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Maine Could Better Ensure That Intermediate Care Facilities for Individuals With Intellectual Disabilities Comply With Federal Requirements for Life Safety, Emergency Preparedness, and Infection Control



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Why OIG Did This Audit

- Intermediate care facilities for individuals with intellectual disabilities (ICF/IIDs) that participate in Medicaid are required by CMS to comply with requirements intended to protect residents. This includes requirements related to fire safety and emergency preparedness plans. Facilities are also required to develop infection control programs.
- In Maine, the State's Department of Health and Human Services (State agency) conducts surveys of ICF/IIDs for compliance with Federal requirements.
- This audit is part of a series of audits that assess compliance with CMS's life safety, emergency preparedness, and infection control requirements for ICF/IIDs.

What OIG Found

We identified 121 deficiencies related to life safety, emergency preparedness, and infection control at the 16 ICF/IIDs in Maine.



These deficiencies put the health and safety of residents, staff, and visitors at an increased risk of injury or death during a fire or other emergency or in the event of an infectious disease outbreak.

What OIG Recommends

We recommend that the State agency:

1. Follow up with the 16 ICF/IIDs to verify that they have taken corrective actions on the life safety, emergency preparedness, and infection control deficiencies identified during the audit.
2. Conduct surveys at ICF/IIDs at least every 15 months as required by CMS.
3. Work with CMS to develop standardized life safety training for ICF/IID staff.

In written comments on our draft report, the State agency concurred with our first two recommendations and described the actions that it had taken or planned to take to address them. The State agency did not indicate concurrence or nonconcurrence with our third recommendation.

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INTRODUCTION

WHY WE DID THIS AUDIT

Previous Office of Inspector General (OIG) audits on infection prevention and control, emergency preparedness, and life safety at nursing homes have identified multiple issues that put people who reside in the homes, such as the elderly, at risk. These problems included life safety violations, such as blocked exits and out of date fire extinguishers; emergency preparedness plans that were not updated; and infection control violations, such as missing medical record documentation for immunizations.

As part of our oversight activities, OIG is expanding this type of work to include intermediate care facilities for individuals with intellectual disabilities (ICF/IIDs). In addition to intellectual disabilities, many people who reside in ICF/IIDs have limited or no mobility, seizure disorders, behavior problems, mental illness, or visual or hearing impairments. People with these disabilities are particularly vulnerable in the event of a fire or other emergency. ICF/IIDs are also communal living environments; therefore, residents are susceptible to infectious diseases. This audit, which focuses on ICF/IIDs in Maine, is part of a series of audits that assess compliance with the Centers for Medicare & Medicaid Service (CMS) requirements for ICF/IIDs related to life safety, emergency preparedness, and infection control. The first audit in this series found deficiencies related to life safety and emergency preparedness in Massachusetts that were similar to those found in nursing homes.¹

Appendix B contains a list of completed related audits.

OBJECTIVE

Our objective was to determine whether the Maine Department of Health and Human Services (State agency) ensured that ICF/IIDs in Maine that participated in the Medicaid program complied with Federal requirements for life safety, emergency preparedness, and infection control.

BACKGROUND

Medicaid Program

The Medicaid program provides medical assistance to certain low-income individuals and individuals with disabilities (Title XIX of the Social Security Act (the Act)). The Federal and State

¹ OIG, [*Massachusetts Could Better Ensure That Intermediate Care Facilities for Individuals With Intellectual Disabilities Comply With Federal Requirements for Life Safety and Emergency Preparedness \(A-01-24-00001\)*](#), Nov. 2024.

Governments jointly fund and administer the Medicaid program. At the Federal level, CMS administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although each State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

Intermediate Care Facilities for Individuals With Intellectual Disabilities

ICF/IIDs are institutions that provide health or rehabilitation services to individuals with intellectual disabilities under the Medicaid program. ICF/IID services are covered by Medicaid when they are provided in a residential facility licensed and certified by the State survey agency as an ICF/IID. The provision of ICF/IID services is an optional benefit under Medicaid. However, all States offer the benefit as an alternative to home and community-based service waivers for individuals at the ICF/IID level of care. There are over 100,000 individuals with intellectual disabilities and other related conditions receiving ICF/IID services in the United States.

There are approximately 5,300 Medicaid-certified ICF/IIDs in the United States.² Maine has 16 ICF/IIDs in the State. The facilities range in sizes from 5 to 17 beds.

Medicaid Intermediate Care Facilities for Individuals With Intellectual Disabilities Survey Requirements

The Medicaid program covers care in ICF/IIDs for eligible people enrolled in Medicaid. Section 1910 of the Act establishes requirements for CMS and States for the certification of ICF/IIDs. For Medicaid, the statutory participation and survey requirements for ICF/IIDs are implemented in Federal regulations at 42 CFR part 483, subpart I, and 42 CFR part 442, subpart C, respectively.

