



**Inspector
General**

Texas Health
and Human Services

Nursing Facility Utilization Review Quarterly Stakeholder Meeting

**Office of Inspector General
Investigations and Reviews Division
Medical Services**

September 13, 2021



**Inspector
General**

Texas Health
and Human Services

Nursing Facility MDS 3.0 Reviews

FY 2021 Work Plan will continue through October. Review samples contain managed care and fee-for-service claims.

The sample period is 3/1/2019 through 2/29/2020.

As of 8/31/2021, 240 on-site reviews have been completed.



**Inspector
General**

Texas Health
and Human Services

Authority to Access Nursing Facility

Medicaid providers are required to grant immediate access to the OIG, allow the OIG to conduct any duties necessary to the performance of OIG official functions, and provide to the OIG copies or originals of any necessary records.

Records must be provided immediately and unconditionally.

1 TAC §371.1707; 1 TAC §371.1667



**Inspector
General**

Texas Health
and Human Services

Authority to Access Nursing Facility

Nursing facilities may exclude entry only on the basis of the criteria set out in 26 TAC 554.2803 Emergency Rule for Nursing Facility Response to COVID-19.

554.2803(a)(12):

Persons with legal authority to enter--Law enforcement officers, representatives of the long-term care ombudsman's office, representatives of the protection and advocacy system in the state for individuals with mental illness or individuals with intellectual or developmental disabilities and government personnel performing their official duties.

554.2803(c):

A nursing facility must screen all visitors prior to allowing them to enter the facility, except emergency services personnel entering the facility or facility campus in an emergency. Visitor screenings must be documented in a log kept at the entrance to the facility, which must include the name of each person screened, the date and time of the screening, and the results of the screening. The visitor screening log may contain protected health information and must be protected in accordance with applicable state and federal law.



**Inspector
General**

Texas Health
and Human Services

Authority to Access Nursing Facility

554.2803(d):

Visitors who meet any of the following screening criteria must leave the nursing facility campus and reschedule the visit:

(1) fever, defined as a temperature of 100.4 Fahrenheit and above;

(2) signs or symptoms of COVID-19, including chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea;

(3) any other signs and symptoms as outlined by CDC in Symptoms of Coronavirus at [cdc.gov](https://www.cdc.gov);

(4) close contact in the last 14 days with someone who has a confirmed diagnosis of COVID-19, is under investigation for COVID-19, or is ill with a respiratory illness, regardless of the visitor's vaccination status; or

(5) has tested positive for COVID-19 in the last 10 days.

(e) A nursing facility must allow persons providing critical assistance, including essential caregivers, and persons with legal authority, to enter the nursing facility if they pass the screening in subsection (d) of this section.



**Inspector
General**

Texas Health
and Human Services

ADL Task Performed by Therapist

NFUR Stakeholders requested a follow-up on ADL coding when the ADL task is performed by a therapist. There are two scenarios from our onsite reviews:

1. ADL task performed by therapist and the same therapist had a therapy session with the same resident same day.
2. ADL task performed by therapist and the same therapist did not have a therapy session with the same resident same day.



**Inspector
General**

Texas Health
and Human Services

ADL Task Performed by Therapist Cont'd

ADL task performed by therapist and the same therapist had a therapy session with the same resident same day.

1. Therapist progress notes should include specific documentation indicating the time spent performing the ADL task. This time is excluded from the time spent performing therapy session.
2. Therapist progress notes would also need to indicate what performance-based scale was utilized by therapist while coding that ADL task.

RAI Manual references:

CMS's RAI Version 3.0 Manual: October 2019 O-18.



**Inspector
General**

Texas Health
and Human Services

ADL Task Performed by Therapist Cont'd

ADL task performed by therapist and the same therapist did not have a therapy session with the same resident same day.

1. Therapist can document the ADL task in the ADL flowsheet or
2. Therapist may document the ADL task in the medical record and indicate what performance-based scale is utilized.

RAI manual references:

CMS's RAI Version 3.0 Manual: October 2019 Page G-2



**Inspector
General**

Texas Health
and Human Services

Delayed Certifications for Therapy

Therapy not ordered by a physician or certified should not be coded on the MDS.

Certifications/ Recertification

Timing of Certifications

Initial Certification by Physician/NPP should certify the plan as “soon as possible”, or within 30 days of the initial therapy treatment

Continued or modified therapy should be signed whenever the need for a significant modification of the plan becomes evident, or at least every 90 days after initiation of treatment under that plan, unless they are delayed.



**Inspector
General**

Texas Health
and Human Services

Delayed Certifications for Therapy Cont'd

Skilled nursing facilities are expected to obtain timely certification and recertification statements. However, delayed certifications and recertifications will be honored where, for example, there has been an isolated oversight or lapse.

In addition to complying with the content requirements, delayed certifications and recertifications must include an explanation for the delay and any medical or other evidence which the skilled nursing facility considers relevant for purposes of explaining the delay.

