



Texas Health and Human Services Office of Inspector General Audit and Inspections Division

## FOLLOW-UP ASSESSMENT ON PREVIOUSLY ISSUED INSPECTIONS RECOMMENDATIONS

Nursing Facility Staffing Hours Verification: Liberty Health Care Center

INS-24-007

April 5, 2024

Dear Adam Revia:

The Texas Health and Human Services (HHS) Office of Inspector General (OIG) Audit and Inspections Division (OIG Inspections) conducted a follow-up assessment of the inspection report titled "Nursing Facility Staffing Hours Verification: Liberty Health Care Center" to determine whether Liberty Health Care Center (Liberty Health) implemented the recommendations previously issued by OIG Inspections.

Based on the results of our assessment, OIG Inspections determined that although Liberty Health made changes to address the recommendations, it did not implement the recommendations successfully. As a result, OIG Inspections has reissued three recommendations from the October 10, 2022, inspection report.

OIG Inspections thanks management at Liberty Health for their responsiveness, cooperation, and assistance during this assessment. The attachment to this letter contains additional details on the assessment.

Sincerely,

Kacy J. VerColen, CPA, CIGA  
Chief of Audit and Inspections

Attachment

cc: Cecile Erwin Young, HHS Executive Commissioner  
Raymond Charles Winter, HHS Inspector General

### Background

The previously issued inspection report was published on October 10, 2022. The objective of the original inspection was to determine whether the direct care licensed nursing hours recorded at Liberty Health supported the hours reported to the U.S. Centers for Medicare and Medicaid Services (CMS) in compliance with federal requirements.




The scope of the original inspection was January 1, 2021, through June 30, 2021.

# Attachment

Figure 1 summarizes the implementation status of the recommendations included in the previously issued inspection report, "Nursing Facility Staffing Hours Verification: Liberty Health Care Center," [INS-23-007](#), issued October 10, 2022.

In the figure, "substantially implemented" means Liberty Health Care Center (Liberty Health) implemented changes to address the recommendation using a process, system, or policy; however, exceptions were identified during review and deficiencies remain, requiring further improvements. "CMS" refers to the U.S. Centers for Medicare and Medicaid Services.

**Figure 1: Implementation Status of Inspection Recommendations to Liberty Health**

Implementation Status	Recommendation
 <b>Substantially Implemented</b>	1 Liberty Health should ensure its electronic timekeeping system consistently deducts the correct time for required meal breaks when employees do not record their meal break time.
 <b>Substantially Implemented</b>	2a Liberty Health should ensure direct care licensed nursing hours worked by contract staff are accurately and completely recorded and submitted to CMS through the Payroll-Based Journal.
 <b>Substantially Implemented</b>	2b Liberty Health should implement a quality review process to ensure the direct care hours worked by contract staff are accurately reported to the Payroll-Based Journal as required by CMS.

Source: OIG Inspections

OIG Inspections reviewed a sample of 22 timesheets to determine whether Liberty Health implemented previous recommendations. Based on the results of testing in this assessment, Liberty Health has made efforts toward implementing the recommendations but should take additional steps to fully address the observations in this follow-up assessment. OIG Inspections presented preliminary inspection results, issues, and recommendations to Liberty Health in a draft dated March 21, 2024.

Liberty Health agreed with the results of the assessment and opted not to provide management responses.

The “Reissued Recommendations” section of this report presents additional information about the assessment results and is considered written education in accordance with Texas Administrative Code.<sup>1</sup> In addition, other issues identified in this report (a) may be referred to the Texas Health and Human Services Commission (HHSC) for potential pursuit of enforcement remedies or (b) may be subject to OIG administrative enforcement measures,<sup>2</sup> including administrative penalties.<sup>3</sup>

## Reissued Recommendations

### Observation 1: Liberty Health Did Not Deduct the Allotted Time for Meal Breaks as Required by CMS

OIG Inspections compared hours from 22 Liberty Health timesheets to the CMS Payroll-Based Journal hours reported for February 24, 2023, and March 31, 2023. Liberty Health overreported hours worked for four of 22 (18 percent) timesheets due to not accounting for all required meal break deductions.

Liberty Health adopted a new payroll system, SmartLinx,<sup>4</sup> on July 24, 2022. Liberty Health uses SmartLinx, and its generated timesheets to submit hours to the CMS Payroll-Based Journal quarterly. When an employee clocks out, SmartLinx prompts the employee to enter whether they took a meal break. If the employee indicates they did take a meal break, the system automatically deducts meal breaks from the employee’s total work time. If the employee indicates they did not take a meal break, SmartLinx does not deduct a meal break. After each payroll period, if no lunch break is present for an employee, SmartLinx automatically deducts meal break time to comply with CMS reporting requirements.<sup>5</sup>

Liberty Health asserted meal breaks for the four timesheets were not correctly deducted when it adjusted or added employees’ hours after SmartLinx’s automatic deduction of meal breaks at the end of each payroll period. Liberty Health typically

---

<sup>1</sup> 1 Tex. Admin. Code § 371.1701 (May 1, 2016).