Requirements for Life Safety, Emergency Preparedness, and Infection Control

ICF/IIDs are required to comply with all Federal, State, and local laws, regulations, and codes pertaining to health, safety, and sanitation (42 CFR § 483.410), including:

- *Life Safety Requirements:* Federal regulations for life safety (42 CFR § 483.470) require ICF/IIDs to comply with either the Health Care Occupancies Chapter or the Residential Board and Care Occupancies Chapter and must proceed in accordance with the Life Safety Code (National Fire Protection Association (NFPA) 101 and Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4). ICF/IIDs that meet the Life Safety definition of a health care occupancy must also proceed in accordance with the Health Care Facilities Code (NFPA 99 and Tentative Interim Amendments TIA 12-2, TIA 12-3, TIA 12-4, TIA 12-5 and TIA 12-6). CMS lists applicable requirements for health care

² We obtained the number of Medicaid-certified ICF/IIDs in the United States from CMS's [Survey and Certification's Quality, Certification, and Oversight Reports](#). Accessed on March 26, 2025.

facilities on Form CMS-2786R, Fire Safety Survey Report and Residential Board and Care for Small ICF/IIDs on Form CMS-2786V, Fire Safety Survey Report.³

- *Emergency Preparedness Requirements:* Federal regulations for emergency preparedness (42 CFR § 483.475) include specific requirements for emergency preparedness plans, policies and procedures, communications plans, training and testing, and integrated health care systems.⁴ CMS lists applicable requirements on its *Emergency Preparedness Surveyor Checklist*.
- *Infection Control Requirements:* Federal regulations for infection control (42 CFR § 483.470(l)) require ICF/IIDs to have an active program for the prevention, control, and investigation of infection and communicable diseases.

CMS or a designated agency ensures these requirements are met when it conducts an ICF/IID survey. The results of each survey are reported and added to CMS's Automated Survey Processing Environment (ASPEN) system.⁵

Responsibilities for Life Safety, Emergency Preparedness, and Infection Control

Federal law requires ICF/IIDs to protect the health, safety, welfare, and rights of ICF/IID residents and to comply with requirements for participating in Medicaid.⁶ CMS is the Federal agency responsible for certifying and overseeing the Nation's approximately 5,300 Medicaid-certified ICF/IIDs. To monitor ICF/IIDs compliance with Medicaid participation requirements, CMS enters into agreements with States under section 1864 of the Social Security Act (Section 1864 Agreements).⁷ Under these Section 1864 Agreements, State survey agencies are responsible for conducting surveys to monitor compliance with Federal requirements, including those for life safety, emergency preparedness, and infection control, at least once every 15 months at ICF/IIDs that participate in the Medicaid program.⁸ In Maine, the

³ CMS, [Form CMS-2786R](#). The State agency uses this form to conduct life safety surveys at the State's 12 health care ICF/IIDs. CMS, [Form CMS-2786V](#). The State agency uses this form to surveys at the State's four residential board and care ICF/IIDs. Both forms accessed on Jan. 31, 2025.

⁴ CMS, [Emergency Preparedness Rule](#) and [Surveyor Tool](#). Accessed on Jan. 31, 2025.

⁵ ASPEN is a suite of software applications designed to help State survey agencies collect and manage health care provider data.

⁶ 42 CFR part 483, subpart I.

⁷ The Act §§ 1864(a), 1902(a)(33), and 1910; CMS's *State Operations Manual*, Pub. No. 100-07, chapter 1 – Program Background and Responsibilities, sections 1002 and 1004 (Rev. 123, Oct. 3, 2014).

⁸ 42 CFR § 442.109(a).

State agency is the State survey agency that oversees ICF/IIDs and is responsible for ensuring that ICF/IIDs comply with Federal, State, and local regulations.

Management and staff at ICF/IIDs are ultimately responsible for ensuring the safety and well-being of their residents and for complying with Federal, State, and local regulations. For example, management and staff are responsible for ensuring that facility systems (e.g., furnaces, water heaters, kitchen equipment, generators, sprinkler and alarm systems, and elevators) are properly installed, tested, and maintained. They are also responsible for ensuring that: (1) ICF/IIDs are free from hazards, (2) emergency preparedness plans are updated and tested regularly, and (3) the facility has an infection control program.

HOW WE CONDUCTED THIS AUDIT

We conducted unannounced site visits at the State's 16 ICF/IIDs during August through November 2024. During each site visit, we checked for life safety violations and reviewed the ICF/IID's emergency preparedness and infection control programs. We considered noncompliance with a Federal requirement to be a deficiency, regardless of the number of instances of noncompliance we observed. For example, if we found three fire extinguishers at one ICF/IID that were noncompliant with the requirement for monthly testing, we considered it a single deficiency for reporting purposes.

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.

Appendix A contains the details of our audit scope and methodology.

FINDINGS

The State agency could better ensure that ICF/IIDs in Maine that participated in the Medicaid program comply with Federal requirements for life safety, emergency preparedness, and infection control. During our site visits, we identified deficiencies related to life safety, emergency preparedness, and infection control at the State's 16 ICF/IIDs, totaling 121 deficiencies. Specifically:

- We found 76 deficiencies with life safety requirements related to building exits, fire barriers, and smoke partitions (20); fire detection and suppression systems (21); hazardous storage (11); smoking policies and fire drills (7); electrical equipment testing

and maintenance (7); and excessive water temperatures in areas where clients who are not trained to regulate water temperature are exposed to hot water (10).⁹

- We found 43 deficiencies with emergency preparedness requirements related to emergency plans (8), policies and procedures (13), communications plan (17), and testing and training (5).
- We found two deficiencies with infection control requirements.

