

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**CALIFORNIA NEEDS TO IMPROVE
OVERSIGHT OF
COMMUNITY-BASED ADULT SERVICES
PROVIDERS' COMPLIANCE WITH
HEALTH AND SAFETY AND
ADMINISTRATIVE REQUIREMENTS**

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**September 2019
A-09-18-02002**

Office of Inspector General

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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Report in Brief

Date: September 2019
Report No. A-09-18-02002

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Review

We have conducted health and safety reviews of adult day care facilities, adult day service centers, and adult foster care homes in various States. Those reviews identified multiple health and safety issues that put vulnerable adults at risk. We conducted this review to determine whether similar issues existed in California's Community-Based Adult Services Program (the Program). California operates the Program under a Federal waiver to its Medicaid State plan. The Program funds community-based adult services for people aged 65 years and older and individuals with disabilities aged 18 years and older who are eligible for medical assistance and require the level of care provided in a nursing home but choose to live in the community. These services include skilled nursing care, social services, therapies, and personal care.

Our objective was to determine whether California's oversight ensured that providers serving vulnerable adults who received services through the Program complied with Federal waiver and State requirements.

How OIG Did This Review

Of the 240 providers in California as of June 30, 2017, we selected 24 providers for our review, based on their geographic location and their history of health- and safety-related deficiencies. We conducted unannounced site visits at the 24 selected providers.

California Needs To Improve Oversight of Community-Based Adult Services Providers' Compliance With Health and Safety and Administrative Requirements

What OIG Found

California's oversight did not ensure that providers serving vulnerable adults who received services through the Program complied with Federal waiver and State requirements. All 24 providers we reviewed did not comply with 1 or more health and safety or administrative requirements. The 24 providers reviewed each had from 1 to 21 instances of noncompliance. In total, we found 290 instances of noncompliance with health and safety and administrative requirements.

According to State officials from the administering departments, relicensing surveys were not always conducted within the required 2-year timeframe because of competing priorities and staffing issues. In addition, because recertification focuses on quality-of-care issues, some instances of noncompliance related to the centers' physical environment were not always identified during inspections.

What OIG Recommends and California Comments

We recommend that California (1) ensure that the 24 providers we reviewed correct the 290 instances of noncompliance identified in this report and (2) work with the other administering departments to improve the oversight of providers to ensure that relicensing surveys are conducted within the required 2-year timeframe and recertification inspections evaluate all applicable compliance areas.

California agreed with both of our recommendations and stated that it has prepared corrective action plans to implement our recommendations. California also described corrective actions that the administering departments had taken or planned to take to implement our recommendations.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Office of Inspector General (OIG) has conducted health and safety reviews of adult day care facilities, adult day service centers, and adult foster care homes in various States. (Appendix B lists related OIG reports.) Those reviews identified multiple health and safety issues that put vulnerable adults at risk. We conducted this review to determine whether similar issues existed in California's Community-Based Adult Services Program (the Program).

The California Department of Health Care Services (State agency) operates the Program under a Federal waiver to its Medicaid State plan. The Program funds community-based adult services for people aged 65 years and older and individuals with disabilities aged 18 years and older who are eligible for medical assistance and require the level of care provided in a nursing home but choose to live in the community. These services, which include skilled nursing care, social services, therapies, personal care, family and caregiver training and support, meals, and transportation, are provided by adult day healthcare (ADHC) centers that are certified by California's Medicaid program to provide these services. (We refer to these centers as "providers.")

OBJECTIVE

Our objective was to determine whether the State agency's oversight ensured that providers serving vulnerable adults who received services through the Program complied with Federal waiver and State requirements.

BACKGROUND

The Medicaid Program

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. In California, the State agency administers its Medicaid program, known as Medi-Cal, in accordance with a CMS-approved State plan. The State plan establishes which services Medicaid will cover.

Section 1115 Demonstration Projects

Section 1115 of the Social Security Act authorizes the Secretary of Health and Human Services (the Secretary) to approve demonstration projects, under a waiver to the State plan, to assist in promoting the objectives of the Medicaid program. These demonstration projects give States flexibility to design and improve their programs to better serve Medicaid populations. Demonstration projects are generally approved for an initial 5-year period and can be extended

for an additional 3 to 5 years. To implement a State demonstration project, a State must comply with the terms and conditions of the waiver agreement (42 CFR § 431.420(a)(2)).

California’s Community-Based Adult Services Program

In November 2010, CMS approved California’s section 1115 demonstration project for “implementing an historic coverage expansion, beginning the process of transforming the health care delivery system and reinforcing California’s safety net to meet the needs of the uninsured.” Effective April 1, 2012, under an amendment to the waiver, the State agency began operating the Program, an outpatient, facility-based program for eligible¹ older adults and adults with disabilities (referred to as “participants”) to restore or maintain their optimal capacity for self-care and delay or prevent inappropriate or personally undesirable institutionalization.

The Program is administered jointly by the State agency, the California Department of Public Health (CDPH), and the California Department of Aging (CDA) under an interagency agreement. Figure 1 shows the responsibilities of the administering departments.

Figure 1: Administering Departments of the Community-Based Adult Services Program

Department of Health Care Services	Department of Public Health	Department of Aging
<ul style="list-style-type: none"> • Operates the Program • Ensures compliance with the waiver 	<ul style="list-style-type: none"> • Licenses ADHC centers • Conducts relicensing surveys (required every 2 years) 	<ul style="list-style-type: none"> • Certifies ADHC centers for participation in Medi-Cal • Conducts recertification inspections (required every 2 years)

Department of Health Care Services

The State agency is responsible for ensuring compliance with the Special Terms and Conditions and maintaining the Standards of Participation outlined in the waiver, as described below:

- The **Special Terms and Conditions** describe the Program eligibility and delivery system; Program services and individual plan-of-care requirements; provider staffing requirements; responsibilities of managed-care plans for Program benefits; oversight and monitoring of the Program to ensure provider compliance with provider standards, access, and delivery of quality care and services; quarterly reporting to CMS; the quality assurance and improvement strategy; provider reimbursement; and program integrity.