**Medicare Pub. 100-1, chap 4., sec. 40.5
Delayed Certifications and Recertifications for Extended Care
Services**



**Inspector
General**

Texas Health
and Human Services

Delayed Certifications for Therapy Cont'd

There is concern about the possibility of therapy occurring without a physician's knowledge and may be a potential risk to the resident if not ordered and monitored by the physician.

HHSC Information Letter 19-23, Rehabilitative Services Best Practices Documentation Requirements, dated August 9, 2019, states in part:

- In accordance with the Medicaid program policy guidelines, NFs are responsible for the clinical documentation and physician orders necessary to establish a rehabilitative resource utilization group (RUG).
- NFs failing to maintain documentation required by program rules are subject to corrective action which could include repayment of Medicaid funds.
- Therapy evaluation and treatment orders should have the appropriate therapist and physician signatures.



**Inspector
General**

Texas Health
and Human Services

Retention of Records Current Owner Responsibility

Electronic and Change of Ownership Review

The current owner is responsible in accordance with 26 TAC §554.1910 which states:

(a) The facility must maintain clinical records on each resident, in accordance with accepted professional health information management standards and practices, that are:

(1) complete;



**Inspector
General**

Texas Health
and Human Services

Retention of Records Cont'd

- (2) accurately documented;
- (3) readily accessible;
- (4) systematically organized; and
- (5) protected from unauthorized release.

- (b) Clinical records must be retained for:
 - (1) five years after medical services end;or
 - (2) for a minor, three years after a resident reaches legal age under Texas law.



**Inspector
General**

Texas Health
and Human Services

Retention of Records Cont'd

RULE 26 TAC§554.1912 Additional Clinical Record Service Requirements

(b) Facility closure. In the event of closure of a facility, **change of ownership** or change of administrative authority:

(2) the new management must maintain documented proof of the medical information required for the continuity of care of all residents. This documentation may be in the form of copies of the resident's clinical record or the original clinical record "(emphasis added)".



**Inspector
General**

Texas Health
and Human Services

Retention of Records Cont'd

26 TAC §554.1912(b)(2)(cont.)

In a change of ownership, the two parties will agree and designate in writing who will be responsible for the retention and protection of the inactive and closed clinical records.



**Inspector
General**

Texas Health
and Human Services

LTCMI Guide

Information regarding revisions to the LTCMI Guide has been requested.



**Inspector
General**

Texas Health
and Human Services

Quality Control Monitoring



**Inspector
General**

Texas Health
and Human Services

Utilization Review Quality Assurance Process

The Quality Assurance (QA) process consists of Quality Control monitoring of our nurse reviewers' completed utilization reviews.

Our goals are to:

- Improve inter-rater reliability
- Improve consistency in reviews across the regions
- Identify training needs



**Inspector
General**

Texas Health
and Human Services

Monitoring Results

Two scores are calculated for each Quality Control Review:

- Compliance
- Inter-rater reliability

Threshold or target is 90% or higher.



**Inspector
General**

Texas Health
and Human Services

Monitoring Results

7 NFUR Quality Control Reviews were completed during FY21 Q4.

31 total NFUR Quality Control Reviews were completed during FY21.

The average for FY21

- Compliance 96.2%
- Inter-rater reliability 95.5%



**Inspector
General**

Texas Health
and Human Services

Nurse Reviewer Trends

Trends are areas where the nurse reviewer did not receive 100% in compliance and/or inter-rater reliability.

- Makes self understood validated or changed accurately.
- Brief Interview for Mental Status, Resident Mood Interview validated or changed accurately.
- ADL items validated or changed accurately.
- Active diagnosis validated or changed accurately.



**Inspector
General**

Texas Health
and Human Services

Nurse Reviewer Trends

Trends are areas where the nurse reviewer did not receive 100% in compliance and/or inter-rater reliability.

- IV medications validated or changed accurately.
- Therapy validated or changed accurately.
- Physician orders and exams validated or changed accurately.
- Nurse comments are complete and accurate.
- Accurate completion of review per policies & procedures.



**Inspector
General**

Texas Health
and Human Services

Quality Control Monitoring Plan

Results are shared with UR managers, UR staff and stakeholders.

Education for nurse reviewers will continue during the QC monitoring process and periodically during staff meetings.

Quality Assurance will continue to conduct quality control monitoring reviews throughout the next fiscal year.



**Inspector
General**

Texas Health
and Human Services

Questions

HHSC Utilization Review email address:

OIG_UR@hhs.texas.gov



**Inspector
General**

Texas Health
and Human Services

Contact Information

Linda Carlson, RN, BSN

Nursing Facility Program Manager

Linda.carlson@hhsc.state.tx.us

Eleanor Rhea, RN, M.ED, RAC-CT, IQCI

Quality Assurance Team

eleanor.rhea@hhs.texas.gov



**Inspector
General**

Texas Health
and Human Services

Thank You

To learn more about the Office of Inspector General:

ReportTexasFraud.com

Facebook: @TxOIG

Twitter: @TexasOIG

OIG Fraud Hotline: 800-436-6184