These deficiencies occurred because of problems with recordkeeping and maintenance staff turnover at ICF/IIDs that contributed to a lack of awareness of, or failure to address, Federal requirements. Additionally, the State agency did not always conduct recertification surveys at the ICF/IIDs at least every 15 months, as required by CMS. State agency officials stated that the recertification surveys were delayed because of limited Federal funding, limited staffing, and an increase in high level Medicare quality and safety complaints.^{10, 11} State agency officials also stated that the backlog of surveys caused a delay in the State agency identifying the deficiencies and the ICF/IIDs correcting them.

As a result, the health and safety of residents, staff, and visitors were at an increased risk of injury or death during emergencies, such as fires, natural disasters, or infectious disease outbreaks.

Appendix C summarizes the deficiencies that we identified at each ICF/IID.

MAINE INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES DID NOT COMPLY WITH LIFE SAFETY REQUIREMENTS

CMS's Fire Safety Survey Report forms (Forms CMS-2786R and CMS-2786V), described on page 2, lists the Federal requirements on life safety that ICF/IIDs surveyed under health care and

⁹ Federal regulations require ICF/IIDs to ensure that the temperature of water does not exceed 110° Fahrenheit in areas where clients who are not trained to regulate water temperature are exposed to hot water. This regulation is not a life safety requirement. However, it is a physical environment requirement for ICF/IIDs and closely relates to life safety requirements. Therefore, we included these deficiencies in the life safety category.

¹⁰ CMS, [Fiscal Year 2023 Mission & Priorities Document – Action](#) (Admin Info: 22-10-All (Sept. 28, 2022)). This 2022 CMS letter to State Survey Agency Directors stated that the Survey and Certification program's annual discretionary appropriation had remained unchanged since FY 2015, which limited State survey agency resources and resulted in an ongoing survey backlog. Accessed on Mar. 13, 2025.

¹¹ A complaint is an allegation of noncompliance with Federal and/or State requirements.

residential board and care must comply with and references each with an identification number, known as a K-Tag (numbered K-100 through K-933).¹²

Building Exits, Fire Barriers, and Smoke Partitions

In case of fire or emergency, ICF/IID buildings surveyed under existing health care occupancy are required to have unobstructed exits, self-closing doors in exit passageways that are not manually propped open, illuminated exit signs, and smoke and fire barriers (K-Tags 211, 223, 293, and 372). ICF/IID buildings surveyed under existing board and care occupancy are also required to have unobstructed exits and interior walls and ceilings finished in accordance with NFPA requirements (K-Tags 211 and 331).

Of the 16 ICF/IIDs in Maine, 14 had deficiencies related to building exits, fire barriers, and smoke partitions, totaling 20 deficiencies. Specifically, we found deficiencies related to exits that were not free of obstructions or impediments (three ICF/IIDs) and exit signs that could not maintain a continuous illumination (two ICF/IIDs). Additionally, we found deficiencies involving doors with self-closing devices that either did not close completely, were manually propped open by facility staff, or doors that were not installed with self-closing devices (two ICF/IIDs). Lastly, we found deficiencies related to penetrations in smoke or fire barriers, including missing and broken ceiling tiles and holes in the ceiling and walls (13 ICF/IIDs). The photographs that follow depict some of the deficiencies we identified during our site visits.



Photograph 1 (left): Missing ceiling tile.
Photograph 2 (right): Broken ceiling tile.

¹² The State agency uses Form CMS-2786R to conduct life safety surveys at the State's 12 health care ICF/IIDs. The State agency also uses Form CMS-2786V to conduct surveys at the State's four residential board and care ICF/IIDs.



Photograph 3: Self-closing door stuck in an open position.

Fire Detection and Suppression Systems

In case of fire or emergency, ICF/IID buildings surveyed under existing health care occupancy are required to have a fire alarm and sprinkler systems that are installed, tested, and maintained according to NFPA requirements and inspect portable fire extinguishers monthly. All ICF/IIDs must also have fire watch policies and procedures for periods when fire alarms or sprinkler systems are out of service (or evacuate their residents if a fire watch is not instituted) (K-Tags 341, 345, 346, 351, 353, 354, and 355).

Of the 16 ICF/IIDs in Maine, 12 had deficiencies related to their fire detection and suppression systems, totaling 21 deficiencies. Specifically, we found deficiencies related to blocked or obstructed sprinkler heads (two ICF/IIDs) and portable fire extinguishers that were not inspected monthly (three ICF/IIDs). Additionally, we found that ICF/IIDs were missing fire watch policies and procedures for periods when fire alarms are out of service (eight ICF/IIDs) or for periods when sprinkler systems are out of service (eight ICF/IIDs). The photograph that follows depicts a deficiency we identified during our site visits.



Photograph 4: Fire extinguisher month inspection tag identified during our unannounced site visit on November 19, 2024, was not filled out for September and October 2024.

