

Special Report

Nursing Homes Cited with Infection Control Deficiencies during the Pandemic: Poor Results In Health Inspections, Low Staffing Levels

Since March 2020, the Centers for Medicare & Medicaid Services (CMS) has limited surveys to two types: targeted infection control surveys and complaints and facility-reported incidents that states triage as immediate jeopardy. The Center for Medicare Advocacy analyzed the infection control surveys released by CMS on June 4, 2020 and found that less than 3% of 5724 infection control surveys resulted in infection control deficiencies; 163 infection control deficiencies were cited at 162 nursing facilities.¹

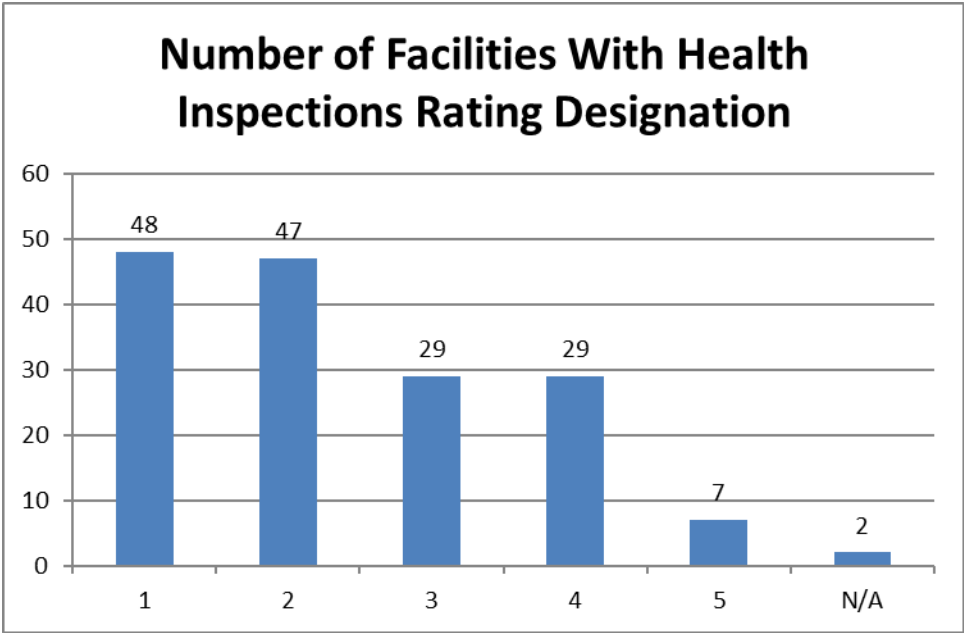
The Center has now analyzed the information on *Nursing Home Compare* for the 162 facilities that were cited with infection control deficiencies.² By various measures, these facilities provide poor quality care. Facilities cited with infection control deficiencies had low star ratings, particularly in health surveys, and were more likely to be for-profit facilities. More than 40 percent of the facilities had remedies imposed (civil money penalties) for prior deficiencies and ten facilities were Special Focus Facilities or candidates for the SFF program.

STAR RATINGS

CMS provides star ratings on a five-point scale (with five stars the best) for Medicare and Medicaid-certified facilities for each of three categories – health inspections (standard surveys, complaint surveys, all unannounced), staffing, and quality measures (primarily self-reported). CMS then calculates an overall rating for each facility. The overall rating begins with the health inspection rating and is increased by one star for four or five stars in staffing or five stars in quality measures (or both) or is reduced by one star for one star ratings in staffing or quality measures (or both). A common pattern, illustrated below in the facilities discussed here, is that facilities boost their overall ratings by reporting resident assessment information that gets them five-star ratings in the quality measure domain.