<sup>2</sup> 1 Tex. Admin. Code § 371.1603 (May 20, 2020).

<sup>3</sup> Tex. Hum. Res. Code § 32.039 (Apr. 2, 2015).

<sup>4</sup> SmartLinx is a workforce management platform providing solutions for healthcare and senior living organizations, including Payroll-Based Journal compliance, payroll services, and scheduling.

<sup>5</sup> The U.S. Centers for Medicare and Medicaid Services, Electronic Staffing Data Submission Payroll-Based Journal: Long-Term Care Facility Policy Manual, § 2.2, v. 2.6 (2022).

adjusts or adds hours after the payroll period when an employee is new and not yet registered in SmartLinx or when an employee fails to clock in for their shift.

### **Recommendation 1**

Liberty Health should ensure its electronic timekeeping system consistently deducts the correct time for required meal breaks when employees do not record their meal break time.

### **Observation 2: Liberty Health Did Not Accurately Report All Direct Care Licensed Nursing Hours Worked by Contract Staff to CMS**

Liberty Health contracts additional staff members through the KARE system. KARE is an application that connects caregivers, nurses, and staff with senior care communities and nursing homes. Contracted staff sign in and out via the KARE mobile application, and the KARE system creates timesheets. Liberty Health's payroll coordinator uses the KARE timesheets to manually enter the contracted staff's time into Liberty Health's payroll system, SmartLinx.

Of the 22 timesheets reviewed as part of the follow-up assessment, six timesheets were for contract staff who provided direct care licensed nursing. OIG Inspections compared these six KARE timesheets to timesheets in SmartLinx for February 24, 2023, and March 31, 2023. Two of the six timesheets in SmartLinx (33 percent) overreported direct care hours.

In response to the original inspection recommendation, Liberty Health implemented a quality review process in which the payroll coordinator and a corporate payroll supervisor review the SmartLinx entries to verify accuracy at the end of each two-week payroll period.

Liberty Health asserted manual data entry errors when entering the KARE hours into the Liberty Health payroll system caused the hours to be overreported.

### **Recommendation 2a**

Liberty Health should ensure direct care licensed nursing hours worked by contract staff are accurately and completely recorded and submitted to CMS through the Payroll-Based Journal.

### **Recommendation 2b**

Liberty Health should implement a quality review process to ensure direct care hours worked by contract staff are accurately reported to the Payroll-Based Journal as required by CMS.

# Objective, Scope, Methodology, Standards, and Criteria

## Objective and Scope

The objective of this follow-up assessment was to determine whether Liberty Health implemented OIG Inspections' previously issued recommendations.

The scope of the assessment was limited to reviewing the implementation status of the recommendations identified in the previously issued inspection report.

## Methodology

To achieve the assessment objective, OIG Inspections:

- Reviewed the previously issued inspection report.
- Examined Liberty Health's policies and procedures.
- Conducted interviews.
- Examined timesheets.
- Compared the data submitted by Liberty Health with the information in the Payroll-Based Journal for the period January 1, 2023, through March 31, 2023, which was the most recent quarter available during the inspection.<sup>6</sup>
- Compared KARE timesheets for contracted staff with Liberty Health's payroll system for the period January 1, 2023, through March 31, 2023.

OIG Inspections tested a sample of 22 timesheets for two days selected from the period January 1, 2023, through March 31, 2023, to determine whether Liberty Health deducted time for meal breaks as required and reported hours for direct care contracted staff correctly.

## Standards

OIG Inspections conducts inspections of Texas HHS programs, systems, and functions. Inspections are designed to be expeditious, targeted examinations into specific programmatic areas to identify systemic trends of fraud, waste, or abuse. Inspection reports present factual data accurately, fairly, and objectively, and present findings, conclusions, and recommendations in a persuasive manner to strengthen program effectiveness and efficiency. OIG Inspections conducted the inspection in accordance

---

<sup>6</sup> Nursing facilities electronically submit quarterly payroll data to CMS through the Payroll-Based Journal, which is a web-based system developed by CMS that documents nursing facility payroll data.

with *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

## Criteria

OIG Inspections used the following criteria to evaluate the information provided:

- 42 C.F.R. § 483.70(q) (2019)
- The U.S. Centers for Medicare and Medicaid Services, *Electronic Staffing Data Submission Payroll-Based Journal: Long-Term Care Facility Policy Manual*, v. 2.6 (2022)