Hazardous Storage Areas

In hazardous storage areas, oxygen systems must be maintained and inspected, and rooms with oxygen cylinders must have proper signage. Oxygen cylinders must be stored in a safe manner (e.g., cylinders stored in the open must be protected from weather). Empty oxygen cylinders must also be separated from full cylinders (K-Tag 923).

Of the 16 ICF/IIDs in Maine, 11 had deficiencies related to placement of oxygen cylinders in hazardous storage areas, totaling 11 deficiencies. Specifically, we found deficiencies related to oxygen cylinders, including empty oxygen tanks that were not separated from full tanks, improper signage, and missing policies for safe storage and order of usage (11 ICF/IIDs). The photograph that follows depicts a deficiency we identified during our site visits.



Photograph 5: Stored oxygen tanks were not clearly distinguishable as full or empty.

Smoking Policies and Fire Drills

ICF/IIDs are required to establish smoking policies for residents and staff. Ashtrays of noncombustible material and safe design are to be provided in areas where smoking is permitted. Smoking is not allowed in hazardous storage areas. Nonsmoking areas must include signage. Further, smoking materials and other sources of ignition must be removed from patients receiving respiratory therapy. Additionally, ICF/IIDs are also required to conduct fire drills each calendar quarter that cover each work shift. The drills should be held at expected and unexpected times and include the transmission of a fire alarm signal and simulation of emergency fire conditions (K-Tags 712, 741, and 925).

Of the 16 ICF/IIDs in Maine, 5 had deficiencies related to smoking policies and fire drills, totaling 7 deficiencies. Specifically, we found deficiencies related to smoking policies that did not include all requirements, ashtrays that were not made of noncombustible material and safe design, and cigarette butts found in designated nonsmoking areas (four ICF/IIDs). Additionally, one ICF/IID did not have a policy that addressed the safe administration of oxygen to avoid smoking materials and sources of ignition. We also found ICF/IIDs that did not conduct fire drills each calendar quarter that cover each work shift or that did not maintain complete

documentation of those fire drills (two ICF/IIDs). The photograph that follows depicts a deficiency we identified during our site visit.



Photograph 6: Cigarette butts discarded in designated nonsmoking areas.

Electrical Equipment Testing and Maintenance

ICF/IIDs must test receptacles that are not listed as hospital-grade at patient bed locations at intervals not exceeding 12 months. ICF/IIDs must also test their generators weekly, conduct load testing 12 times per year, and maintain records of maintenance and testing. Power strips and extension cords must meet Underwriters Laboratories (UL) requirements and be used in a safe manner (e.g., extension cords are not used as a substitute for fixed wiring of a structure) (K-Tags 914, 918, and 920).

Of the 16 ICF/IIDs in Maine, 6 had deficiencies related to electrical equipment testing and maintenance, totaling 7 deficiencies. Specifically, we found that five ICF/IIDs did not test electrical receptacles at 12-month intervals. We also found one ICF/IID that did not maintain records of weekly generator testing. Lastly, we found one ICF/IID that was unsafely using an extension cord as a substitute for fixed wiring of a structure.

Other Physical Environment Findings

Federal regulations require ICF/IIDs to ensure that the temperature of water does not exceed 110° Fahrenheit in areas where clients who are not trained to regulate water temperature are exposed to hot water (42 CFR § 483.470(d)(3)).

Of the 16 ICF/IIDs in Maine, 10 had deficiencies regarding other physical findings, totaling 10 deficiencies. Specifically, we found that 10 ICF/IIDs did not ensure that the temperature of water does not exceed 110° Fahrenheit in areas where clients who are not trained to regulate

water temperature are exposed to hot water. The photograph that follows depicts a deficiency we identified during our site visit.



Photograph 7: All-purpose thermometer registering a water temperature of 126.5° Fahrenheit.

MAINE INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES DID NOT COMPLY WITH EMERGENCY PREPAREDNESS REQUIREMENTS

CMS's *Emergency Preparedness Surveyor Checklist*, described on page 2, lists the Federal requirements on emergency preparedness with which ICF/IIDs must comply and references each with an identification number, known as an E-Tag (numbered E-0001 through E-0042).

Emergency Preparedness Plans

ICF/IIDs are required to develop and maintain an emergency preparedness plan that must be reviewed and updated at least every 2 years and include a documented facility-based and community-based risk assessment. The emergency preparedness plan must address the special needs of its client population and the type of services the ICF/IID has the ability to provide in an emergency. Additionally, it must also address coordination with Federal, State, and local emergency management officials (E-Tags 0004, 0006, 0007, 0009).

Of the 16 ICF/IIDs in Maine, 7 had 1 or more deficiencies related to their emergency preparedness plans, totaling 8 deficiencies. Specifically, we found that one ICF/IID did not review and update its emergency preparedness plan at least every 2 years. We also found that one ICF/IID's emergency preparedness plan did not include a facility and community all-hazards risk assessment. Additionally, we found deficiencies related to emergency preparedness plans that did not address resident population needs and the types of services

available during emergencies or include a continuity of operations plan or succession plan (five ICF/IIDs) and coordination with Government emergency preparedness officials (one ICF/IID).