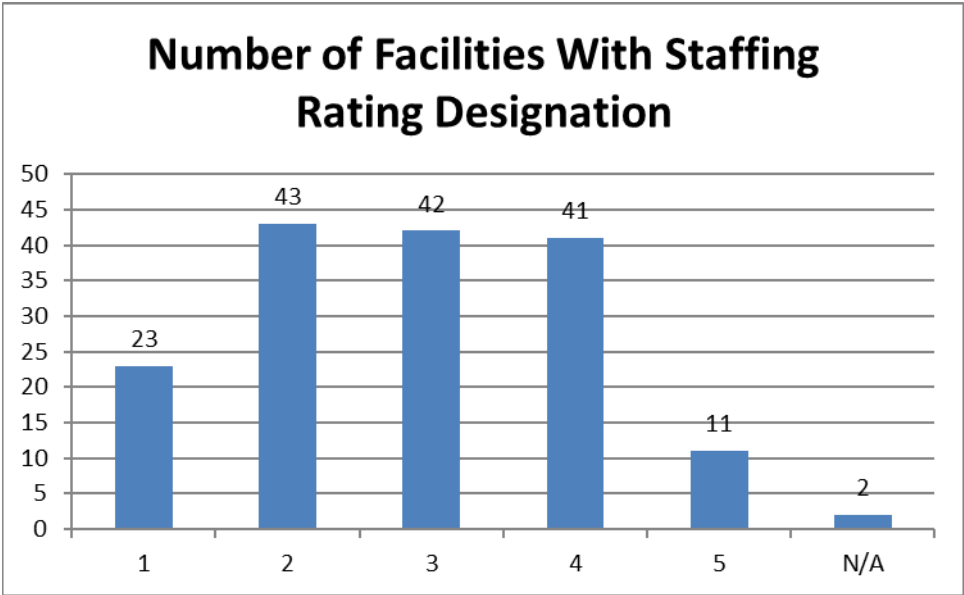
Health Inspections

As shown below, facilities with poorer survey results were more likely to be cited with an infection control deficiency. Of the 160 facilities cited with an infection control deficiency, 95 facilities (59.4 percent) had one or two stars in health inspection surveys. Only 36 facilities with four or five stars (22.5 percent) in health inspection surveys were cited with an infection control deficiency.



Staffing Rating

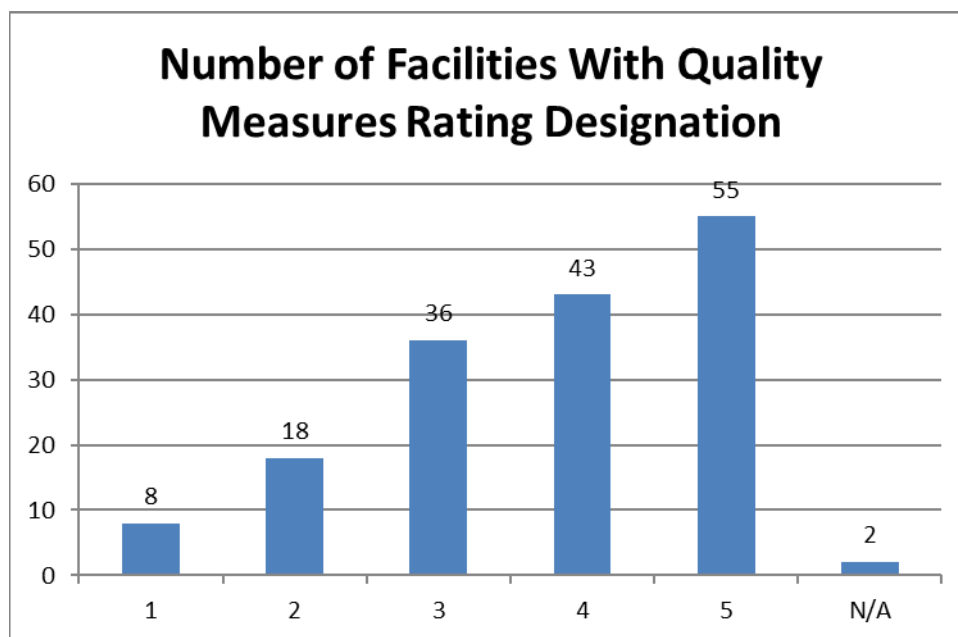
One-star facilities, those with the lowest staffing levels, were more than twice as likely to be cited with an infection control deficiency as facilities with five stars, the highest rating in staffing.



