



Department for Aging
and Disability Services

**House Health and Human Services
Committee
LTC Survey Update
January 29, 2018**

KDADS Current Surveyor Position Authorized FTEs 1/25/18

Certified Facilities – Nursing Homes (Medicare/Medicaid)	Total Positions	# Vacant Positions
Regional Managers	4 FTE	0
Quality Improvement	5 FTE	0
Health Facility Surveyors	59 FTE	17 FTE
State Only Surveyors	Total Positions	# Vacant Positions
Regional Manager	1 FTE	0
Health Facility Surveyors	7 FTE	1 FTE

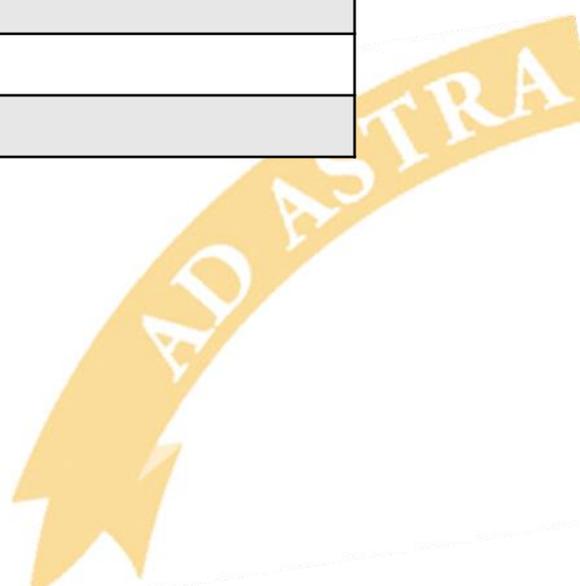
**Number of Surveys Completed on Certified Facilities
(Medicare/Medicaid Nursing Facilities)**
Does not include re-visits as a result of deficiencies

Calendar Year	No. Active Providers	Health Surveys	Complaint Surveys	Total Surveys
2017	340	118	731	849*
2016	345	218	798	1016
2015	352	280	701	981

* 2017 numbers will not be final until all surveys cycles have closed

State Complaint Intakes

CY 2017	13,978
CY 2016	13,402
CY 2015	12,232



SURVEY & CERTIFICATION SCOPE AND SEVERITY GRID

<p>IMMEDIATE JEOPARDY: A situation in which immediate corrective action is necessary because the facility's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility.</p>	J	K	L
<p>ACTUAL HARM THAT IS NOT IMMEDIATE JEOPARDY: Noncompliance that results in a negative outcome that has compromised the resident's ability to maintain and/or reach his/her highest practicable physical, mental and psychosocial well-being as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services. This does not include a deficient practice that only could or has caused limited consequence to the resident.</p>	G	H	I
<p>NO ACTUAL HARM WITH POTENTIAL FOR MORE THAN MINIMAL HARM THAT IS NOT IMMEDIATE JEOPARDY: Noncompliance that results in no more than minimal physical, mental and/or psychosocial discomfort to the resident and/or has the potential (not yet realized) to compromise the resident's ability to maintain and/or reach his/her highest practicable physical, mental and/or psychosocial well-being as defined by an accurate and comprehensive resident assessment, plan of care, provision of services.</p>	D	E	F
<p>NO ACTUAL WITH POTENTIAL FOR MINIMAL HARM: A deficiency that has the potential for causing no more than a minor negative impact on the resident(s).</p>	A	B	C
<p>RED: Substandard quality of care (if at F550; F558-559; F561; F565; F584; F600-610; F675-680; F684-700; 742-745; 757-760; 850; 883) Blue: Substantial Compliance</p>	<p>ISOLATED: Scope is isolated when one or a very limited number of residents are affected and/or one or a very limited number of staff are involved and/or the situation has occurred only occasionally or in a very limited number of locations.</p>	<p>PATTERN: Scope is a pattern when more than a very limited number of residents are affected and/or more than a very limited number of staff are involved and/or the situation has occurred in several locations and/or the same resident(s) have been affected by repeated occurrence of the same deficiency practice is not found to be pervasive throughout the facility</p>	<p>WIDESPREAD: Scope is widespread when the problems causing the deficiencies are pervasive in the facility or represent systemic failure and has the potential to affect a large portion of all the facility's residents</p>

