

Department of Health and Human Services
Office of Inspector General



Office of Audit Services

December 2025 | A-02-23-01011

New Jersey Should Improve Its Oversight of Nursing Homes' Compliance With Background Check Requirements

REPORT HIGHLIGHTS



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New Jersey Should Improve Its Oversight of Nursing Homes' Compliance With Background Check Requirements

Why OIG Did This Audit

- Background checks for employees are an important safety measure that can help protect some of the most vulnerable populations. Approximately 1.2 million people reside in nursing homes, with more than half of them relying on Medicare and Medicaid to pay for their long-term care. Oversight and management of nursing homes are crucial to the safety of long-term care residents.
- This audit assessed whether New Jersey ensured that selected nursing homes complied with Federal requirements that prohibit the employment of individuals with disqualifying backgrounds during calendar year 2022 (audit period). We reviewed 10 staff members at each of 12 nonstatistically selected nursing homes.

What OIG Found

New Jersey did not ensure that 11 of the 12 selected nursing homes complied with Federal requirements that prohibit the employment of individuals with disqualifying backgrounds during our audit period. In total, these 11 nursing homes did not comply (deficiency) or did not document compliance (potential deficiency) with background check requirements for 33 of the 120 employees reviewed. Specifically:

- Nine nursing homes allowed a total of 17 staff members to provide care before completing a background check.
- Four nursing homes employed a total of six staff members without performing background checks.
- One nursing home did not provide documentation that it had performed background checks for the 10 selected staff members.

These deficiencies and potential deficiencies occurred because New Jersey's sampling of employees during its nursing home recertification surveys did not provide adequate coverage. Also, nursing homes did not have sufficient procedures to ensure that background checks were properly conducted for all staff members. This put residents at risk of abuse, neglect, exploitation, or mistreatment.

What OIG Recommends

We made two recommendations to New Jersey, including that it improve its procedures for monitoring nursing homes' compliance with background check requirements and provide guidance to nursing homes to implement adequate procedures for conducting background checks in accordance with Federal requirements. New Jersey did not indicate concurrence or nonconcurrence with our recommendations but detailed steps it has taken and plans to take in response to our recommendations.

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INTRODUCTION

WHY WE DID THIS AUDIT

Background checks for employees are an important safety measure that can help protect the approximately 1.2 million people who reside in Medicare and Medicaid-certified long-term care facilities (nursing homes).¹ Oversight and management of nursing homes are crucial for the safety of long-term care residents.

As part of its oversight activities, the Office of Inspector General (OIG) is conducting a series of audits nationwide regarding employment in nursing homes of individuals whose criminal background checks identified information or events that should have disqualified those individuals from being hired based on Federal requirements (disqualifying backgrounds).² This report focuses on selected nursing homes in New Jersey.

Among other things, the Patient Protection and Affordable Care Act (signed into law in 2010) enacted the National Background Check Program for Long-Term-Care Providers to assist States in developing and improving systems to conduct Federal and State background checks.^{3, 4} Prior OIG work has shown that not all States, New Jersey among them, chose to participate in this program.

OBJECTIVE

Our objective was to determine whether the New Jersey Department of Health (State agency) ensured, for calendar year 2022 (audit period), that selected nursing homes in New Jersey complied with Federal requirements that prohibit the employment of individuals with disqualifying backgrounds.

BACKGROUND

Federal Requirements for Long-Term Care Facilities

Nursing homes are required to comply with health and safety requirements in Federal regulations (42 CFR part 483, subpart B) to participate in the Medicare and Medicaid programs. These requirements are the foundation for improving quality and protecting the health and safety of nursing home residents. Surveyors inspect nursing homes an average of every 12 to 15 months and certify whether the nursing homes comply with health and safety requirements.

¹ More than half of these nursing home residents depend on Medicaid to pay for their long-term care.

² All references to “background checks” in this report may be understood to refer to “criminal background checks.”

³ Section 6201 of the Patient Protection and Affordable Care Act, P.L. No. 111-148 (Mar. 23, 2010).

⁴ See Appendix B for related OIG reports.