¹ To be eligible for the Program, Medi-Cal beneficiaries must generally be enrolled in a managed-care plan.

- The **Standards of Participation** detail general provider requirements, provider services, legal authority and requirements, physical plant and health and safety requirements, individual plan-of-care requirements, minimum staffing levels for required personnel, and provider organizational and administrative requirements.

Department of Public Health

CDPH licenses ADHC centers and inspects each center to ensure compliance with State regulations. State law requires CDPH to conduct relicensing surveys every 2 years.²

In addition to ADHC centers, CDPH regulates more than 10,000 healthcare facilities in California, including general acute-care hospitals, home health agencies, hospices, skilled nursing facilities, and at least 30 other facility types.

Department of Aging

CDA certifies licensed ADHC centers for participation in Medi-Cal.³ Once centers are certified as Medi-Cal providers, they can accept participants of the Program. Providers must apply for recertification at least every 24 months and are subject to an application review and onsite inspection. The onsite inspection includes an evaluation of administrative systems and processes, staffing, and the appropriateness and quality of services delivered. State law requires an inspection at least every 2 years.⁴

CDA also administers other programs that serve older adults, adults with disabilities, family caregivers, and residents in long-term-care facilities throughout California.

HOW WE CONDUCTED THIS REVIEW

Of the 240 providers in California as of June 30, 2017, we selected 24 providers for review. We selected the providers based on their geographic location and their history of health- and safety-related deficiencies. To evaluate the State agency's oversight of providers' compliance with health and safety and administrative requirements,⁵ we conducted unannounced site visits at the 24 selected providers.

² California Health and Safety Code § 1580.5(a).

³ CDA is the State agency's designated representative for Medi-Cal certification of providers for the Program.

⁴ California Welfare and Institutions Code § 14574.1(a).

⁵ The health and safety requirements reviewed included those related to the physical environment and emergency procedures. The administrative requirements reviewed included those related to administrative, employee, and participant records and training records.

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. Appendix C contains Federal and State requirements related to health and safety and administration.

FINDINGS

The State agency's oversight did not ensure that providers serving vulnerable adults who received services through the Program complied with Federal waiver and State requirements. All 24 providers we reviewed did not comply with 1 or more health and safety or administrative requirements. The 24 providers reviewed each had from 1 to 21 instances of noncompliance. In total, we found 290 instances of noncompliance with health and safety and administrative requirements. (See Appendix D for a summary of these instances of noncompliance.)

According to State officials from the administering departments, CDPH's relicensing surveys were not always conducted within the required 2-year timeframe because of competing priorities and staffing issues.⁶ In addition, because recertification by CDA focuses on quality-of-care issues, some instances of noncompliance related to the centers' physical environment were not always identified during inspections.

TWENTY-THREE OF TWENTY-FOUR PROVIDERS REVIEWED DID NOT COMPLY WITH HEALTH AND SAFETY REQUIREMENTS

Providers must comply with Federal waiver and State requirements to ensure the health and safety of vulnerable adults receiving services through the Program.⁷ For example, providers must ensure that centers are clean, safe, and in good repair at all times (Waiver Attachment W, § D.3, and 22 California Code of Regulations (CCR) § 78507(a)); protect participants against hazards by means of supervision, instruction, and the installation of appropriate protective devices (Waiver Attachment W, § D.4, and 22 CCR § 78509(a)); and store participants' health records to protect against loss, destruction, or unauthorized use (22 CCR § 78435(c)).

Of the 24 providers we reviewed, 23 did not comply with 1 or more health and safety requirements. In total, we found 175 instances of noncompliance. Some examples follow and are shown with photographs in Figure 2 on page 6. (See Appendix E for additional photographs of noncompliance.)

⁶ According to documentation provided by State officials, CDPH had not inspected 18 of the 24 providers within 2 years before our visits.

⁷ California Medi-Cal 2020 Demonstration, Waiver Number 11-W-00193/9, Attachment W, Community-Based Adult Services Provider Standards of Participation.

During our site visits, we found instances in which centers were not always clean, safe, and in good repair (eight providers):

- A rodent, bugs, and rodent droppings were found in various locations (Photograph 1).
- There was mold under a sink and thick dust on a refrigerator (Photographs 2 and 3).

We also found instances in which participants were not protected from hazards (15 providers):

- Hand and power tools were stored in an unlocked cabinet (Photograph 4).
- Toxic chemicals were stored in an open area in a bathroom that was used by participants (Photograph 5).

Finally, we found instances in which participant records containing protected health information (PHI) were not securely stored and safeguarded against unauthorized use (six providers) (Photograph 6).

Figure 2: Examples of Instances of Noncompliance With State Health and Safety Requirements

Unclean Centers

Photograph 1:

A rodent, bugs, and rodent droppings



Photograph 2:

Mold under the sink



Photograph 3:

Dusty refrigerator



Unsecured Hazardous Objects

Photograph 4:

Hand and power tools



Photograph 5:

Toxic chemicals



Unsecured PHI

Photograph 6:

Unsecured records



ALL 24 PROVIDERS REVIEWED DID NOT COMPLY WITH ADMINISTRATIVE REQUIREMENTS

Providers must comply with Federal waiver and State administrative requirements,⁸ which include maintaining documents related to participant and employee records and having written policies and procedures.

**Figure 3:
Example of Inadequate Prescription
Medication Procedures**



One provider had insufficient policies and procedures for handling participants' medication. As a result, a participant's medications were stored overnight in a disorganized manner in various containers, trash bags, and pharmacy bags; and there was no documentation regarding the medications in the provider's records. A nurse explained that the participant's medications were not "officially" kept by the provider and that the family and pharmacy sent the medication to the provider to refill the weekly pill box for the participant.