Emergency Preparedness Policies and Procedures

ICF/IIDs must develop and implement emergency preparedness policies and procedures that are based on their emergency plan, facility-based and community-based risk assessment, and communication plan. ICF/IIDs must have a provision of subsistence needs for staff and clients that includes food, water, medical, and pharmaceutical supplies, and alternate sources of energy. Policies and procedures must also address a system for tracking staff and clients during and after an emergency, safe evacuation from the ICF/IID, a shelter-in-place plan, and a system of medical documentation that preserves client information (E-Tags 0013, 0015, 0018, 0020, 0022, and 0023).

Of the 16 ICF/IIDs in Maine, 11 had 1 or more deficiencies related to their emergency preparedness policies and procedures, totaling 13 deficiencies. We found deficiencies related to policies and procedures that did not address needs for food, water, medical, or pharmaceutical supplies for emergencies (five ICF/IIDs). Additionally, ICF/IIDs were missing policies and procedures for tracking staff and clients during an emergency (three ICF/IIDs); safe evacuation from the ICF/IID (two ICF/IIDs); a shelter-in-place plan for clients, staff, and volunteers (one ICF/IID); and a system of medical documentation that preserves client information (two ICF/IIDs).

Emergency Communications Plans

ICF/IIDs are required to have an emergency communications plan that is updated at least every 2 years. The communications plans must include names and contact information for staff, entities providing services, clients' physicians, other nearby ICF/IIDs, and volunteers. They must also include contact information for Government emergency management staff, other sources of assistance, the State Licensing and Certification Agency, and State Protection and Advocacy Agency. ICF/IIDs are also required to have primary and alternate means of communication (e.g., landline and backup cell phones); a method for sharing information and medical documentation with other health care providers; a means to release client information in the event of an evacuation; a means of providing information about the condition and location of clients; a means of providing information about the ICF/IIDs occupancy needs to emergency management officials; and methods to share emergency preparedness plan information with clients and their families (E-Tags 0029–0035).

Of the 16 ICF/IIDs in Maine, 12 had 1 or more deficiencies related to their emergency communications plans, totaling 17 deficiencies. Specifically, we found deficiencies related to formal communications plans that were not updated at least every 2 years (five ICF/IIDs). Additionally, we found deficiencies related to emergency communications plans that did not include contact information for entities providing services, clients' physicians, and other

ICF/IIDs (one ICF/IID); contact information for other sources of assistance, the State Licensing and Certification Agency or the State Protection and Advocacy Agency (seven ICF/IIDs); a method for sharing information and medical documentation with other health care providers, a means to release client information in the event of an evacuation, and a means of providing information about the condition and location of client (one ICF/IID); a means of providing information about ICF/IIDs occupancy needs to emergency management officials (one ICF/IID); and a method for sharing emergency preparedness plan information with clients and their families (two ICF/IIDs).

Emergency Preparedness Testing and Training

ICF/IIDs are required to have training and testing programs based on to their emergency preparedness plans and to provide updated training at least every 2 years. Initial training must be provided to all new and existing staff members, individuals providing services under arrangement (e.g., contracted cleaning staff), and volunteers. The training must be designed to demonstrate staff knowledge of emergency preparedness procedures and must be documented. ICF/IIDs must conduct exercises to test the emergency plan at least twice per year. ICF/IIDs must conduct an annual community-based, full-scale testing exercise. In addition, a second training exercise (a full-scale training exercise, a facility-based exercise, a mock disaster drill, or a “tabletop” exercise) must be completed annually. An analysis of all training exercises (and actual events) must be completed and documented, and the emergency preparedness plan revised, if necessary (E-Tags 0036, 0037, and 0039).

Of the 16 ICF/IIDs in Maine, 4 had 1 or more deficiencies related to their emergency preparedness plan testing and training, totaling 5 deficiencies. Specifically, one ICF/IID did not provide initial training to all new and existing staff, individuals providing services under arrangement, and volunteers, consistent with their expected roles. One ICF/IID did not provide emergency preparedness training at least every 2 years, maintain documentation of the training, and demonstrate staff knowledge of emergency procedures. One ICF/IID did not participate in an annual full-scale exercise that is community-based. One ICF/IID did not conduct a second training exercise (a full-scale training exercise, a facility-based exercise, or a “tabletop” exercise) annually. Lastly, one ICF/IID did not analyze the training exercises and revise the emergency preparedness plans as needed.

MAINE INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES COULD STRENGTHEN INFECTION CONTROL PROGRAMS

Infection Control Programs

Federal regulations require ICF/IIDs to have an active program for the prevention, control, and investigation of infection and communicable diseases. ICF/IIDs must also implement successful corrective action in affected problem areas; maintain a record of incidents and corrective

actions related to infections; and must prohibit employees with symptoms or signs of a communicable disease from direct contact with clients and their food (W-tags 454-458).

The State agency ensured that most ICF/IIDs complied with Federal requirements for infection control. However, we found that one ICF/IID did not provide documentation that it implemented successful corrective action in affected problem areas. This ICF/IID also did not provide documentation that it maintained a record of incidents and corrective actions related to infections.