Federal regulations at 42 CFR § 483.12(a)(3) prohibit nursing homes from employing or otherwise engaging individuals who have a history of disqualifying offenses. Specifically, this prohibition applies to individuals who have:

- been found guilty of abuse, neglect, exploitation, mistreatment of residents, or misappropriation of resident property by a court of law;
- had a finding entered into the State agency's nurse aide registry; or
- had a disciplinary action in effect against their professional license by a State licensure body as a result of a finding of abuse, neglect, exploitation, mistreatment of residents, or misappropriation of resident property. See Appendix C for definitions of abuse, neglect, exploitation, and related terms.

Although this provision of Federal regulations does not explicitly require that background checks of Federal or State criminal history records be conducted, the regulation's prohibition on the employment in nursing homes of individuals who have disqualifying histories implicitly means that a criminal history check must be performed to ensure that employees are free from disqualifying offenses, based on 42 CFR § 483.12(a)(3). Interpretive guidelines for this regulation from the Centers for Medicare & Medicaid Services (CMS) state that "[f]acilities must be thorough in their investigations of the histories of prospective staff."⁵

State Agency Oversight Responsibilities and Survey Process for Nursing Home Background Checks

In New Jersey, the State agency oversees nursing homes and is responsible for ensuring that they comply with Federal and State requirements. The State agency conducts surveys, in conjunction with recertification audits, of nursing homes to verify compliance with the Federal regulations, which include verifying compliance with background screening requirements. Specifically, the State agency's survey process includes the following steps:

- reviewing a sample of five staff members hired over the prior 4 months, including:
 - selecting licensed staff members (e.g., doctors, nurses, and therapists) and non-licensed staff members (e.g., cooks, maintenance workers, and housekeeping staff);
 - gathering each sampled staff member's name, department, date of hire, reference checks, license checks, criminal background checks, and physicals;

⁵ CMS, *State Operations Manual*, Appendix PP, F606.

- verifying that sampled staff members have no findings of abuse in their records, or other negative findings, and are cleared for work; and
- confirming that, upon hire, the nursing home verified that each sampled staff member's license was valid, not expired, and issued by the appropriate New Jersey agency.

According to the State agency, any direct care staff members that the State agency finds to have committed a potential crime (e.g., abuse, neglect, or theft) are included in its review in addition to the five sampled staff members. Consistent with Federal requirements, the State agency's surveyors determine whether the facility reported the potential crime to the proper authorities; and any patterns, previous citations, and complaint allegations of abuse related to the staff member.^{6, 7}

HOW WE CONDUCTED THIS AUDIT

As of April 2023, there were 330 Medicaid-eligible nursing homes in New Jersey.⁸ From this group, we selected 12 nursing homes, based on their geographic location and their score in CMS's Five-Star Quality Rating System for Nursing Homes.⁹ We obtained lists of staff members who worked at each facility during calendar year 2022. From these lists, we selected nonstatistical samples of 10 staff members per nursing home for a total sample of 120 staff members.¹⁰

We reviewed the State agency's survey process to determine whether the State agency's oversight processes prevented nursing homes from employing or otherwise engaging individuals with a history of disqualifying offenses. In addition, we reviewed the State agency's processes for conducting background checks to determine whether it ensured that selected nursing homes complied with Federal requirements prohibiting employment of individuals with disqualifying backgrounds. For each selected nursing home, we reviewed the nursing home's policies and procedures for ensuring that individuals with disqualifying backgrounds were not

⁶ 42 CFR § 483.12(b).

⁷ 42 CFR § 483.12(a)(3).

⁸ We obtained a listing of nursing homes from a State agency website and used CMS's Certification and Survey Provider Enhanced Reporting (CASPER) system to determine which of the facilities accept Medicaid. This was the most recent data available when we began our fieldwork.

⁹ CMS developed its Five-Star Quality Rating System for Nursing Homes to provide consumers with an easy way to search for nursing homes to provide the quality of care they desire. Our sample included nursing homes with various ratings. We selected one highly rated (4- to 5-star) facility and one poorly rated (1- to 2-star) facility in each New Jersey geographic region.

¹⁰ Staff members could be direct hires or contracted employees (i.e., hired through staffing agencies).

employed. In addition, we reviewed the background checks and the licensure status for each sampled staff member.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

See Appendix A for the details of our audit scope and methodology.

