United States Senate
WASHINGTON, DC 20510

August 14, 2018

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Verma,

During a Senate Committee hearing in 2007, I made a simple observation: "it is a lot easier to find information about the quality of a washing machine than it is to get information about the quality of long-term care facilities."[1] Selecting the right nursing home can be one of the most important decisions a senior or their family make, but patients had no way to compare different facilities in the same manner someone could for a simple home appliance. Shortly after this hearing, CMS established the Skilled Nursing Facility (SNF) 5-Star Quality Rating System.

Since December 2008, when the rating system was established, our health care system has evolved, and the tools patients and their families use to navigate the health care system should evolve as well. Ten years after pushing CMS to increase nursing home transparency, I am concerned that seniors and their families may not have accurate and complete information about the quality of nursing homes available to choose from. A July 7 New York Times front-page article, entitled, "'It's Almost Like a Ghost Town.' Most Nursing Homes Overstated Staffing for Years," illustrates this concern[2]. The article states, "Most nursing homes had fewer nurses and caretaking staff than they had reported to the government for years…bolstering the long-held suspicion of many families that staffing levels were often inadequate."

The article offers upsetting accounts of nursing home residents' care suffering because of lack of available health professionals working in the nursing facility. A stroke victim who struggles to find an aide to help him dress described his facility as "a ghost town" despite its "above average" staffing rating. Caregivers of residents described the consequences of poor staffing on patient care and the disconnect between staffing levels reported to CMS and actual staffing levels in the facility. It's clear the manner by which CMS measures nursing home quality needs updating.

Each SNF is rated on a scale of one to five stars and the overall rating is based on the score of three separate categories: health inspections, staffing, and quality measures. Until recently,

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[1] https://www.gpo.gov/fdsys/pkg/CHRG-110shrg41836/html/CHRG-110shrg41836.htm
[2] https://www.nytimes.com/2018/07/07/health/nursing-homes-staffing-medicare.html

staffing levels were self-reported by each SNF. A SNF scores higher on this measure the more hours of care provided, on average, to residents of the SNF. An analysis by the Kaiser Family Foundation found that SNF star ratings "tend to be higher on measures that are reported by nursing homes (quality and staffing) than those derived from the State Health Inspection reports"[3] which is not self-reported. In order to base star ratings on more accurate information, the Affordable Care Act required CMS to transition the staffing component of the Star System to collect staffing data from electronic payroll data instead of self-reported staffing data. SNFs have been reporting this information since July 2016 and in April of this year the data is being used to calculate the staffing component of the 5-Star Rating System.

It appears that the new payroll data contradicts the self-reported data, and as the New York Times suggests, "provides the strongest evidence that over the last decade, the government's five-star rating system for nursing homes often exaggerated staffing levels." The article states that, "of the more than 14,000 nursing homes submitting payroll records, seven in 10 had lower staffing using the new method, with a 12 percent average decrease." If true, it is concerning that seniors and their families have been receiving inaccurate or erroneous information about the staffing levels provided by a SNF.

Until very recently, the current staffing metric only measured average staffing levels. Starting in July, SNFs that reported seven or more days in a quarter with no registered nurses at work would receive an automatic one star staffing rating.[4] CMS should pursue further changes to account for fluctuations in staffing levels that could lead to poor care. The New York Times noted that, "payroll records…showed, on average, 11 percent fewer nurses providing direct care on weekends and 8 percent fewer aides."

In order to better understand CMS's efforts to improve transparency of nursing home quality, please provide an answer to the following questions:

1) What are the requirements and safeguards CMS has in place to ensure SNFs provide accurate information as part of the 5-Star Quality Rating System? How are these requirements enforced?
2) Please provide an analysis of the difference in staffing levels of SNFs between the self-reported methodology and the payroll data methodology?
3) What does CMS plan to do in the instances where payroll data illustrates the self-reported staffing data was inaccurate?
4) Would CMS consider updating the current staffing quality measures to, in addition to measuring average staffing levels, take into account inappropriate fluctuations in staffing that may lead to patients receiving inadequate care?
5) Would CMS consider measuring patient and/or family satisfaction as part of the 5-Star Quality Rating System?

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[3] https://www.kff.org/medicare/issue-brief/reading-the-stars-nursing-home-quality-star-ratings-nationally-and-by-state/view/print/

[4] https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/QSO18-17-NH.pdf

Please provide a response to these questions by August 24, 2018. Should you have questions regarding this request, please contact Matt Kazan with the Senate Finance Committee at (202) 224-4515.

Sincerely,

Ron Wyden
Ranking Member
U.S. Senate Committee on Finance