All 24 providers we reviewed did not comply with 1 or more administrative requirements. In total, we found 115 instances of noncompliance.

For example, during our site visits, we found that provider records did not always contain required documentation, such as:

- health records showing evidence of employee or participant tuberculosis screening (17 providers) (22 CCR §§ 78429(b)(2)(A) and 78303(e)(5));
- quarterly reassessments and signed and dated quarterly progress notes for each participant receiving physical therapy, occupational therapy, speech therapy, nursing, or medical social services (15 providers) (22 CCR §§ 54215, 54313(a)(3)(B), 54315(a)(7)(B), 54317(a)(3)(B), 54323(a)(3), and 54329(a)(3));
- evidence of completed first aid and CPR (cardiopulmonary resuscitation) training within the first 6 months of employment (11 providers) (22 CCR § 78413(e)); and
- written policies and procedures for storage, distribution, recording, and disposal of prescription medications and a record of medications stored overnight (8 providers) (22 CCR §§ 78317(k) and (g)(5)). See Figure 3.

⁸ California Medi-Cal 2020 Demonstration, Waiver Number 11-W-00193/9, Attachment W, Community-Based Adult Services Provider Standards of Participation.

STATE OVERSIGHT WAS NOT EFFECTIVE TO ENSURE PROVIDER COMPLIANCE WITH FEDERAL WAIVER AND STATE REQUIREMENTS

The State agency's oversight was not effective to ensure that providers serving vulnerable adults who received services through the Program complied with Federal waiver and State requirements. According to State officials from the administering departments, CDPH's relicensing surveys were not always conducted within the required 2-year timeframe because of competing priorities and staffing issues.⁹ In addition, because recertification by CDA focuses on quality-of-care issues, some instances of noncompliance were not always identified during inspections.

RECOMMENDATIONS

We recommend that the California Department of Health Care Services:

- ensure that the 24 providers we reviewed correct the 290 instances of noncompliance identified in this report and
- work with the other administering departments to improve the oversight of providers to ensure that relicensing surveys are conducted within the required 2-year timeframe and recertification inspections evaluate all applicable compliance areas.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency agreed with both of our recommendations and stated that it has prepared corrective action plans to implement our recommendations. The State agency also described corrective actions that the administering departments had taken or planned to take to implement our recommendations.

Regarding our first recommendation, the State agency said that the administering departments had completed 4 relicensing surveys and 17 recertification inspections for the 24 providers and planned to complete relicensing surveys and recertification inspections for the remaining providers by June 30, 2020. Regarding our second recommendation, the State agency said that the administering departments had trained additional analysts at three district offices to conduct relicensing surveys and developed new survey tools and planned to implement additional training and hire additional staff to conduct recertification inspections.

⁹ According to documentation provided by State officials, CDPH had not inspected 18 of the 24 providers within 2 years before our visits.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Of the 240 providers in California as of June 30, 2017, we selected 24 providers for review. We selected providers based on their geographic location and their history of health- and safety-related deficiencies.

To evaluate the State agency's oversight of providers' compliance with health and safety and administrative requirements, we conducted unannounced site visits at the 24 selected providers. We conducted our fieldwork in the California counties of Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, and Santa Clara.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State requirements for providers;
- discussed California's oversight of the Program with State officials from the administering departments;
- developed a health and safety and administrative requirement checklist, based on State licensing and certification requirements, as a guide for conducting site visits;
- conducted unannounced site visits at the 24 selected providers and discussed with the providers identified instances of noncompliance; and
- discussed the results of our review with State officials from the administering departments.

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>Kentucky Did Not Comply With Federal Waiver and State Requirements at 14 of 20 Adult Day Health Care Facilities Reviewed</i>	<u>A-04-18-00123</u>	7/9/2019
<i>Four States Did Not Comply With Federal Waiver and State Requirements in Overseeing Adult Day Care Centers and Foster Care Homes</i>	<u>A-05-19-00005</u>	5/16/2019
<i>Wisconsin Did Not Comply With Federal Waiver and State Requirements at All 20 Adult Day Service Centers Reviewed</i>	<u>A-05-17-00030</u>	10/15/2018
<i>Mississippi Did Not Comply With Federal Waiver and State Requirements at All 20 Adult Day Care Facilities Reviewed</i>	<u>A-04-17-00116</u>	8/20/2018
<i>Illinois Did Not Comply With Federal Waiver and State Requirements at 18 of 20 Adult Day Service Centers Reviewed</i>	<u>A-05-17-00028</u>	7/24/2018
<i>Minnesota Did Not Comply With Federal Waiver and State Requirements for All 20 Adult Day Care Centers Reviewed</i>	<u>A-05-17-00009</u>	5/30/2018
<i>Minnesota Did Not Comply With Federal Waiver and State Requirements for 18 of 20 Family Adult Foster Care Homes Reviewed</i>	<u>A-05-16-00044</u>	10/31/2017

APPENDIX C: FEDERAL AND STATE REQUIREMENTS

FEDERAL REQUIREMENTS

Social Security Act

Section 1115 of the Social Security Act authorizes the Secretary to approve experimental, pilot, or demonstration projects, such as California's Community-Based Adult Services Program. Demonstrations provide States with additional flexibility to design and improve their programs so that State-specific policy approaches to better serving the Medicaid population can be evaluated.

Federal Regulations

Federal regulations for section 1115 waivers require States to comply with the terms and conditions of the agreement between the Secretary and the State to implement a State demonstration project (42 CFR § 431.420(a)(2)).