FINDINGS

The State agency did not ensure that 11 of the 12 selected nursing homes complied with Federal requirements prohibiting the employment of individuals with disqualifying backgrounds during our audit period. Specifically, 10 nursing homes did not determine that all selected staff members were free from disqualifying backgrounds prior to employment. In addition, one nursing home did not provide any documentation that background checks for the selected employees were conducted. The remaining nursing home complied with Federal requirements. Of the 120 staff members we reviewed at the selected nursing homes, nursing homes complied with Federal background check requirements for 87 staff members but did not comply or may not have complied with Federal requirements for 33 staff members, as detailed in the table below.

Table: Deficiencies or Potential Deficiencies Identified at Selected Nursing Homes

Deficiency or Potential Deficiency	Number of Nursing Homes	Related Number of Nursing Home Staff Members
Background check performed late	9	17
No background check performed	4	6
No documentation provided (potential deficiency)	1	10

Note: The total number of nursing homes exceeds 11 because we identified multiple deficiencies associated with 3 nursing homes.

These findings occurred because the State agency did not adequately monitor nursing homes' compliance with requirements that prohibit the employment of individuals with disqualifying backgrounds. In addition, nursing homes did not have sufficient procedures to ensure that background checks were properly conducted. This put residents at risk of abuse, neglect, exploitation, or mistreatment.

SELECTED NURSING HOMES ALLOWED STAFF MEMBERS TO PROVIDE CARE TO RESIDENTS BEFORE THE STAFF MEMBERS' BACKGROUND CHECKS WERE COMPLETE

Federal regulations at 42 CFR § 483.12(a)(3) prohibit nursing homes from employing or otherwise engaging individuals who have a history of disqualifying offenses.

Nine selected nursing homes allowed 17 staff members to provide care, directly or indirectly, to residents before the staff members' background check had been completed. Once a background check was completed, it was determined that these staff members did not have any disqualifying offenses. However, if any of the staff members had a disqualifying background offense, the associated nursing home would not have been aware of that fact until after the staff members had already provided care to residents. These staff members consisted of housekeepers, food service staff, recreation and activities staff, maintenance staff, receptionists, and office staff, and were employed for a period of 3 days to more than 16 years before their background checks were completed. Of the 17 staff members, 15 were direct hires and 2 were contracted staff.

SELECTED NURSING HOMES DID NOT COMPLETE BACKGROUND CHECKS ON STAFF MEMBERS

Federal regulations at 42 CFR § 483.12(a)(3) prohibit nursing homes from employing or otherwise engaging individuals who have a history of disqualifying offenses.

Four selected nursing homes allowed six staff members to provide care to residents without a background check being completed. These staff members consisted of two administrators, a security guard, an office staff member, the director of activities, and a housekeeping staff member, and were employed for a period from 1 year to more than 23 years. All six staff members were direct hires.¹¹

SELECTED NURSING HOME DID NOT PROVIDE RECORDS FOR ITS STAFF

One selected nursing home did not provide documentation related to background checks for any of the 10 staff members we selected for review. These staff members consisted of two licensed staff members, two certified nursing assistants, and six non-licensed staff members. The nursing home stated that 8 of the 10 employees were hired by the prior owner of the nursing home; however, it did not provide documentation for any of the 10 staff members. Therefore, we could not determine whether the nursing home complied with Federal requirements that prohibit the employment of individuals with disqualifying backgrounds.

¹¹ These staff members were employed by the nursing homes during our audit period; however, they had retired or were no longer employed as of the completion of our audit fieldwork.

THE STATE AGENCY DID NOT ADEQUATELY MONITOR NURSING HOMES' COMPLIANCE WITH BACKGROUND CHECK REQUIREMENTS

The deficiencies we identified occurred because the State agency's monitoring was not adequate to prevent nursing homes from employing individuals with disqualifying backgrounds and nursing homes did not have sufficient procedures to ensure that background checks were completed. Specifically, the State agency's recertification surveys may not provide adequate coverage because they did not cover the entire timeframe between surveys. As described earlier, the State agency reviewed a sample of five staff members hired over the prior 4 months during its nursing home recertification surveys. In addition, the State agency did not ensure that nursing homes had procedures in place to ensure that background investigations were completed for nursing home employees before they began working.