CONCLUSION

At the conclusion of our inspections, we shared the deficiencies we identified with ICF/IID management and staff so that they could take immediate corrective action. We also shared the identified deficiencies with the State agency for followup inspections, as appropriate. Although ICF/IID management and staff are ultimately responsible for ensuring resident safety, the State agency could better ensure that ICF/IIDs comply with Federal health and safety requirements.

RECOMMENDATIONS

We recommend that the Maine Department of Health and Human Services:

- follow up with the 16 ICF/IIDs to verify that they have taken corrective actions on the life safety, emergency preparedness, and infection control deficiencies identified during the audit;
- conduct surveys at ICF/IIDs at least every 15 months as required by CMS; and
- work with CMS to develop standardized life safety training for ICF/IID staff.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred with our first two recommendations and described the actions that it had taken or planned to take to address them. The State agency did not indicate concurrence or nonconcurrence with our third recommendation. Specifically:

- Regarding our first recommendation, the State agency stated that it has already conducted onsite followup surveys at all facilities in which water temperatures exceeded the regulatory temperature limits. The State agency also said that it has commenced with followup plans for focused recertification surveys and targeted

reviews of actions taken by the facilities and that it plans to conduct recertification surveys at the ICF/IIDs in accordance with CMS standards and funding.

- Regarding our second recommendation, the State agency stated that it has already implemented a plan to ensure that each ICF/IID has a standard recertification survey in accordance with CMS standards and that it has implemented a tracking system to monitor the recertification schedule for the ICF/IIDs on a monthly basis.
- Regarding our third recommendation, the State agency stated that it supports expanded training opportunities and would promote any Federal training required or developed by CMS. However, the State agency noted that there currently is no Federal requirement for standardized life safety training. The State agency encouraged OIG to engage with CMS to review the need for enhanced Federal requirements in this area. The State agency also noted that it supports educational training opportunities for licensed and certified health care providers that are separate from the Federal training required or developed by CMS.

Additionally, the State agency stated that our report is not an accurate accounting of overall compliance with CMS requirements by ICF/IIDs in Maine. The State agency indicated that some of the life safety and emergency preparedness deficiencies identified in the report may not have existed during the most recent standard survey conducted by the State agency. The State agency also noted that the two infection control deficiencies that we identified are not areas required by CMS to be reviewed during a standard survey and, therefore, are not issues that would be classified as deficiencies. Lastly, the State agency stated: “The CMS Survey process requires that a review of the facilities Quality Assurance program be conducted to evaluate if the facility has implemented processes or systems to evaluate and ensure any corrective actions taken were effective and sustainable. The OIG audit did not include an evaluation of the Quality Assurance program.”

The State agency’s comments are included in their entirety as Appendix D.

OFFICE OF INSPECTOR GENERAL RESPONSE

We appreciate the State agency’s cooperation throughout our audit and the actions it has taken and plans to take to address our recommendations. With respect to our third recommendation, we continue to encourage the State agency to work with CMS to implement our recommendation.

We do not have an opinion on the State agency’s assertion that some of the deficiencies related to life safety and emergency preparedness may not have existed during the most recent standard survey conducted by the State agency. Our findings are based on information and documentation that was presented at the time of our site visits, and we cannot assess whether the ICF/IIDs met Federal life safety and emergency preparedness requirements prior to our

visits. We also maintain that our two infection control findings are valid. Federal regulations require that ICF/IIDs implement successful corrective action in affected problem areas and maintain a record of incidents and corrective actions related to infections. However, one ICF/IID did not provide documentation to confirm that these requirements were met. The scope of our audit was limited to the State agency's policies, procedures, and practices applicable to monitoring ICF/IIDs' compliance with life safety, emergency preparedness, and infection control requirements. We did not assess the State agency's compliance with the entire CMS survey process.

OTHER MATTERS: INFECTION CONTROL PROGRAM POLICIES AND PROCEDURES

The CMS *State Operations Manual* (SOM) recommends that ICF/IIDs' infection control programs include procedures for the following: identification of the extent of infestation or infection, protection of clients, treatment of clients; notification of family or legal guardian, reporting to the health department as indicated, and continued followup to resolution. The SOM also states that ICF/IIDs should have and implement a policy that clearly delineates those signs and symptoms for which they will restrict staff access to clients or to clients' food.¹³

We identified seven ICF/IIDs that did not have one or more infection control policies and procedures that are recommended by CMS.¹⁴ Specifically, we identified ICF/IIDs that did not have procedures for notification of infestation or infection to the family or legal guardian (five ICF/IIDs), ICF/IIDs that did not have procedures for reporting to the health department as indicated (two ICF/IIDs), and one ICF/IID that did not have procedures for continued follow up to resolution. In addition, one ICF/IID did not have a policy that prohibited employees with symptoms or signs of a communicable disease from direct contact with clients and their food.

Although these policies and procedures are not specifically required by CMS, the State agency has the discretion to cite a deficiency if the infection control program is deemed inadequate. Therefore, we notified the State agency of these potential deficiencies.