Quality, Certification, & Oversight Report

<https://pdq.cms.hhs.gov/main.jsp>

Total Immediate Jeopardies per Calendar Year

Year	No. Citations	Highest Citation
2017	128	Free of Accidents Hazards, Supervision, Devices (36) Investigate, Report Allegations and Protect Individuals (32) Free from Abuse Involuntary Seclusion (28)
2016	133	Free of Accidents Hazards, Supervision, Devices (36) Investigate, Report allegations and Protect Individuals (36) Free from Abuse Involuntary Seclusion (32)
2015	60	Free of Accidents Hazards, Supervision, Devices (26)

Civil Money Penalty (CMP) Report

Calendar Year	Total \$/Day	Total \$ /Instance	Ave \$ /Day	Ave \$/Instance	Ave. # Days
2017	\$2,513,803	\$463,478	\$46,290	\$7855	33.67
2016	\$4,749,648	\$20,965	\$39,580	\$4,193	34.36
2015	\$1,515,172	\$64,160	\$21,340	\$5,346	39.58

CMP amounts are imposed by CMS

Nurse Aide Training and Competency Evaluation Program (NATCEP)

- The NATCEP/CEP is a statutory requirement and is the standardized training program that all nurse aides must meet to work in a Skilled Nursing Facility (SNF), Nursing Facility (NF) or a dually participating SNF/NF.
- KDADS operate the approval process for the NATCEP/CEP programs.

Nurse Aide Training and Competency Evaluation Program (NATCEP)

- The Social Security Act prohibits the nursing aide training program from being offered by a facility for two years based on survey findings.

Specifically, a NATCEP BAN is in effect for **two years** if:

- It is operating under a waiver for coverage by licensed nurses;
- It has been subject to an extended survey or partial extended survey; (There is a concern with substandard quality of care)
- It has been assessed a Civil Money Penalty (CMP) of at least \$10,483 as adjusted by 45 CFR 102*; or,
- Has been subject to imposition of a denial of payment, temporary manager, or termination.

Nurse Aide Training and Competency Evaluation Program (NATCEP)

- **KDADS has the Authority to Waive NATCEP BAN for courses to be offered in not by facilities:**

(i) determines that there is no other such program offered within a reasonable distance of the facility,

(ii) assures, through an oversight effort, that an adequate environment exists for operating the program in the facility, and,

(iii) provides notice of such determination and assurances to the State long-term care ombudsman.

Nurse Aide Training and Competency Evaluation Program (NATCEP)

163

Facilities Currently under a NATCEP BAN

128

Courses APPROVED through a KDADS Waiver to those facilities with a training ban

1,196

CAN/CMA/HHA Total Courses Approved by KDADS 2017

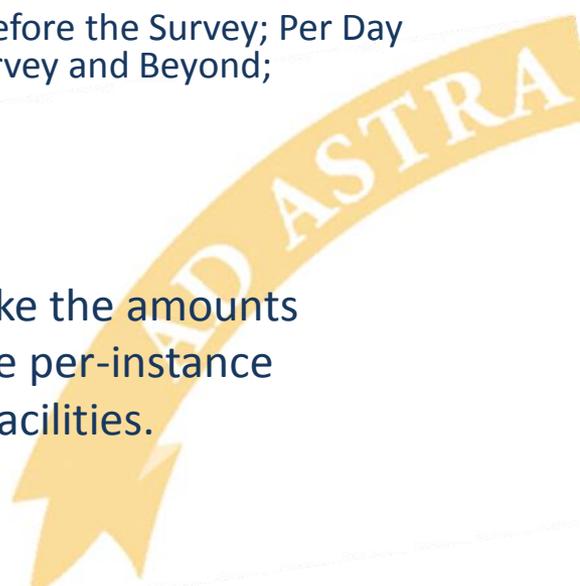


Impacts

CMS Memo, S&C 17-37-NH 07/07/17

- **Revisions to CMP Tool:** When noncompliance exists, enforcement remedies, such as civil money penalties (CMPs), are intended to promote a swift return to substantial compliance for a sustained period of time, preventing future noncompliance. To increase national consistency in imposing CMPs, the Centers for Medicare & Medicaid Services (CMS) is revising the CMP analytic tool in the following areas which are further explained within this policy memorandum:
 - Past Noncompliance;
 - Per Instance CMP is the Default for Noncompliance Existed Before the Survey; Per Day CMP is the Default for Noncompliance Existing During the Survey and Beyond;
 - Revisit Timing; and
 - Review of High CMPs.