The lack of adequate monitoring identified in this report increased the risk that residents at the selected nursing homes could have been abused, neglected, exploited, or mistreated by staff members who could have had a disqualifying history, as defined at 42 CFR § 483.12(a)(3), that was not detected and of which neither the State agency nor the nursing homes were aware. It is incumbent on the State agency to address the inadequate monitoring we identified because effective oversight of background check requirements is critical to ensuring the safety of nursing home residents.

RECOMMENDATIONS

We recommend that the New Jersey Department of Health:

- strengthen its monitoring activities to ensure that nursing homes comply with requirements that prohibit the employment of individuals with disqualifying backgrounds, such as expanding the timeframe covered by recertification surveys, and
- provide guidance to nursing homes on implementing adequate procedures to ensure background checks are completed on all direct hire and contracted staff members prior to starting work in the nursing home in accordance with applicable requirements.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency did not indicate concurrence or nonconcurrence with our recommendations but detailed steps it has taken and plans to take in response to our recommendations. The State agency's comments are included in their entirety as Appendix D.

Regarding our first recommendation, the State agency indicated that, as of June 2023, its recertification surveys include reviewing files for all new hires from the date of the last recertification survey.

Regarding our second recommendation, the State agency stated that it plans to increase its educational outreach to facilities, including regular provider communications and educational opportunities.

In its comments, the State agency also noted that there is no Federal requirement that specifies that it must review a set number of employee files during a recertification survey to determine compliance with 42 CFR § 483.12(a)(3). As noted in the report, these Federal regulations apply to nursing homes; specifically, prohibiting them from employing or otherwise engaging individuals who have a history of disqualifying offenses.

We acknowledge that the State agency's planned actions will strengthen its monitoring of nursing homes for compliance with these regulations.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed the State agency's background check process to determine whether the State agency ensured that selected nursing homes complied with Federal requirements regarding employing individuals with disqualifying backgrounds.

As of April 27, 2023, 330 nursing homes in New Jersey were Medicaid-certified.¹² For each of the 330 nursing homes, we:

- considered the geographic location of the nursing home;
- queried CMS's Five-Star Quality Rating System to identify whether the State agency previously identified findings of abuse, neglect, and exploitation; and
- analyzed prior State agency survey findings to determine the nature of the identified abuse, neglect, and exploitation deficiencies to focus on those potentially related to nursing home staff malfeasance.

Using the above criteria, we selected a nonstatistical sample of 12 nursing homes for review.

We obtained staff member rosters for calendar year 2022 from each of the 12 nursing homes. For each of 11 nursing homes, we selected a nonstatistical sample of 10 staff members, consisting of 4 licensed staff, 1 administration staff, and 5 non-direct care staff. For 1 nursing home, we selected a nonstatistical sample of 10 staff members, consisting of 5 licensed staff, 1 administration staff, and 4 non-direct care staff.

For the selected nursing homes, we reviewed background investigation and licensure documentation for the selected staff members to evaluate the nursing homes' compliance with applicable Federal requirements for calendar year 2022.

We reviewed only those internal controls that were significant to our audit objective. Specifically, we reviewed each sampled nursing home's internal controls, including policies and procedures related to staff member background checks and the employment of individuals with disqualifying backgrounds. In addition, we reviewed the State agency's survey process to determine whether the State agency's oversight ensured nursing home compliance with the Federal requirements regarding the employment of individuals with disqualifying offenses.

We conducted our audit work from May 2023 through October 2025.

¹² We obtained the listing of nursing homes from a State agency website and had CMS run a CASPER Report to remove any that do not accept Medicaid payments (i.e., private pay facilities).

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State requirements;
- interviewed State agency officials to gain an understanding of the State agency's oversight of nursing homes' background check processes and internal controls;
- obtained a listing of 330 Medicaid-certified nursing homes in New Jersey,¹³ which we used to select a nonstatistical sample of 12 nursing homes for review based on geographic location and prior State agency survey findings;
- obtained staff member rosters covering calendar year 2022 from each selected nursing home;
- selected a nonstatistical sample of 10 staff members from each nursing home's staff member roster;
- interviewed administrators and other officials from the selected nursing homes to gain an understanding of each nursing home's background check policies and procedures;
- verified that, for each of the 120 sampled staff members:
 - the associated nursing home completed a background check and
 - the staff member possessed a license in good standing that was clear of emergency actions, disciplinary actions, and public complaints related to disqualifying offenses; and
- discussed the results of our audit with State agency officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹³ We accessed a list of all nursing homes in New Jersey is available on the State agency [website](#) on April 10, 2023.

APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>Hawaii Did Not Ensure That Selected Nursing Facilities Complied With Federal and State Background Check Requirements</i>	<u>A-09-23-02003</u>	9/05/2025
<i>Alabama Did Not Always Verify Selected Nursing Homes' Compliance With Background Check Requirements</i>	<u>A-04-24-08104</u>	8/12/2025
<i>Florida Ensured That Nursing Homes Complied With Federal Background Check Requirements</i>	<u>A-04-23-08100</u>	4/26/2024
<i>Louisiana Should Improve Its Oversight of Nursing Homes' Compliance With Requirements That Prohibit Employment of Individuals With Disqualifying Background Checks</i>	<u>A-06-21-02000</u>	11/29/2023
<i>National Background Check Program for Long-Term-Care Providers: An Interim Assessment</i>	<u>OEI-07-20-00181</u>	5/9/2022
<i>National Background Check Program for Long-Term-Care Providers: Assessment of State Programs Concluded in 2019</i>	<u>OEI-07-20-00180</u>	9/2/2020
<i>National Background Check Program for Long-Term-Care Providers: Assessment of State Programs Concluded in 2017 and 2018</i>	<u>OEI-07-18-00290</u>	8/21/2019
<i>National Background Check Program for Long-Term-Care Providers: Assessment of State Programs Concluded Between 2013 and 2016</i>	<u>OEI-07-16-00160</u>	4/22/2019
<i>National Background Check Program for Long-Term-Care Employees: Interim Report</i>	<u>OEI-07-10-00420</u>	1/19/2016

APPENDIX C: GLOSSARY OF DEFINITIONS

The terms “abuse,” “neglect,” “exploitation,” “mistreatment,” and “misappropriation of resident property” are defined under Federal regulations (42 CFR § 483.5) as follows (italics in original):

- *Abuse*. Abuse is the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain, or mental anguish. It includes verbal abuse, sexual abuse, physical abuse, and mental abuse including abuse facilitated or enabled through the use of technology. *Willful*, as used in this definition of abuse, means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.
- *Neglect* is the failure of the [nursing home], its employees or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.
- *Exploitation*. Exploitation means taking advantage of a resident for personal gain through the use of manipulation, intimidation, threats, or coercion.
- *Mistreatment* means inappropriate treatment or exploitation of a resident.
- *Misappropriation of resident property* means the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident’s belongings or money without the resident’s consent.

APPENDIX D: STATE AGENCY COMMENTS



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Subject: Response to Findings Related to State Agency Oversight of Background Check Compliance in Nursing Homes-Report Number: A-02-23-01011

Dear Jennifer Webb,

We appreciate the opportunity to respond to the recent report regarding background check compliance among selected nursing homes and the role of the State Agency in monitoring these requirements.

We would like to clarify that there is no requirement in CMS Federal regulations that specifies a set number of employee files that must be reviewed during a recertification survey to determine compliance with 42 CFR § 483.12(a)(3). It grants discretion to the State Agency to determine the extent of file review necessary to ensure compliance. The regulation places the responsibility on the facility to ensure that no individuals with disqualifying criminal backgrounds are employed or engaged in providing care. This includes both direct hire and contracted staff. The legislature has not given the New Jersey Department of Health (NJDOH) the authority to run criminal history, background checks. Businesses are running third party background checks. If the NJDOH had authority to run background checks through the state police and FBI, NJDOH would have full compliance, and currently, NJDOH does not have that authority.

Recognizing the importance of ensuring resident safety, since June 2023, the State Agency has enhanced its survey protocols. Specifically, we have adopted a broader and more comprehensive approach by reviewing all new hire files from the date of the last recertification survey forward. This expanded look-back period and comprehensive file review process are designed to ensure that compliance with F606 is thoroughly and accurately assessed.

It is important to reiterate that it is the facility's duty to "prevent" employment of individuals with disqualifying backgrounds, not simply to detect such issues after hire. The State Agency's role is to verify compliance and enforce regulatory standards through surveys and other oversight mechanisms. The updated review methodology reflects our commitment to ensuring that facilities are meeting their obligations under Federal regulations and that any gaps are identified and addressed promptly.

