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OFFICE OF INSPECTOR GENERAL
OFFICE OF AUDIT SERVICES
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OCT 26 2005

Report Number: A-03-05-00204

Nina Meyers, Administrator
Willow Ridge Center
3485 Davisville Road
Hatboro, Pennsylvania 19040

Dear Ms. Meyers:

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 Willow Ridge Center." This review was self-initiated and the audit objective was to determine whether Willow Ridge 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.

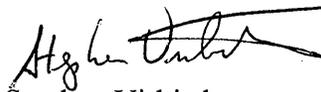
Pennsylvania adds additional requirements to the Federal staffing requirements concerning hours of direct care and employee background checks.

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

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Please refer to report number A-03-05-00204 in all correspondence relating to this report.

Sincerely,



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
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Philadelphia, Pennsylvania 19106-3499

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF NURSING FACILITY
STAFFING REQUIREMENTS AT
WILLOW RIDGE CENTER**



**Daniel R. Levinson
Inspector General**

**OCTOBER 2005
A-03-05-00204**

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. 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 registered nurse for at least 8 consecutive hours a day, 7 days a week, 2) 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), and 3) a licensed nurse designated to serve as a charge nurse on each tour of duty.

OBJECTIVE

The objective of our review was to determine whether Willow Ridge Center (Willow Ridge) 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.

Pennsylvania adds additional requirements to the Federal staffing requirements concerning hours of direct care and employee background checks.

SUMMARY OF FINDINGS

Based on our review of 87 direct care employees,¹ Willow Ridge complied with Federal staffing laws and regulations that we reviewed, but did not comply with State background check requirements. The Pennsylvania Older Adults Protective Services Act (Protective Services Act) requires nursing homes to obtain a State background check on all employees hired after July 1, 1997. The State background check must be obtained within 30 days of the date of hire and must be less than one year old. Based on this criteria, Willow Ridge was required to obtain State background checks on 62 of its current 87 direct care employees. A review of the 62 direct care employees disclosed that Willow Ridge did not obtain:

- a current State background check for 1 direct care employee, and
- State background checks for 8 direct care employees within the required timeframes.

Willow Ridge did not follow its internal procedures sufficiently to assure that it was in compliance with State requirements. Willow Ridge had internal procedures to verify that it completed the State required background checks. However, Willow Ridge did not obtain valid background checks for all required employees and continued to schedule direct care employees to work directly with residents after their background checks were not received within the State required timeframes. Subsequent to this review, the employee without a valid background check was terminated and no longer works at the nursing home.

RECOMMENDATIONS

We recommend that Willow Ridge review and strengthen its internal controls to assure that it:

- obtains valid background checks that are less than one year old for all new direct care employees,
- obtains valid background checks on all new direct care employees within the required timeframes specified in the Protective Services Act, and
- prohibits new employees from working directly with the residents if the required background checks are not received within the timeframes specified in the Protective Services Act.

¹ For purposes of this review, we define direct care employees as any nursing staff who are eligible to provide direct care to the residents.

AUDITEE RESPONSE

In a written response to our draft report, Willow Ridge acknowledged the accuracy of our findings, and has taken action to assure that it obtains valid background checks on all new direct care employees within the required timeframes. Willow Ridge has revised its procedures to utilize a private vendor to obtain background checks on all new employees within 24-48 hours. If there is any delay in obtaining the background check, the employee will not be permitted to work until the background check is received noting eligibility. The full text of Willow Ridge's response is included with this report as an Appendix.

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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 registered nurse for at least 8 consecutive hours a day, 7 days a week, 2) 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), and 3) a licensed nurse designated to serve as a charge nurse on each tour of duty.

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.

Pennsylvania has established staffing requirements that exceed the Federal standards. Under Pennsylvania State Code, title 28, part IV, subpart C, chapter 211.12, nursing homes are required to provide 2.70 hours of direct nursing care to each resident every day. The nursing homes are also required to provide a ratio of licensed nurses based on their number of residents. For example, a nursing home with between 60 and 150 residents is required to have 1 registered nurse on each shift for 24 hours a day.

Willow Ridge is a 120 bed Medicare and Medicaid certified nursing home incorporated as a for profit corporation.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our review was to determine whether Willow Ridge 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 Pennsylvania regulations concerning hours of direct care and employee background checks.

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

Methodology

To accomplish our objective we:

- obtained background, staffing and deficiency data for Willow Ridge from the Online Survey Certification and Reporting System database through CMS’s Nursing Home Compare website;
- reviewed Federal and Pennsylvania State laws and regulations for nursing homes to determine the staffing standards to which Willow Ridge 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 the months of November 2001 and May and October 2002;
- obtained and analyzed background checks for all direct care employees;
- conducted inquiries through Pennsylvania’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 Willow Ridge standard surveys conducted by the State Survey Agency; and
- obtained an understanding of Willow Ridge’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 Willow Ridge. Our review was conducted at Willow Ridge in Hatboro, PA.