This new guidance changed how CMPs were applied to make the amounts more consistent across the country. It also allowed for more per-instance penalties rather than per-day fines, which is a positive for facilities.



Impacts

CMS Memo: S&C 16-40-NH:

- On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) (Sec. 701 of the Bipartisan Budget Act of 2015, Pub. L. 114-74). The 2015 Act amends the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act) (Pub. L 101-410) which was enacted to improve the effectiveness of federal CMPs and to maintain their deterrent effect. Prior to 2015, CMPs authorized under the Social Security Act were exempt from inflation adjustments under the law. The 2015 Act requires agencies to:
 - Adjust the level of applicable CMPs with an initial “catch-up” adjustment, through interim final rulemaking (IFR); and,
 - Make subsequent annual adjustments for inflation.

This created an increase in the number of monetary penalties issued to the facilities.

Impacts

CMS Memo: S&C 16-31-NH

- **Immediate Imposition of Remedies Required:** Irrespective of a state recommendation to impose or not impose a remedy, the CMS RO must immediately impose, without permitting a facility an opportunity to correct deficiencies, one or more federal remedies based on the seriousness of the deficiencies or when actual harm or Substandard Quality of Care (SQC) is identified as outlined in §7304.1.

This memo demonstrated that CMS was now going to issue penalties immediately to harm-level deficiencies that did NOT rise to Immediate Jeopardy

- CMS Taskforce Region VII participated: Reviewing all Involuntary Discharge Deficiencies which resulted in potential Immediate Imposition.



Recent Changes

- **Revised Regulations:** On September 28, 2016, the Centers for Medicare & Medicaid Services (CMS) released revised Requirements for Participation for Medicare and Medicaid-certified nursing facilities.
 - Regulations effective November 28, 2016
- **Revised Interpretive Guidance:** CMS incorporated revised regulation text into the State Operations Manual (SOM) Appendix P.
 - Appendix PP effective November 28, 2017