FEDERAL WAIVER REQUIREMENTS: PROVIDER STANDARDS OF PARTICIPATION

Providers must (1) meet all applicable licensing and certification, as well as Medi-Cal and waiver program standards, as described or referenced in this document; (2) adhere to these waiver Standards of Participation; (3) enter into contracts with Medi-Cal managed care plans within the provider's geographic area to provide center services to Medi-Cal plan members; (4) provide services in accordance with the participant's Individualized Plan of Care; (5) adhere to the documentation, training, and quality assurance requirements identified in the CMS-approved 1115 waiver; and (6) demonstrate ongoing compliance with the requirements specified in these Standards of Participation (California Medi-Cal 2020 Demonstration, Waiver Number 11-W-00193/9, Attachment W, Community-Based Adult Services Provider Standards of Participation).

STATE REQUIREMENTS¹⁰

Inspection Requirements

Welfare and Institutions Code § 14574.1

(a) Every adult day health care center shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director, unless otherwise

¹⁰ The State requirements shown below are applicable to our findings and are directly quoted from Title 22 of the CCR, Division 3, chapter 5, §§ 54001–54507, and Division 5, chapter 10, §§ 78001–78609; the California Health and Safety Code, Division 2, chapter 3.3, §§ 1570–1596.5; and the California Welfare and Institutions Code, Division 9, chapter 8.7, §§ 14520–14590.

specified in the interagency agreement entered into pursuant to section 1572 of the Health and Safety Code. Inspections shall be conducted prior to the expiration of certification, but at least every two years, and as often as necessary to ensure the quality of care being provided. As resources permit, an inspection may be conducted prior to, as well as within, the first 90 days of operation.

Health and Safety Code § 1580.5

(a) Every adult day health care center shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Inspections shall be conducted prior to the expiration of certification or at least every two years

Health and Safety Requirements—Physical Environment

22 CCR § 54423 (Staffing Requirements)

(a) The program director, a registered nurse with public health background, a medical social worker, a program aide and the activity coordinator shall be on duty. Other staff shall be employed in sufficient numbers to provide services as prescribed in the individual plans of care, in accordance with the following minimal requirements, determined by each center's average daily attendance based on the previous quarter experience.

22 CCR § 78223 (Posting of License)

The license shall be posted in a prominent location in the center accessible to public view.

22 CCR § 78305 (Basic Program Services: Occupational Therapy Services)

(a) Occupational therapy services which utilize purposeful activity shall be provided and shall include at least the following:

(1) Initial and continuing assessment of the participant by an occupational therapist in the multidisciplinary team, including the treatment plan, method and interval of delivery of services to meet identified needs and discharge summary.

(2) Notation made after each treatment specifying method of treatment and the reaction of the participant to the treatment. Narrative notes shall be entered in the participant's health record when indicated and shall be signed by the occupational therapist.

(3) Progress notes shall be written at least quarterly in the participant's health record and shall be signed by the occupational therapist.

(b) The occupational therapy service shall be under the direction of an occupational therapist. An occupational therapy assistant or aide shall work only under the supervision of an occupational therapist.

22 CCR § 78307 (Basic Program Services: Physical Therapy Services)

- (e) Space shall be provided for storage of equipment.
- (f) Privacy shall be provided the participant during treatment.

22 CCR § 78311 (Basic Program Services: Medical Services)

- (c) Space shall be provided that allows privacy for the participant during examination by and consultation with the physician.

22 CCR § 78317 (Nursing Services: Medications)

- (b) Medications stored in the center or administered by center personnel shall be labeled in conformance with state and federal laws and regulations. Center personnel shall not alter prescription labels.
- (g) Medications shall be stored in the center under the following conditions:
 - (1) Medications shall be kept in clean, lockable cabinets, drawers or rooms. Such medications shall be accessible only to those licensed medical, nursing or pharmaceutical personnel designated by the center.
 - (2) Medications shall be stored in an orderly manner without overcrowding. External use drugs in liquid, tablet, capsule or powder form shall be stored separately from drugs for internal use.
 - (5) The center shall keep a record of all prescription medications stored overnight. The record shall include the participant's name, the drug name and strength, the prescription number, if dispensed by a pharmacy and the date received. If the medication is returned to the participant, that shall be noted and dated on the record. The record shall be retained for at least one year.
 - (6) Medications requiring refrigeration shall be stored at a temperature between 2 degrees C (36 degrees F) and 8 degrees C (46 degrees F). If stored in the same refrigerator with foods, the drugs shall be in a closed container or compartment clearly marked "drugs" or "medication."
- (i) Those centers desiring to keep emergency drug supplies shall meet the following requirements:
 - (2) The emergency drug supply shall be stored in a portable container which is sealed in such a manner that the tamper-proof seal must be broken to gain access to the drugs. The registered nurse shall notify the pharmacist when drugs have been used from the emergency kit or when the seal has been broken. Drugs used from the kit shall be replaced within 72 hours and the supply resealed by the registered nurse.
- (l) The center shall retain the services of a pharmacist who shall:
 - (1) Assist in the development and review of written policies and procedures.
 - (2) Monitor at least quarterly the implementation of policies and procedures related to medications at the center.
 - (3) Furnish to the center administrator at least quarterly a written report on the status of medication-related services.

(4) Communicate directly with participants, pharmacies, attending physician and center staff on matters pertaining to individual participant's drug therapy.

22 CCR § 78321 (Nutrition Services: Menus)

(c) Menus for all meals, between meal nourishments, and for therapeutic diets shall be written one week in advance, approved by a dietitian and posted in the kitchen. Menus shall be available for review by each participant served or the participant's designated representative.

22 CCR § 78325 (Nutrition Services: Food Sanitation)

(a) Kitchens and kitchen areas shall be kept clean, free from litter and rubbish and protected from rodents, roaches, flies and other vermin.

(d) Food shall be protected against contamination and spoilage. Contaminated or spoiled food shall not be served.

(e) Foods held in refrigerators or other storage space shall be covered.

(f) Foods which have been opened or prepared and are to be stored shall be labeled and dated.

22 CCR § 78327 (Nutrition Services: Food Service)

(d) Each participant shall be seated for meals on an individual chair, at a table, or as appropriate if the participant is in a wheelchair.