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

FINDINGS AND RECOMMENDATIONS

Willow Ridge was in compliance with the Federal staffing laws and regulations that we reviewed, but was not in compliance with the State background check requirements. Willow Ridge scheduled sufficient direct care employees to comply with Federal staffing standards as well the State required 2.70 hours of direct care per resident per day. All 87 direct care employees at Willow Ridge were properly licensed and/or certified and were currently in good standing as determined by the State. However, Willow Ridge did not obtain:

- a current State background check for 1 direct care employee, and
- State background checks for 8 direct care employees within the required timeframes.

State Criteria for Background Checks

The Pennsylvania Older Adults Protective Services Act (Protective Services Act) requires nursing homes to obtain a State background check on all employees hired after July 1, 1997. For employees hired between July 1, 1997 and June 30, 1998, nursing homes had until July 1, 1999 to obtain the background check. As of July 1, 1998, the nursing home must obtain a State background check within 30 days for any job applicant who has resided in the State within the previous 2 years. If the applicant has not resided within the State at any time during the previous 2 years, the nursing home must also obtain a Federal background check within 90 days. If the applicant provided a background check, it was required to be less than a year old. However, if the background check was not provided at the time of application, the Protective Services Act allowed the nursing home to hire the applicant on a provisional basis for no longer than the 30 or 90 day period while waiting for the background check. If the background check was not received within the required time period, the employee was not eligible to work directly with residents until the background check was received and found in good standing in accordance with the Protective Services Act requirements.

Invalid Background Check

Willow Ridge provided a background check for one direct care employee that was dated more than 1 year prior to the employee's hire date. Willow Ridge hired an employee on September 6, 2002 based on a background check dated May 30, 2000. The background check was too old and did not meet the State requirement that a background check must be less than 1 year old. This employee continued to work directly with the residents even though the State background check was invalid. Willow Ridge should have restricted this employee from working directly with the residents until

the State background check results were received and found not to contain anything that would preclude the employee from being hired. Subsequent to our review, the employee in question was terminated and no longer works at the facility. Therefore, Willow Ridge does not have to obtain a current background check for this employee.

Untimely Background Checks

Willow Ridge did not obtain the State background checks for eight direct care employees within the State required 30-day timeframe. Willow Ridge allowed these eight employees to work directly with residents after the 30-day maximum period had expired, but before the results were obtained. The range of time these employees continued to work directly with residents after the initial 30-day period ranged from 1 day to 33 days. Willow Ridge requested the background checks for each employee, but did not sufficiently follow-up when the results were not received within the 30 days. Once received, the eight background checks did not disclose anything that would preclude the employees from working directly with residents. Therefore, these 8 employees may continue to work directly with the residents.

Willow Ridge had internal procedures for obtaining background checks, but did not assure that these procedures followed the guidelines in the Protective Services Act. As a result, Willow Ridge was at risk of endangering the residents by hiring direct care staff with a criminal history that would preclude them from working in a nursing home.

RECOMMENDATIONS

We recommend that Willow Ridge review and strengthen its internal controls to assure that it:

- obtains valid background checks that are less than one year old for all new direct care employees,
- obtains valid background checks on all new direct care employees within the required timeframes specified in the Protective Services Act, and
- prohibits new employees from working directly with the residents if the required background checks are not received within the timeframes specified in the Protective Services Act.

AUDITEE RESPONSE

In a written response to our draft report, Willow Ridge acknowledged the accuracy of our findings, and has taken action to assure that it obtains valid background checks on all new direct care employees within the required timeframes. Willow Ridge has revised its procedures to utilize a private vendor to obtain background checks on all new employees within 24-48 hours. If there is any delay in obtaining the background check, the employee will not be permitted to work until the background check is received noting eligibility. The full text of Willow Ridge's response is included with this report as an Appendix.

APPENDIX



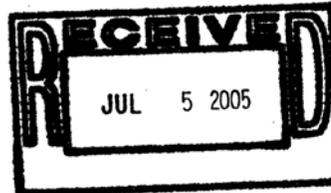
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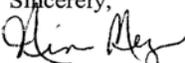
June 26, 2005

Mr. Stephen Virbitsky
Regional Inspector General
Department of Health & Human Services
Office of Inspector General
Office of Audit Services
150 S. Independence Mall West
Suite 136
Philadelphia, Pennsylvania 19106-3499



Dear Mr. Virbitsky:

Willow Ridge Center is currently utilizing Kroll's Background America to obtain State required criminal background checks on all new employees. Willow Ridge is able to obtain the required backgrounds within a 24-48 hour period via Kroll's website. If there is any delay in obtaining the background check then the employee is not permitted to work until the background is received noting eligibility. Prior to using Kroll we sent the backgrounds directly to the Pennsylvania State Police. The backgrounds were sent out timely, but not always received back timely from the State Police; because of this the above procedure was implemented.

Sincerely,

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