¹³ CMS's *State Operations Manual*, Pub. No. 100-07, Appendix J – Guidance to Surveyors: Intermediate Care Facilities for Individuals With Intellectual Disabilities, part II – Interpretive Guidelines – Responsibilities of Intermediate Care Facilities for Individuals With Intellectual Disabilities, § 483.470(I) Standard: Infection Control (Rev. 178, Apr. 13, 2018).

¹⁴ These policies and procedures are not required by CMS. However, CMS guidance states that they should be included in ICF/IIDs' infection control programs.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We did not assess the State agency's overall internal control structure. Rather, we limited our assessment of internal controls to those applicable to our audit objective. Specifically, we assessed the State agency's policies, procedures, and practices applicable to monitoring ICF/IIDs compliance with life safety, emergency preparedness, and infection control requirements.

We conducted unannounced site visits at the State's 16 ICF/IIDs from August through November 2024.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State requirements;
- held discussions with CMS and State agency officials to gain an understanding of the process for conducting ICF/IID life safety, emergency preparedness, and infection control surveys;
- reviewed recent deficiency reports prepared by the State agency for the ICF/IIDs;
- conducted unannounced site visits at the State's 16 ICF/IIDs to check for life safety violations, review the ICF/IID's emergency preparedness program, and review the ICF/IID's infection control policies and procedures; and
- discussed the results of our inspections with the ICF/IIDs and the State agency.

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.

APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>Massachusetts Could Better Ensure That Intermediate Care Facilities for Individuals With Intellectual Disabilities Comply With Federal Requirements for Life Safety and Emergency Preparedness</i>	<u>A-01-24-00001</u>	10/23/2024
<i>Massachusetts Could Better Ensure That Nursing Homes Comply With Federal Requirements for Life Safety, Emergency Preparedness, and Infection Control</i>	<u>A-01-23-00003</u>	10/4/2024
<i>Colorado Could Better Ensure That Nursing Homes Comply With Federal Requirements for Life Safety, Emergency Preparedness, and Infection Control</i>	<u>A-07-22-07009</u>	2/2/2024
<i>Oklahoma Could Better Ensure That Nursing Homes Comply With Federal Requirements for Life Safety, Emergency Preparedness, and Infection Control</i>	<u>A-06-22-09007</u>	1/4/2024
<i>Ohio Could Better Ensure That Nursing Homes Comply With Federal Requirement for Life Safety, Emergency Preparedness, and Infection Control</i>	<u>A-05-22-00019</u>	12/20/2023
<i>Washington State Did Not Ensure That Selected Nursing Homes Complied With Federal Requirements for Life Safety, Emergency Preparedness, and Infection Control</i>	<u>A-09-22-02006</u>	12/8/2023
<i>Pennsylvania Could Better Ensure That Nursing Homes Comply With Federal Requirements for Life Safety, Emergency Preparedness, and Infection control</i>	<u>A-03-22-00206</u>	11/8/2023
<i>New Jersey Could Better Ensure That Nursing Homes Comply With Federal Requirements for Life Safety, Emergency Preparedness, and Infection Control</i>	<u>A-02-22-01004</u>	9/29/2023
<i>Georgia Could Better Ensure That Nursing Homes Comply With Federal Requirements for Life Safety, Emergency Preparedness, and Infection Control</i>	<u>A-04-22-08093</u>	9/6/2023
<i>Audits of Nursing Home Life Safety and Emergency Preparedness in Eight States Identified Noncompliance With Federal Requirements and Opportunities for the Centers for Medicare & Medicaid Services to Improve Resident, Visitor, and Staff Safety</i>	<u>A-02-21-01010</u>	7/15/2022

APPENDIX C: DEFICIENCIES AT EACH INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES

Table 1: Summary of All Deficiencies by ICF/IID

ICF/IID	Life Safety Deficiencies	Emergency Preparedness Deficiencies	Infection Control Deficiencies	Total
1	7	2	0	9
2	4	3	0	7
3	5	3	0	8
4	7	2	0	9
5	4	4	2	10
6	6	2	0	8
7	8	4	0	12
8	4	4	0	8
9	3	2	0	5
10	5	3	0	8
11	3	4	0	7
12	4	3	0	7
13	6	4	0	10
14	3	0	0	3
15	5	2	0	7
16	2	1	0	3
Total Deficiencies	76	43	2	121

Table 2: Life Safety Deficiencies

ICF/IID	Building Exits, Fire Barriers, and Smoke Partitions	Fire Detection and Suppression Systems	Hazardous Storage Areas	Smoking Policies and Fire Drills	Electrical System Testing and Maintenance	Other*	Total
1	2	3	1	0	0	1	7
2	1	1	0	1	1	0	4
3	0	1	1	2	0	1	5
4	1	2	1	0	2	1	7
5	1	2	0	0	0	1	4
6	1	2	1	1	1	0	6
7	3	2	1	0	1	1	8
8	1	2	0	0	0	1	4
9	1	0	1	0	0	1	3
10	4	0	1	0	0	0	5
11	1	0	1	0	1	0	3
12	1	2	0	0	0	1	4
13	0	2	1	2	1	0	6
14	1	0	1	0	0	1	3
15	1	1	1	1	0	1	5
16	1	1	0	0	0	0	2
Total	20	21	11	7	7	10	76

* The deficiencies under this category relate to ICF/IIDs that did not ensure that the temperature of water did not exceed 110° Fahrenheit in areas where clients who are not trained to regulate water temperature are exposed to hot water. This requirement is not specifically a life safety requirement. However, it is a physical environment requirement for ICF/IIDs and closely relates to other life safety requirements.

