



Office of Inspector General
Cabinet for Health and Family Services

Medicaid Oversight and Advisory Committee

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Office of Inspector General: Steven D. Davis, Inspector General

Division of Audits and Investigations

Division of Regulated Child Care

Division of Certificate of Need

Division of Health Care

Division of Audits and Investigations (A & I)

Drug Enforcement and Professional Practices Branch

Audits Branch

Medicaid Preliminary Investigations Branch

Compliance Branch

Division of Regulated Child Care (DRCC)

DRCC Regional Offices

Child Care Branch

Child Caring/Child Placing Branch

Division of Certificate of Need (CON)

In Kentucky, all health care providers (unless exempt by KRS 216B.020) must obtain CON approval prior to:

- Establishing a health facility or service;
- Exceeding the capital expenditure threshold of \$2,913,541;
- Making a substantial change in bed capacity;
- Obtaining major medical equipment valued at, or more than \$2,913,541;
- Altering a geographical area or specific location that has been designed on a CON or license; or
- Developing or acquiring new health facilities.

Division of Health Care (DHC)

Quality Assurance and Training Branch

Operations Branch

DHC Regional Offices

Division of Health Care: State Survey Agency

In accordance with Section 1864(a) of the federal Social Security Act, the Secretary of the Department for Health and Human Services (DHHS) and the Office of Inspector General (OIG) are parties in a contractual agreement that designates the OIG's Division of Health Care as the State Survey Agency, responsible for verifying how well Federally certified health care facilities comply with the Federal requirements for participation in the Medicare and/or Medicaid Programs.

Division of Health Care: Licensure Responsibilities

- Adult day health centers
- Alcohol and other drug treatment entities (AODE)
- Alcohol and other drug abuse prevention programs
- Ambulatory surgical centers
- Behavioral health services organizations
- Blood establishments
- Chemical dependency treatment centers
- Community mental health centers
- Freestanding emergency departments (FSED) operated by KY-licensed hospitals under the hospital's license
- Group homes for individuals with intellectual or developmental disabilities
- Home health agencies
- Hospice providers

Division of Health Care: Licensure Responsibilities, continued

- Long-term care facilities, including ICF/IIDs, personal care homes, and family care homes
- Freestanding or mobile technology units that provide State Health Plan services, i.e. PET, MRI, megavoltage radiation, and/or cardiac catheterization services
- Non-physician owned pain management facilities grandfathered by HB 1 from the 2012 Special Session
- Personal services agencies
- Prescribed pediatric extended care facilities
- Private duty nursing agencies
- Psychiatric residential treatment facilities
- Renal dialysis facilities
- Residential crisis stabilization units
- Hospitals, including general acute care, psychiatric, comprehensive physical rehabilitation, and critical access hospitals

Division of Health Care: Complaints

- Each of the regional offices has a complaints coordinator who is responsible for the intake of information from various sources alleging concerns regarding the health and safety of residents, patients, or clients of licensed health facilities.
- Complaints are triaged based on severity and urgency to ensure that a timely investigation is conducted.
- Referrals to other entities are made where indicated.

Division of Health Care: Inspections

- Inspections of long-term care facilities and other licensed health facilities are unannounced.
- KRS 216.530 prohibits anyone who has knowledge of, or is otherwise responsible for conducting long-term care facility inspections, from notifying an owner, operator, licensee, or facility representative of any scheduled or contemplated inspection.
- The process for citing deficiencies upon finding a regulatory violation during an on-site inspection of any licensed facility and the steps required for submission of an acceptable plan of correction is established by 902 KAR 20:008, License procedures and fee schedule.

Division of Health Care: Informal Dispute Resolution (IDR)

- 42 C.F.R. 488.331 requires DHC to offer health facilities an informal opportunity to dispute survey findings upon receipt of an official Statement of Deficiencies.
- 906 KAR 1:120 establishes the process for long-term care facilities to follow when requesting and IDR for a deficiency or scope and severity assessment that constitutes substandard quality of care or immediate jeopardy.

Division of Health Care: Federal Civil Money Penalties (CMP)

- In accordance with applicable federal laws and regulations under Title XVIII and XIX of the Social Security Act, the Centers for Medicare and Medicaid Services (CMS) is responsible for issuing and collecting CMPs imposed on nursing facilities that do not meet the federal requirements for participation in the Medicare and/or Medicaid programs.
- Effective January 1, 2012, all states must obtain prior approval from CMS for the use of CMP funds.
- CMP funds may be directed to a variety of organizations that submit a request for approval as long as the funds are to be used to support activities that benefit residents of Medicare/Medicaid certified nursing facilities.

Division of Health Care: Federal Law Does Not Allow CMPs for the Following:

- Projects for which a conflict of interest or appearance of conflict exists.
- To pay entities to perform functions that are already paid by state or federal sources.
- To pay for capital improvements to a nursing facility, or to build a nursing facility.
- To pay for services or supplies that are already the responsibility of the nursing facility, such as laundry, linen, food, heat, staffing costs, etc.
- To pay the salaries of temporary managers who are actively managing a nursing facility.
- To recruit or provide long term care ombudsman certification training for staff or volunteers, or investigate and work to resolve complaints.

Division of Health Care: Type A and Type B Violations/State Fines

- In accordance with KRS 216.557, long-term care facilities are subject to a Type A or Type B violation for noncompliance with applicable state or federal laws and regulations.
- Type A violation:
 - Presents imminent danger to any resident of a long-term care facility;
 - Creates substantial risk of death or serious mental or physical harm will occur; and
 - Subject to a civil penalty of \$1,000 to \$5,000.
- Type B violation:
 - Presents a direct or immediate relationship to the health, safety, or security of any resident, but does not create an imminent danger; and
 - Subject to a civil penalty of \$100 to \$500.

Division of Health Care: Exemption from State Fines

- KRS 216.557 and KRS 216.560 exempt Medicare/Medicaid certified nursing facilities from State fines associated with a Type A or Type B violation if CMS imposes a federal fine for the same violation.
- Therefore, all state fines for a Type A or Type B violation are imposed only on personal care homes, family care homes, and any other long-term care facility that is not Medicare/Medicaid certified.
- In accordance with KRS 216.560, all state fines for Type A or Type B violations are deposited in the Kentucky nursing incentive scholarship fund.

Division of Health Care: Nurse Aide and Home Health Aide Abuse Registry

- State and federal regulations require the cabinet to establish and maintain a nurse aide and home health aide abuse registry that contains a listing of aides who have:
 - Received a final order issued by the cabinet secretary substantiating abuse, neglect, or misappropriation of resident/patient property; or
 - Failed to submit a timely request for appeal of a preliminary finding of abuse, neglect, or misappropriation of property.
- 906 KAR 1:100 establishes the administrative appeals process as well as procedures for placement of an individual on the nurse or home health aide abuse registry.

Questions?

Office of Inspector General:

<https://chfs.ky.gov/agencies/os/oig/Pages/default.aspx>