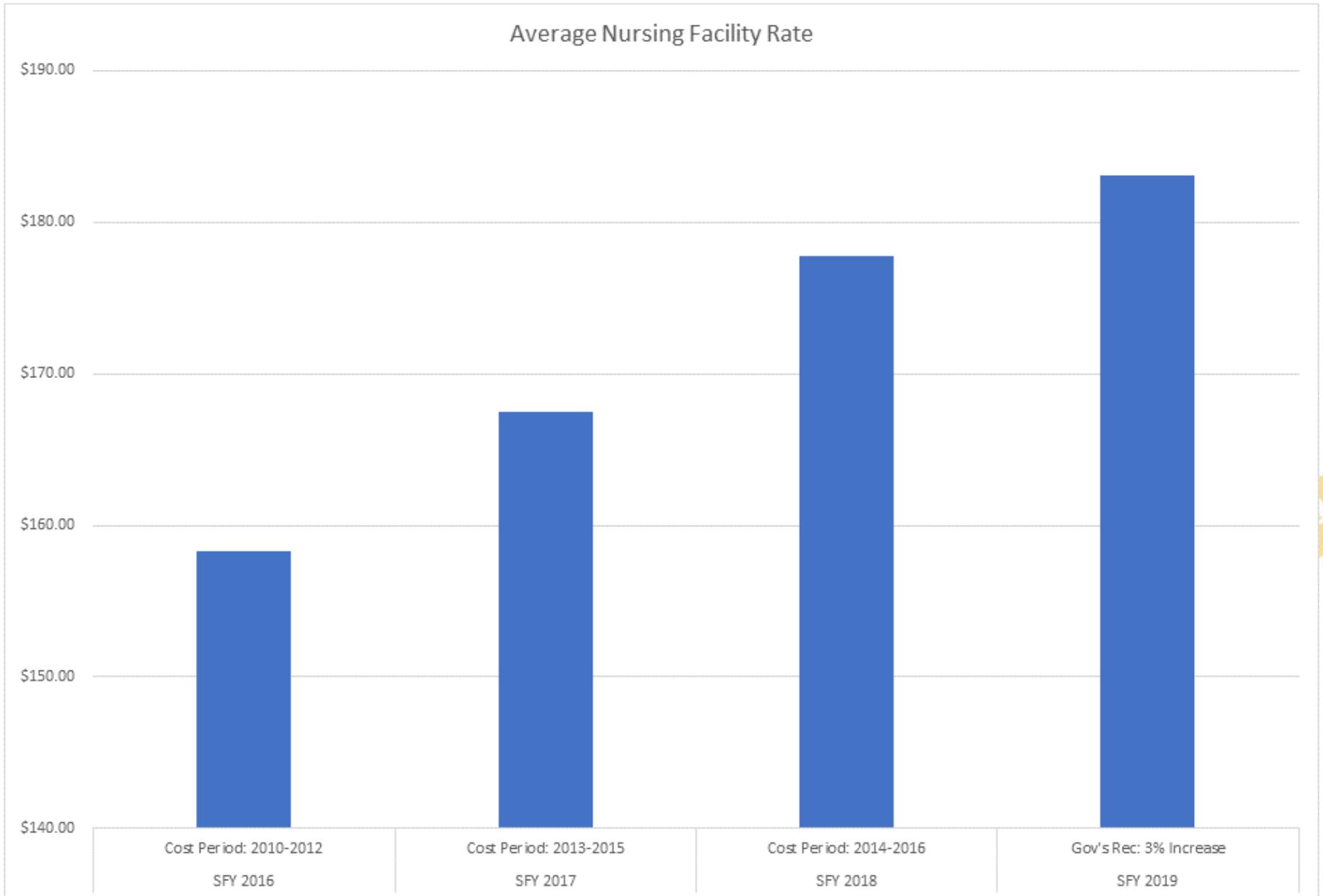


Recent Changes

- CMS New Long Term Care Survey Process (LTCSP)
 - Effective November 28, 2017.
 - LTCSP implemented by each state for all LTC standard surveys and reflects CMS efforts to create an effective and efficient survey process that combines the best of both the Traditional and Quality Indicator Survey processes into a single nationwide survey process.
- CMS Final Rule: Emergency Preparedness Requirements
 - Effective November 15, 2016
 - Implemented on November 15, 2017

Average Nursing Facility Rate

Average Nursing Facility Rate





CARE Assessment

CARE Assessment

- The Client Assessment, Referral and Evaluation (CARE) assessment is Kansas' tool for meeting the federal Pre-Admission Screening and Resident Review (PASRR) requirements as well as determining functional eligibility for nursing facility placement.
- PASRR has been a federal requirement since 1987.
- Federal PASRR requires that any individual desiring nursing facility placement be screened on or before admission to a Medicaid certified facility regardless of the individual's payment source.
- The PASRR screening portion is to determine if the individual desiring nursing facility placement has a diagnosed intellectual or developmental disability.

CARE Assessment

- As a part of the process the CARE assessor also educates the individual/guardian/family about community options that may be available to them.
- Because it would benefit the nursing facilities, KDADS is working to have KDHE add the CARE assessment to the nursing facility checklist, used when they are applying for Medicaid for a resident or potential resident.
- We want to avoid situations in which an individual clears the financial eligibility hurdle for Medicaid to pay for their care in a nursing facility, only to find a CARE assessment was never completed, as required, on or before their admission. This can cause additional delays.

CARE Assessment

- Last year KDADS began a complete review of the program from top to bottom. something that probably hadn't been done in the last 20 years. Our goal is to ensure the CARE program follows federal statutes, to simplify/improve processes and to clarify policy.
- KDADS has reviewed its internal CARE operations, the policy manual and the CARE training.



CARE Assessment

- Because of the program review:
- IT resources were dedicated toward improving the system; IT needs for the program were given immediate priority.
- KDADS restructured CARE program personnel
- KDADS identified a need to hire additional staff; temporary staff were brought in to assist
- KDADS convened a work group that included representatives from all organizations impacted by CARE program.
 - We revised forms/procedures based upon their feedback
- A revised policy manual will be coming out soon
- New in-person and online training for assessors from ADRCs and hospitals is being planned and will begin early this spring
- New training for nursing facility staff about sections A & B of CARE and the PASRR exceptions.
 - Weekly webinars with nursing facilities begin January 31st.
 - Webinar with CARE assessors at the ADRCs should begin shortly