(e) Each participant shall be assisted by employees during meal times as needed.

22 CCR § 78333 (Nutrition Services: Staff)

(d) Each employee engaged in food preparation and service shall practice personal hygiene, including hand washing, wearing clean clothing and wearing of caps or hair nets. This includes participants who may, as part of their planned program, assist with food preparation.

22 CCR § 78335 (Nutrition Services: Food Storage)

(b) Food storage areas shall be clean at all times.

(d) The temperature for refrigerator, cold storage shall be maintained at 7 degrees C (45 degrees F) or below.

(f) The temperature for frozen food storage shall be maintained [at] minus 18 degrees C (0 degrees F) or below.

(i) Employees' street clothing and purses shall be stored in an enclosed area separated from food, paper goods, utensils, kitchen equipment and other supplies used in the preparation or service of food.

22 CCR § 78337 (Basic Program Services: Psychiatric or Psychological Services)

(c) Sufficient space shall be provided for privacy for individual or small group counseling or large group activities as indicated by participant's need.

22 CCR § 78341 (Basic Services: Recreation or Planned Social Activities)

(c) The activity coordinator's duties shall include at least the following:

(3) Posting of a schedule of planned activities in a central location readily accessible to participant, family, guardian or authorized representative.

22 CCR § 78417 (Program Director)

(a) Each center shall have a full-time program director. The program director shall be on the premises and available to participants, employees and relatives. When the program director is temporarily absent, another adult on the staff shall be designated to serve as the acting program director. When the program director is absent for more than one month, the acting program director shall meet the qualifications of the program director.

22 CCR § 78419 (Staffing Requirements)

(b) Appropriate professional employees and consultants qualified by education, training or experience shall be employed to meet the needs of the participants in the program and the staffing requirements of the Department.

22 CCR § 78425 (Transportation Safety)

(a) An adult day health center which provides direct transportation services for participants shall meet specific operational standards. The motor vehicle shall:

(2) Be equipped with safety devices to protect participants during transportation.

(4) Be maintained in a safe and reliable condition and shall meet the provisions of Section 233 of the California Vehicle Code.

22 CCR § 78435 (Retention of Records)

(c) Participants' health records shall be stored so as to be protected against loss, destruction or unauthorized use.

22 CCR § 78437 (Participant Rights)

(b) Each adult day health center shall post in a prominent place in the center a list of participant rights in English and any other predominant language of the community.

22 CCR § 78439 (Equipment and Supplies)

(a) Medical equipment and supplies in each center shall be of the quality and in the quantity necessary for care of participants as ordered or indicated. These shall be provided and properly maintained at all times and shall include at least the following:

(7) Refrigerator with thermometer.

22 CCR § 78503 (General Building Requirements)

(d) Water supply and plumbing shall meet the following:

(3) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures used by participants to attain a hot water temperature not less than 40.5 degrees C (105 degrees F) and not more than 48.8 degrees C (120 degrees F).

(4) Taps not accessible to participants delivering water at 51.6 degrees C (125 degrees F) or above shall be prominently identified by warning signs in letters at least 5 centimeters (2 inches) high.

22 CCR § 78505 (Space Requirements)

(a) Space shall be available to accommodate both indoor and outdoor activities and for storage of equipment and supplies.

(b) There shall be a multipurpose room large enough for all participants to get together for large group activities and meals.

(c) A secluded area shall be set aside for participants who require bed rest during the day. The secluded area shall have at least the following:

(1) Chaise lounges or beds in the number necessary to meet the needs of the participants and upon the written order of the staff or attending physician.

(2) Rubber or plastic sheeting.

(d) Double-deck beds shall not be permitted.

(e) Space around sleeping accommodations shall permit easy passage.

(f) Separate space shall be provided for isolation of a participant whose illness requires temporary separation from others.

(g) Appropriate office or other space shall be provided for administrative and admission activities, for a reception area and for a telephone, desk and file cabinets.

(h) General and specialized storage space shall be maintained to meet the needs of participants and for efficient operation of the center. Storage shall not be permitted in air distribution chambers of heating, air conditioning or ventilating systems.

(i) Space for outdoor activities shall be easily accessible to ambulatory and nonambulatory participants and shall be protected from traffic.

22 CCR § 78507 (Maintenance and Housekeeping)

(a) Each center shall be clean, safe and in good repair at all times. Maintenance shall include provisions for cleaning and repair services which include, but are not limited to:

- (1) Cleaning of hard surfaces, such as counters, tables, windows, walls and floors to keep them free from accumulation of dirt.
- (2) Cleaning of soft surfaces, such as rugs, upholstered furniture and drapes to keep them free from an accumulation of dirt, stains or odor.
- (3) Maintenance of all interior and exterior surfaces.
- (4) Maintenance of all buildings, fixtures and equipment in operable condition.
- (5) Maintenance of toilet, handwashing and bathing facilities in operating condition and free of dirt.
- (6) Maintenance of heating, air conditioning and ventilating systems in normal operating condition.
- (7) Maintenance of all furnishings in good repair.
- (8) Maintenance of grounds in a safe and attractive condition.

22 CCR § 78509 (Safety)

(a) The licensee shall, by means of supervision, instruction and the installation of appropriate protective devices protect participants against hazards. . . .

22 CCR § 78513 (Solid Waste)

(a) Storage and disposal of solid waste shall meet the following requirements:

- (1) Solid waste shall be stored, located and disposed of in a manner that will not permit the transmission of communicable disease or odors, create a nuisance, provide a breeding place or food source for insects, rodents or vermin.
- (2) Syringes and needles, before being discarded into waste containers, shall be rendered unusable.

(b) Each waste container, except movable bins, used for storage of solid waste shall have tight-fitting covers in good repair and external handles, and shall be leakproof and rodent-proof.

(c) Movable bins when used for storing or transporting solid waste from the premises shall have tight-fitting covers in good repair and be rodent-proof unless stored in a room or screened enclosure.