We take seriously the findings outlined in your report and agree that effective oversight of background check procedures is vital to safeguarding nursing home residents. The recent enhancement of our monitoring process directly addresses the concern regarding the coverage period between recertification surveys and strengthens our verification efforts.

We will continue to evaluate our procedures and provide guidance to facilities as appropriate to ensure full compliance with 42 CFR § 483.12(a)(3). Should you require additional information or wish to discuss this matter further, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Brown", written over a horizontal line.

Jeffrey A. Brown
Acting Commissioner
New Jersey Department of Health

ATTACHMENT

New Jersey's response to the Office of Inspector General's Audit-Report Number: A-02-23-01011

1. Allegation: The State Agency did not adequately monitor nursing homes' compliance with background check requirements.

Response:

- The State Agency acknowledges the importance of robust oversight to ensure nursing home compliance with 42 CFR § 483.12(a)(3).
- At the time of the audit, the State Agency followed survey protocols in alignment with CMS guidance, which did not prescribe a specific number of employee files to be reviewed.
- CMS regulations do not define the number or scope of employee background check files to be reviewed during recertification surveys. The determination of sampling methodology is at the discretion of the State Agency.
- In response to growing concerns and in alignment with CMS expectations, as of June 2023, the State Agency expanded its review process to include all new hires from the date of the last recertification survey forward, increasing oversight beyond the previous review process.
- This enhanced process ensures more comprehensive verification of compliance with federal background check regulations and strengthens resident protections.

2. Allegation: Selected nursing homes allowed staff to provide care before background checks were completed.

Response:

- The State Agency agrees that no individual should provide resident care without a completed background check. The ultimate responsibility lies with the facility to ensure that no staff member is hired or allowed to work in violation of federal requirements.
- The State Agency's role is to verify facility compliance during recertification and complaint surveys. When violations are identified, citations are issued under CMS State Operations Manual (F606); 42 CFR § 483.12(a).
- In each of the identified cases, the State Agency cited facilities appropriately when background checks were incomplete or improperly documented, based on the state agency's review process.
- Notably, the report confirms that none of the staff members cited were found to have disqualifying offenses upon completion of their checks.

3. Allegation: Some facilities did not complete background checks or failed to maintain records.

Response:

- When background checks are found to be missing or records unavailable, the State Agency treats these as serious deficiencies and issues citations accordingly.
- In the case of facilities that could not provide documentation, including for employees hired under previous ownership, the State Agency ensures that responsibility is assumed by the current licensee, in accordance with CMS expectations.
- Guidance is provided to facilities to ensure understanding of their obligations for documentation retention and background screening compliance.

4. Allegation: The State Agency's recertification surveys did not adequately cover the timeframe between surveys.

Response:

- Prior to June 2023, the State Agency utilized a 4-month sample review period, which aligned with common practices across many states. Each state develops its own process, as there is no federally mandated look-back timeframe specified in CMS regulations.
- Recognizing the need for broader oversight, the State Agency initially expanded its review to include 10% of all new hires since the last recertification survey. This approach has since been further enhanced to include a review of all new hires employed since the last recertification survey, increasing both the scope and effectiveness of background check monitoring.
- This change represents a significant improvement in enforcement of 42 CFR § 483.12(a)(3) and reflects the State Agency's ongoing commitment to resident safety.

Response to Recommendations

Recommendation 1: Strengthen monitoring activities (e.g., expand timeframe for recertification surveys).

- As noted, the State Agency has already taken steps to strengthen its monitoring activities. Effective June 2023, all new hires since the last recertification survey are reviewed, significantly expanding the timeframe and depth of employee file reviews.

Recommendation 2: Provide guidance to nursing homes on implementing adequate procedures.

- The State Agency will increase its educational outreach to facilities, including:
 - Regular provider communications and educational opportunities through in-person conferences or webinar.
 - Provide education of the CMS requirements during survey exit conferences.

Conclusion

The State Agency appreciates the findings and recommendations outlined in the report and has already taken proactive and meaningful steps to enhance oversight, including the expansion of background check reviews and increased provider guidance. Ensuring the safety and well-being of nursing home residents remains our top priority, and we will continue to evaluate and strengthen our monitoring efforts in alignment with CMS regulations and best practices.

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