Table 3: Emergency Preparedness Deficiencies

ICF/IID	Emergency Preparedness Plans	Policies and Procedures	Emergency Communications Plans	Emergency Preparedness Plan Testing and Training	Total
1	1	0	1	0	2
2	1	0	2	0	3
3	0	2	1	0	3
4	0	1	1	0	2
5	1	1	1	1	4
6	0	1	1	0	2
7	2	0	2	0	4
8	1	1	1	1	4
9	1	1	0	0	2
10	0	0	1	2	3
11	0	1	3	0	4
12	0	1	1	1	3
13	1	1	2	0	4
14	0	0	0	0	0
15	0	2	0	0	2
16	0	1	0	0	1
Total	8	13	17	5	43

APPENDIX D: STATE AGENCY COMMENTS

Janet T. Mills
Governor

Sara Gagné-Holmes
Commissioner



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May 9, 2025

Curtis Roy, Regional Inspector General
Office of Audit Services, Region 1
JFK Federal Building
15 New Sudbury Street, Room 2300
Boston, MA 02203
Via email only to: Christopher.Brown@oig.hhs.gov.

RE: Maine's Response to Recommendations in
OIG Report Number A-01-24-00004

Dear Mr. Roy:

The Maine Department of Health and Human Services ("DHHS") has completed its review of the Office of Inspector General ("OIG") draft audit report, number A-01-24-00004, dated April 9, 2025 ("the report").

The Department's responses to each recommendation in that draft report are below. It is important to note that the report is not an accurate accounting of overall compliance with Centers for Medicare and Medicaid Services' ("CMS") requirements by Intermediate Care Facilities for Individuals with Intellectual Disabilities ("ICF/IIDs") in Maine. For example, some of the Life Safety and Emergency Preparedness deficiencies identified in the report may not have existed during the most recent standard surveys conducted by DHHS prior to the OIG audit visits and therefore could not have been cited by DHHS. Additionally, the two-infection control "deficiencies" in the report are not areas of inquiry required by CMS during a standard survey and thus are not issues that be denoted as deficiencies. The CMS Survey process requires that a review of the facilities Quality Assurance program be conducted to evaluate if the facility has implemented processes or systems to evaluate and ensure any corrective actions taken were effective and sustainable. The OIG audit did not include an evaluation of the Quality Assurance program.

As further outlined in response to the specific recommendations, below, DHHS is committed to conducting robust complaint and recertification surveys, in compliance with CMS requirements, to ensure the health, safety, and welfare of the residents of our ICF/IIDs.

Recommendation 1: "Follow up with the 16 ICF/IIDs to verify that they have taken corrective actions on life safety, emergency preparedness, and infection control deficiencies identified during the audit."

Response: Maine concurs with this recommendation. After each individual ICF/IID audit, OIG auditors provided the Maine State Agency (SA) with their findings. The SA has already

conducted on-site follow-up surveys at all facilities in which OIG Auditors identified facility hot water temperatures that exceeded regulatory minimums. The SA has commenced with follow-up plans for focused recertification surveys and targeted reviews of actions taken by facilities following the OIG auditors' exit conferences with the facilities. The SA is moving forward with its plan to conduct CMS recertification surveys at the ICF/IID facilities in accordance with CMS criteria and funding.

Recommendation 2: "Conduct surveys at ICF/IIDs at least every 15 months as required by CMS."

Response: Maine concurs with this recommendation. The Maine SA has already implemented a plan to ensure each ICF/IID has a standard recertification survey to be conducted in accordance with CMS standards and funding. The SA has implemented a tracking system to monitor the recertification schedule on a monthly basis for the ICF/IIDs in Maine.

Recommendation 3: "Work with CMS to develop standardized life safety training for ICF/IID staff."

Response: Maine neither concurs nor non-concurs. The Maine SA is supportive of expanded training opportunities regarding life safety for ICF/IID staff, and would be open to participation in such program development if requested by CMS. The Maine SA would promote any Federal training required or developed by CMS. Currently there is no such Federal requirement for standardized facility staff training related to Federal life safety regulatory compliance. As it is our understanding that this recommendation has been made in all the states chosen for this or similar audits in recent years, the SA would encourage the OIG to engage with their colleagues at CMS to review the need for enhanced federal requirements in this area. Separate from federal training required or developed by CMS, the Department supports educational training opportunities for licensed and certified health care providers.

We thank you for the opportunity to respond to the audit as well as the communications with the OIG regarding findings over the past year. We would welcome follow-up conversations regarding this, or other federal processes related to health, safety, and welfare oversight of ICF/IIDs in Maine.

Sincerely,



Bill Montejo, RN Director
Division of Licensing & Certification

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