Health and Safety Requirements—Emergencies

22 CCR § 78323 (Nutrition Services: Quality of Food)

(c) Food in unlabeled, rusty, leaking, broken containers or cans with side seam dents, rim dents or swells shall not be accepted, retained or used.

22 CCR § 78423 (Disaster Plan)

(a) Each center shall have a plan for a disaster occurring within the center, or a local disaster occurring in the community.

(d) The disaster plan shall be conspicuously posted in the center and kept up to date, and shall be subject to annual review by the appropriate fire safety and disaster authorities of local government.

22 CCR § 78501 (Physical Accommodations)

(a) Each center shall be designed, equipped and maintained to provide for a safe and healthful environment and shall meet the following requirements:

(2) Each center shall be maintained in conformity with the regulations adopted by the State Fire Marshal for the prevention of fire and for the protection of life and property against fire and panic.¹¹

22 CCR § 78503 (General Building Requirements)

(e) Auxiliary lighting facilities, where appropriate, shall be readily available. Flashlights shall be in readiness for use at all times. Open-flame types of light shall not be used.

22 CCR § 78509 (Safety)

(a) The licensee shall, by means of supervision, instruction and the installation of appropriate protective devices protect participants against hazards. Protection shall include but not be limited to:

(5) Passageways and stairways kept free of obstruction.

Health and Safety Code § 1584

(c) Adult day health care centers installing security devices pursuant to this section shall meet all of the following requirements:

(7) Emergency fire and earthquake drills shall be conducted at least once every three months, or more frequently as required by a county or city fire department or local fire prevention district. The drills shall include all center staff and volunteers providing participant care and supervision. This requirement does not preclude drills with participants as required by regulations.

¹¹ According to 19 CCR §§ 574.1 and 574.5(b), fire extinguishers must be manually inspected when initially placed in service. At least monthly, the date the manual inspection was performed and the initials of the person performing the inspection must be recorded on a tag or label attached to the fire extinguisher or an inspection checklist maintained on file or an electronic system (e.g., bar coding) that provides a permanent record.

Administrative Requirements—Records

22 CCR § 54207 (Multidisciplinary Team Assessment)

(a) Each applicant shall be assessed by a multidisciplinary team prior to acceptance into the program. The assessment shall be conducted by the adult day health care provider in order to ascertain the individual's pathological diagnosis, physical disabilities, functional abilities, psychological status and social and physical environment. The assessment shall include:

(2) Assessment of the home environment based on a home visit within the last 12 months.

The assessment shall include:

(A) Living arrangements.

(B) Relationship with family or other person.

(C) Facilities available such as heat, bath, toilet, stove.

(D) Existence of environmental barriers such as stairs or other features not negotiable by the impaired individual.

(E) Access to transportation, shopping, church or other needs of the individual.

22 CCR § 54211 (Multidisciplinary Team)

(b) The multidisciplinary assessment team shall:

(2) Develop an individualized plan of care including goals, objectives and services designed to meet the need of the person. The plan shall be signed by each member of the team, except that the signature of only one physician member of the team shall be required.

22 CCR § 54215 (Reassessment)

(a) Reassessment, at least quarterly, shall include:

(1) Progress achieved.

(2) Review and revision of goals and objectives.

(3) Revision or continuation of the individual plan of care.

(4) Preparation of a reauthorization request for continuing care.

22 CCR § 54313 (Physical Therapy Service)

(a) The physical therapy service shall:

(3) Require that physical therapists:

(B) Record quarterly progress notes. Each entry shall be signed and dated.

22 CCR § 54315 (Occupational Therapy Services)

(a) Occupational therapy services shall:

(7) Require that occupational therapists:

(B) Record quarterly progress notes. Each entry shall be signed and dated.

22 CCR § 54317 (Speech Therapy Services)

- (a) Speech therapy services shall:
 - (3) Require that speech therapists:
 - (B) Record quarterly progress notes. Each entry shall be signed and dated.

22 CCR § 54323 (Nursing Service)

- (a) The nursing service shall, as a minimum:
 - (3) Document all skilled nursing care provided on the day the service is given and include quarterly signed and dated progress notes in each participant record.

22 CCR § 54329 (Medical Social Services)

- (a) Medical social services shall as a minimum:
 - (3) Provide a signed and dated documentation for all service performed the day the service is provided and include signed and dated quarterly progress reports in each participant record.

22 CCR § 54331 (Nutrition Service)

- (c) Therapeutic diets shall be served as ordered and shall be prepared under the guidance of a registered dietitian. The diet order shall be reviewed every 90 days when the reassessment is done.

22 CCR § 54339 (Activity Program)

- (d) Each adult day health center shall designate an activity coordinator who shall be a full-time employee of the center. The activity coordinator shall have the following duties:
 - (2) Record, date and sign quarterly progress notes in each participant record.

22 CCR § 54419 (Utilization Review Committee)

- (a) Each adult day health center shall establish a utilization review committee. Membership in this committee shall include, but is not limited to, a representative from the adult day health center, and professional personnel such as a physician, psychiatrist, nurse, social worker, occupational, physical or speech therapist who are not employed by the center.
- (b) The committee shall evaluate the appropriateness of the health care provided by reviewing individual records of participants and shall make recommendations to the center to correct any deficiencies identified. Procedures for the utilization review committee and the method of selecting records for review shall be approved by the Department. This committee shall meet at least quarterly.

(c) All activities of the utilization review committee shall be reported quarterly to the Department in a format approved by the Department. As a minimum, the report shall include the:

- (1) Number of cases reviewed.
- (2) Nature and extent of the problems encountered.
- (3) Summaries of the actions taken by the review system.

22 CCR § 54425 (Participant Records)

(a) Each center shall maintain a complete health record for each participant in the program in the format established by the Department. Each medical record shall include, but is not limited to:

- (8) Progress notes by involved personnel.