Quality Measures Rating

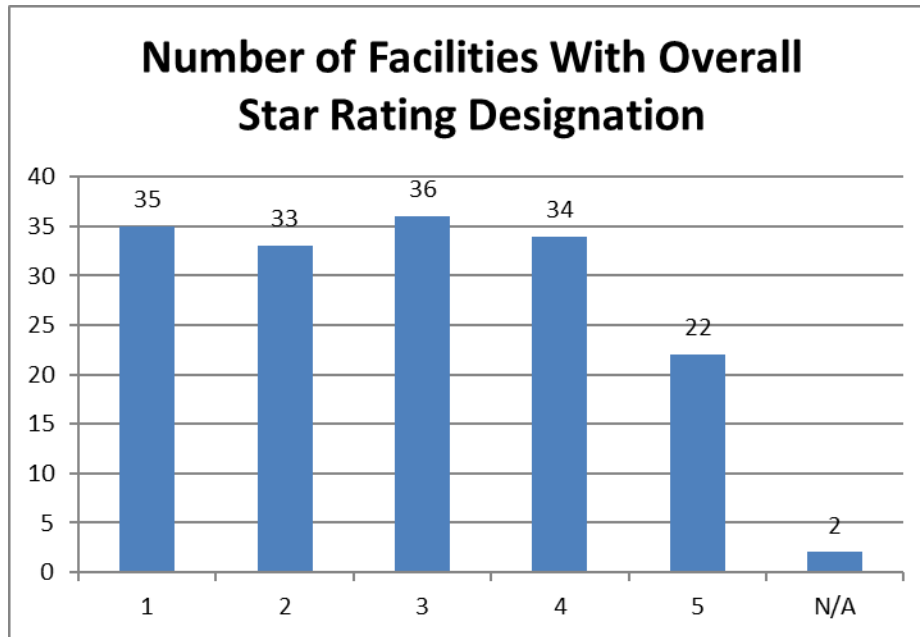
As shown, most facilities have a high rating in the quality measures domain and very few facilities have a low rating in quality measures. Nearly two out of three facilities (98 of 160 facilities) (61 percent) have four or five stars in the quality measures domain. Only 24 of 160 facilities (15 percent) have one or two stars in quality measures.

Nursing facilities have been gaming the quality measures ratings for a long time; gaming is not a new phenomenon. Evaluating the first five years of the federal rating system, 2009-2013, Abt Associates reported that four- and five-star ratings in the quality measures domain increased from 34.1 percent in January 2009 to 67.0 percent in July 2013, while one- and two-star ratings declined from 42.8 percent to 14.2 percent during the same period.³ *The New York Times* reached a similar conclusion about nursing homes' gaming of the rating system.⁴



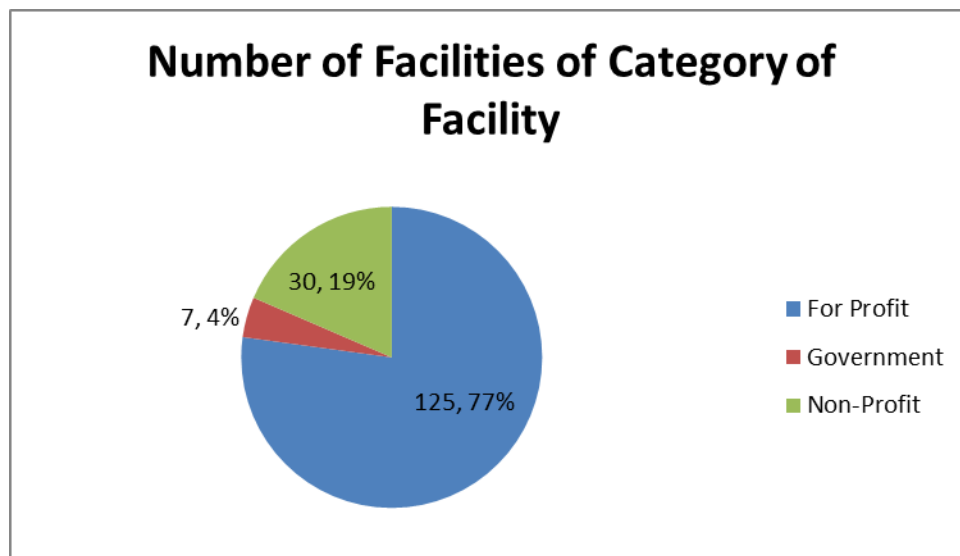
Overall Rating

The high ratings in the quality measures domain boost many facilities' overall ratings. Only 68 facilities (42 percent) have one- or two-star overall ratings (compared to 95 facilities, 59.4 percent receiving one or two stars in health inspection ratings).



