such as developing guidance to encourage more consistency in CMP amounts, but it is not clear whether and when these initiatives will address the enforcement weaknesses GAO found.