22 CCR § 78303 (Basic Program Services: Assessment)

(d) A written individualized plan of care shall be developed to meet the needs of each participant and shall include but not be limited to:

- (12) The signature of each member of the multidisciplinary team including a physician.

(e) Prior to or at the time of the admission of a participant, the program director shall obtain a written health assessment of the participant which has been completed within 90 days by the participant's physician or staff physician. The assessment shall be included in the participant's health record and shall include at least the following:

- (5) Evidence of tuberculosis screening.

22 CCR § 78317 (Nursing Services: Medications)

(g) Medications shall be stored in the center under the following conditions:

- (5) The center shall keep a record of all prescription medications stored overnight. The record shall include the participant's name, the drug name and strength, the prescription number, if dispensed by a pharmacy and the date received. If the medication is returned to the participant, that shall be noted and dated on the record. The record shall be retained for at least one year.

(j) Drugs which have been left in the center by participants who have expired or have not visited the center for 30 days shall be destroyed in the center in the following manner:

- (1) A registered nurse employed by the center and either another licensed nurse, the center administrator, a pharmacist or a physician shall witness the destruction.
- (2) The method of destruction shall be recorded or indicated in the center's written procedures. Destruction shall be by flushing into the sewage system.
- (3) Both witnesses required in (1) above shall sign a record which lists the date of destruction, the participant's name, the drug name and strength, the quantity destroyed and the prescription number, if any.

(k) There shall be written policies and procedures governing all aspects of medication storage, distribution, recording and disposal in the center.

22 CCR § 78345 (Basic Program Services—Plan for Discharge)

(a) A plan for discharge of each participant shall be based on the assessment of the participant by the multidisciplinary team and shall be reviewed and updated at the time of each reassessment.

22 CCR § 78403 (Plan of Operation)

(a) Each center shall have a written plan of operation submitted with the license application and which shall be kept current.

(b) The plan shall include the following:

(1) Hours and days of operation.

(2) Number of participants to be served, age and type of participants.

(3) Description of basic services and any optional services for which departmental approval is required.

(4) Policies and procedures for admission and discharge planning.

(5) Policies and procedures for assessment of participants.

(6) Staffing pattern which includes a description of multidisciplinary professional staff by discipline.

(7) A plan for utilizing community resources.

(8) Policies and procedures for in-service training of employees and volunteers.

22 CCR § 78407 (Requirements for Participant Admission)

(a) Requirements for admission shall include:

(1) Authorization by the Department for Medi-Cal beneficiaries which shall be initiated by the provider and shall include the results of initial assessment by the multidisciplinary team and the individual plan of care, signed by each member of the team.

22 CCR § 78425 (Transportation Safety)

(b) The center shall develop policies regarding transportation safety and maintenance of vehicles.

22 CCR § 78429 (Employee Records)

(b) Each employee record shall contain at least the following:

(2) A health record containing a report of the following:

(A) Chest X-ray or test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA) performed not more than 12 months prior to employment or within 7 days of employment.

Welfare and Institutions Code § 14529

(a) The multidisciplinary health team conducting an assessment shall consist of at least the individual's physician or a staff physician, or both, a registered nurse, and a social worker.

(d) The assessment team shall:

(2) Develop an individualized plan of care, including goals, objectives, and services designed to meet the needs of the person, which shall be signed by each member of the multidisciplinary team, except that the signature of only one physician member of the team shall be required.

Administrative Requirements—Training

22 CCR § 78413 (Employee Requirements)

(d) A planned in-service education program, including orientation, skill training and continuing education shall be provided for employees.

(e) All staff members shall receive in-service training in first aid and in cardiopulmonary resuscitation within the first six months of employment.

APPENDIX D: INSTANCES OF NONCOMPLIANCE AT EACH PROVIDER

Provider	Health and Safety		Administration		Total
	Physical Environment	Emergencies	Records	Training	
1	3	1	1	0	5
2	9	5	3	1	18
3	4	4	3	0	11
4	4	2	4	1	11
5	5	2	7	0	14
6	12	2	6	1	21
7	0	0	1	0	1
8	2	2	6	0	10
9	1	1	2	0	4
10	1	1	2	0	4
11	4	1	1	1	7
12	9	2	3	1	15
13	9	5	5	1	20
14	5	2	6	1	14
15	3	2	2	1	8
16	3	2	6	1	12
17	4	2	6	2	14
18	3	3	5	0	11
19	5	3	4	0	12
20	7	1	5	2	15
21	7	3	6	1	17
22	7	4	6	1	18
23	5	3	3	0	11
24	7	3	6	1	17
Total	119	56	99	16	290

Note: We separately provided to the State agency a list of the specific providers reviewed and their specific violations.

APPENDIX E: ADDITIONAL PHOTOGRAPHS OF NONCOMPLIANCE

Unsecured Protected Health Information

Photographs
7 and 8



Photographs
9-11



Photographs 7 and 8: Medical record storage room left open and unsupervised.
Photographs 9-11: Unlocked storage room containing participant records and miscellaneous items.

Unclean and in Bad Repair

Photographs 12 and 13



Photograph 14



Photographs 15-17



Photographs 12 and 13: Rooms with missing and stained floor and ceiling tiles.
Photograph 14: Restroom with overflowing trash cans and rust on stall partitions.
Photograph 15-17: Kitchen with dirt buildup on gasline and electric outlet and dirty cupboards.

Unsecured Hazardous Objects

Photographs 18 and 19



Photographs 20–22



Photographs 18 and 19: Unsecured toolbag stored in a participant rest area and tools from the bag.

Photographs 20–22: Unsecured toxic chemicals stored in a physical therapy room, storage closet, and kitchen.

Unsanitary Food Storage

Photographs 23 and 24



Photograph 25



Photographs 26–28



Photographs 23 and 24: Perishable food items left out at room temperature.

Photograph 25: Emergency food supplies that had expired 3 to 12 months before the date of our site visit.