OWNERSHIP STATUS

One hundred twenty-five (77 percent) of the infection control deficiencies were cited in for-profit nursing facilities. In 2016, for-profit facilities represented 69.3 percent of facilities nationwide.⁵



REMEDIES

Sixty-five of the 162 facilities (40.1 percent) have had civil money penalties imposed; the average fine for the 65 facilities was \$36,866.78.

Twenty-two of the 162 facilities (13.6 percent) have denial of payment for new admissions imposed.

CMS does not provide comparative data on *Nursing Home Compare* to allow for the calculation of the percentages of facilities that are sanctioned, on either a statewide or national basis, with either of these remedies. Nevertheless, the rates of federal sanctions reported here are high; 40.1 percent of nursing facilities are not typically sanctioned with fines and 13.6 percent are not typically sanctioned with denial of payment for new admissions.

SPECIAL FOCUS FACILITY AND CANDIDATES

CMS and states collectively identify Special Focus Facilities (SFFs) that

- “More problems than other nursing homes (about twice the average number of deficiencies), •
- “More serious problems than most other nursing homes (including harm or injury experienced by residents), and
- “A pattern of serious problems that has persisted over a long period of time (as measured over the three years before the date the nursing home was first put on the SFF list).”⁶

There are 88 SFFs nationwide.

Since July 2019, CMS has also publicly released a list of approximately 400 additional facilities, between five and 30 facilities per state, that meet the criteria for the SFF program but are not included in the program, solely due to the lack of sufficient resources to conduct the additional surveys that are required for SFFs. These facilities are called SFF candidates.

Two of the 160 facilities are SFFs and eight of the 160 facilities were on the SFF candidate list (total, six percent), as of May 27, 2020.

In 2017, there were approximately 15,483 nursing facilities in the United States.⁷ The approximately 500 SFFs and SFF candidates reflect approximately three percent of the country’s 15,483 nursing facilities.

Facilities cited with infection control deficiencies are approximately twice as likely to be an SFF or SFF candidate as other facilities.

CONCLUSION

The nursing facilities cited with infection prevention and control deficiencies since March 2020 during the COVID-19 pandemic stand out for their poor quality of care, relatively low staffing

levels, comparatively high number of federal fines, and disproportionate status as SFFs or SFF candidates. Facilities cited with poor infection control practices during the pandemic are among the poorest quality facilities in the country.

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¹ Center for Medicare Advocacy, “Infection Control Surveys at Nursing Facilities: CMS Data Are Not Plausible” (Report, Jun. 11, 2020), <https://medicareadvocacy.org/wp-content/uploads/2020/06/Infection-Control-Surveys-Report.pdf>.

² The 163 deficiencies were cited in 162 distinct nursing facilities. Two other facilities are excluded from this analysis of the star ratings because they were Special Focus Facilities (SFF); CMS does not report star ratings for SFFs. These two facilities are included in the discussions of ownership status, remedies, and Special Focus Facilities.

³ Abt Associations, “Nursing Home Compare: The First Four Years of the Five-Star Quality Rating System” (PowerPoint at GSA Annual Scientific Meeting, Nov. 2013), slide 16, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/2013-The-First-Four-Years-of-Five-Star.pdf>.

⁴ Katie Thomas, “Medicare Star Ratings Allow Nursing Homes to Game the System,” *The New York Times* (Aug. 24, 2014), <https://www.nytimes.com/2014/08/25/business/medicare-star-ratings-allow-nursing-homes-to-game-the-system.html?searchResultPosition=3>.

⁵ National Center for Health Statistics, Centers for Disease Control and Prevention, <https://www.cdc.gov/nchs/fastats/nursing-home-care.htm>.

⁶ CMS, Special Focus Facility (“SFF”) Program, <https://www.cms.gov/files/document/sff-posting-candidate-list-may-2020.pdf>.

⁷ Priya Chidambaram, Kaiser Family Foundation, “Data Note: How might Coronavirus Affect Residents in Nursing Facilities?” (Mar. 13, 2020), <https://www.kff.org/coronavirus-covid-19/issue-brief/data-note-how-might-coronavirus-affect-residents-in-nursing-facilities/>.