

**Congress of the United States**  
**Washington, DC 20515**

August 21, 2014

Marilyn B. Tavenner  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Attention: CMS-3255-P

Dear Administrator Tavenner:

We are writing to urge the Centers for Medicare and Medicaid Services (CMS) to prioritize full implementation of sections 6103 and 6106 of the Affordable Care Act which require nursing home staffing information be obtained through a payroll data collection system. In passing the provisions, Congress recognized both the importance of accurate staffing data as a quality measure and the problems inherent in reliance on self-reporting. Implementation should have occurred in March of 2012 and is now long overdue.

Currently, nurse staffing data is self-reported, and the data are solely based on a two-week period prior to a nursing home's annual survey (inspection). Data from such a limited time frame do not adequately reflect ongoing staffing levels, particularly since nursing facilities are known to "staff up" immediately prior to their annual inspection. In addition, the data are not audited, meaning that even the limited data currently available have questionable accuracy and reliability.

CMS itself has acknowledged that its nursing home staffing data are not accurate. A 2001 HHS report found the method for collecting annual staffing data to be flawed, and CMS recommended establishing a system to collect staffing data in a verifiable and reliable manner. The provision requiring a payroll-based data collection system was designed to ensure that action be taken to correct this problem, establishing a March 2012 deadline for implementation.

Accurate data are essential for many reasons. We know that there is a direct link between staffing and nursing home quality. We need accurate staffing data – such as that from a payroll data collection system – to ensure that our most vulnerable Americans get the quality health care services they need and deserve.

Accurate staff data are also necessary to ensure that we pay for quality nursing home services. We are increasingly concerned with paying for quality of services rather than quantity, and accurate information about nursing home staffing is a key part of building a quality reporting system. Quality-based reimbursement initiatives cannot move forward without reliable staffing information. Payers, researchers, and government officials need accurate data to ensure their analyses and conclusions are accurate.

Above all, accurate staffing information is important for nursing home residents and their families. Increasingly, consumers look to Nursing Home Compare and the Five Star Rating system as the “go to” place for nursing home information. Because these government-operated sites are considered to be a trusted source of information, the public assumes the data are correct. As a result of reliance on self-reporting, everyday consumers and family members may well be relying on flawed data when choosing a nursing home, with potentially disastrous impacts on residents’ care and well-being, given the known link between staffing levels and quality of care. Data are critical not just for selecting a nursing home, but for ensuring quality care. In its 2012 *Action Plan for Further Improvement of Nursing Home Quality*, CMS notes:

*The availability of relevant and timely information can significantly enable individuals to be active and informed participants in their care. Such information also can enable those individuals to hold the health care system accountable for the quality of services and support that should be provided.*

Finally, nursing homes themselves would benefit from the requirement to report accurate data. Mandatory use of payroll data by all nursing homes to determine staffing levels would create an honest and level playing field and the information could be used by nursing homes to calculate turnover and retention rates to stabilize staff.

CMS has been developing a payroll data collection system for nearly a decade. It has conducted research and feasibility studies, obtained statutory authority to require nursing homes to produce payroll data, and created and used a payroll data collection system in its recently completed Medicare Value-Based Purchasing project. Failure to implement a payroll-based data collection system for nursing homes would be a waste of already expended public resources, a violation of the law, and a deprivation of the public’s right to accurate information.

We urge CMS to make this matter a priority. We look forward to hearing from you soon on when we can expect the payroll-based staffing system to be operational.

Sincerely,

DORIS O. MATSUI  
Member of Congress

JANICE SCHAKOWSKY  
Member of Congress

LOIS FRANKEL  
Member of Congress

MARCY KAPTUR  
Member of Congress

PAUL D. TONKO  
Member of Congress

CHARLES B. RANGEL  
Member of Congress