Photographs 26–28: Uncovered food and beverages stored in the refrigerator.

Lack of Space

Photographs
29–31



Photograph
32



Photograph
33



Photographs 29–31: Participant beds surrounded by clutter and not easily accessible.

Photograph 32: Equipment stored in an unsafe manner.

Photograph 33: Space not permitting easy passage to participant beds.

APPENDIX F: STATE AGENCY COMMENTS



State of California—Health and Human Services Agency
Department of Health Care Services



NOV 27 2019

Ms. Lori A. Ahlstrand
Regional Inspector General for Audit Services
Office of Audit Services, Region IX
90 – 7TH Street, Suite 3-650
San Francisco, CA 94103

Dear Ms. Ahlstrand,

The California Department of Health Care Services (DHCS) has prepared its response to the U.S. Department of Health and Human Services, Office of Inspector General (OIG) draft report entitled, *California Needs To Improve Oversight of Community-Based Adult Service Providers' Compliance With Health and Safety and Administrative Requirements*.

DHCS agrees with all recommendations provided by OIG and has prepared corrective action plans to implement all recommendations.

DHCS appreciates the work performed by OIG and the opportunity to respond to the draft report. If you have any questions, please contact Ms. Nicole Jacot, External Audit Coordination Manager, at (916) 713-8812.

Sincerely,

Jennifer Kent
Director

Enclosure

cc: See Next Page

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**Department of Health Care Services' Response to the Office of Inspector
General's Draft Report, *California Needs to Improve Oversight of Community-
Based Adult Services Providers' Compliance With Health and Safety and
Administrative Requirements*
Report Number: A-09-18-02002 (17-18)**

Finding 1:

The Department of Health Care Services (DHCS) oversight did not ensure that providers serving vulnerable adults who received services through the program complied with federal waiver and state requirements. All 24 providers reviewed did not comply with one or more health and safety or administrative requirements. The 24 providers reviewed each had from one to 21 instances of noncompliance. In total, we found 290 instances of noncompliance with health and safety and administrative requirements.

Recommendation 1:

California ensure that the 24 providers reviewed correct the 290 instances of noncompliance identified in the report.

Response: Concur

Current Status: Not Fully Implemented

Estimated Implementation Date: June 2020

Implementation Plan:

DHCS commits to working in tandem with both California Department of Public Health (CDPH) & California Department of Aging (CDA) to ensure that all 290 instances of noncompliance identified in this report are corrected and recommendations fully implemented. DHCS will support CDPH & CDA on the following corrective action plans:

Of the 24 providers indicated, CDPH Licensing and Certification (L&C) conducted four relicensing surveys in the last 12 months (July 2018-August 2019). Additionally, CDPH performed two Change of Location (CHOL) surveys, two Change of Ownership (CHOW) surveys, and conducted multiple complaint investigations at seven Adult Day Health Care (ADHC) – also known as Community-Based Adult Services Providers – facilities within the last two years (from July 2017).

Starting in August 2019, CDPH will schedule and complete surveys over the next 6 months for the 20 remaining facilities identified in this audit with serious non-compliance issues. CDPH will share results of these surveys with the California Department of Aging (CDA), which conducts recertification surveys for ADHCs.

CDA inspected 17 of the 24 providers to make certain that they are meeting Medi-Cal certification requirements. The deficiencies identified by CDA were similar to those identified in the OIG report. All centers were required to submit and implement an acceptable plan of correction following their onsite inspection by CDA. Meanwhile, the seven remaining centers will be inspected by CDA by June 30, 2020.

Finding 2:

According to state officials from the administering departments, relicensing surveys were not always conducted within the required two-year timeframe because of competing priorities and staffing issues. In addition, because recertification focuses on quality-of-care issues, some instances of noncompliance related to the centers' physical environment were not always identified during inspections.

Recommendation 2:

DHCS work with the other administering departments to improve the oversight of providers to ensure that relicensing surveys are conducted within the required 2-year timeframe and recertification inspections evaluate all applicable compliance areas.

Response: Concur

Current Status: Not Fully Implemented

Estimated Implementation Date: November 2019

Implementation Plan:

DHCS commits to working in tandem with both California Department of Public Health (CDPH) & California Department of Aging (CDA) to ensure that relicensing surveys are conducted within the required 2-year timeframe and recertification inspections evaluate all applicable compliance areas. DHCS will support CDPH & CDA on the following corrective action plans:

CDPH will make every effort to conduct bi-annual ADHC relicensing surveys pending prioritization of higher priority workload. That being said, the Center for Health Care Quality (CHCQ) has successfully trained AGPAs in three district offices to conduct re-licensing surveys for clinics and ADHCs. Licensing and Certification (L&C) will provide training for other district offices who request it and have the capacity for staff to conduct these surveys.

CHCQ will implement the following strategies to improve coordination and oversight of ADHC providers:

1. As mentioned above, train AGPAs to conduct relicensing surveys at ADHCs.
2. Share any relicensing survey findings or issues with CDA for their review and consideration in preparation of recertification surveys conducted by CDA.
3. Convene quarterly meetings with CDA to discuss provider issues and common violations with State requirements, and collaborate to provide training sessions and forums for ADHC providers.
4. Periodically run data reports on common violations in ADHCs and identify strategies for improvement to ensure quality of care and safety for patients, as well as ensure consistency of service across providers.

Subsequent to this audit CDA developed a comprehensive checklist of applicable compliance areas for use by CDA survey staff during on-site inspections. CDA will implement training for survey staff by November 30, 2019, related to the use of the checklist and other survey tools to ensure that recertification inspections evaluate all applicable compliance areas.

In addition, CDA plans to hire additional staff to assist with provider monitoring and onsite surveys. These new staff will assist CDA in its efforts to conduct timely and comprehensive onsite recertification inspections thereby increasing and improving oversight of providers' compliance with recertification requirements.