



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

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Memorandum

TO: Roger Lukoff
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//signed//

FROM: Christeen Thomas
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SUBJECT: Management Alert: HUD Did Not Provide Acceptable Oversight of the Physical Condition of Residential Care Facilities

INTRODUCTION

The purpose of this memorandum is to alert you to observations made during onsite visits to residential care facilities (RCF) with Section 232 U.S. Department of Housing and Urban Development (HUD)-insured mortgages. This review is part of an ongoing effort of the Office of Inspector General (OIG). We reviewed concerns from a complainant within HUD regarding the physical condition of HUD-insured RCFs. At least 10 RCFs had received a score below 31 out of a possible 100 on their most recent Real Estate Assessment Center (REAC) inspection performed between June 2016 and March 2017. The low REAC inspection scores suggested that the physical condition of the facilities was unsatisfactory. This management alert is the second in a series of memorandums and reports to be issued highlighting the findings of OIG reviews of the Section 232 program. The Office of Evaluation issued report 2017-OE-0111, The Office of Residential Care Facilities' Use of Real Estate Assessment Scores, on September 15, 2017. We are communicating these observations to you because of the importance of the physical condition of housing for the elderly and those needing assistance.¹

¹ See appendix B for a list of acronyms.

SUMMARY

We found that HUD failed to provide oversight of the physical condition of the RCFs in its portfolio to ensure sustainable properties for the life of the HUD-insured mortgage. We consistently saw the same types of deficiencies recurring throughout the facilities we visited. These deficiencies included significant roof problems that caused leaks and water damage, poor quality of repairs, and facilities that were neglected and generally run down. The report issued by the Office of Evaluation found that RCFs were not being inspected in a timely manner. Our work substantiated the Office of Evaluation's observation that there were a significant number of days between REAC physical inspections. The REAC inspections we reviewed with scores below 31 were performed an average of almost 3 years after the prior inspection. These deficiencies are indications of a lack of physical condition monitoring by HUD and a lack of concern for the structural quality of the collateral by the owners and operators. In addition, the REAC scores did not accurately reflect the overall physical condition of the facilities.

METHODOLOGY AND SCOPE

We selected a sample of RCFs to assess their physical condition. We initially selected 10 RCFs provided by REAC that had received an initial score below 31 on their most recent REAC inspection performed between June 2016 and March 2017. Before our inspection, the mortgage on one of the properties had been paid off, and the property was no longer HUD insured. Therefore, this property was dropped from our sample.

We selected an additional three RCFs that had received REAC inspection scores between 31 and 59 on their most recent inspection. Before that inspection, it had been at least 4 years since REAC had performed an inspection. Finally, we selected three skilled nursing facilities (SNF) that received REAC inspection scores of 60 or above, were no longer required to be inspected by REAC, and had not been inspected by REAC for at least 5 years.

The following chart lists the facilities we visited.

Name of facility	Location of facility	REAC inspection date	REAC score	Days between REAC inspections
REAC inspection score below 31				
Bala Nursing Center	Philadelphia, PA	March 9-11, 2017	2c	1,928 days (5.3 years)
Spearly Care Center	Denver, CO	February 28, 2017	12c	1,594 days (4.4 years)
Glen Park Boynton	Glendale, CA	June 29, 2016	22c	371 days (1 year)
Bria of River Oaks	Burnham, IL	June 30-July 1, 2016	26b	149 days (.4 year)
New Rochelle Manor	New Rochelle, NY	November 1, 2016	27c	511 days (1.4 years)
Amberwoods of Farmington	Farmington, CT	March 8-9, 2017	15c (rescored 29c ²)	995 days (2.7 years)
Park Ridge Care Center	Park Ridge, IL	February 15, 2017	29c	2,318 days (6.4 years)
Cherry Springs Village	Hendersonville, NC	December 13, 2016	15c (rescored 43c)	273 days (.75 year)
Indian River Rehabilitation and Nursing Center	Granville, NY	June 24, 2016	21c (rescored 52c)	None ³
REAC inspection score between 31 and 59				
Homestead Nursing Home	Penn Yan, NY	September 22, 2016	31c	1,562 days (4.3 years)
Westfield Health Care Center	Westfield, NY	April 4, 2017	38c	2,260 days (6.2 years)
Miller's Merry Manor Plymouth	Plymouth, IN	May 16, 2017	38c	2,268 days (6.2 years)
REAC inspection score 60 or above				
Miller's Merry Manor Logansport	Logansport, IN	July 5, 2012	60c	729 days (2 years)
Somers Manor Nursing Home	Somers, NY	April 11, 2012	62c	289 days (.79 year)
Amsterdam N.H. Corp	New York, NY	April 23, 2012	62c	381 days (1 year)

HUD REAC inspectors accompanied us on our visits to the 15 RCFs. For the 12 facilities with scores below 60, the REAC inspector used the most recent REAC inspection to determine whether deficiencies had been repaired or the conditions noted in the inspection still existed. For

² According to HUD Handbook 4232.1, REV-1, chapter 3, section III, paragraph 3.7.2.A.3, the RCFs can appeal the REAC score. For these RCFs, after the appeal process, the scores were revised.

³ This was the first REAC inspection at the property, and it occurred 5 years after endorsement of the Federal Housing Administration-insured loan.

the three SNFs that received REAC scores of 60 or above and were no longer being inspected, the REAC inspector performed a full inspection of the facilities and issued a score for purposes of our review.

We included pictures from our onsite inspections in appendix A to emphasize the significance of what we observed. The images supplement the descriptions in the following sections.

BACKGROUND

The National Housing Act of 1959 authorizes HUD to offer mortgage insurance for RCFs. HUD's Office of Residential Care Facilities (ORCF) manages the performance and monitors the physical condition of insured RCFs. REAC performs physical condition inspections of these facilities so ORCF can ensure that the facilities are in safe, decent, and sanitary condition and in good repair.

Four categories of RCFs exist within ORCF's portfolio:

- Nursing homes are licensed or regulated by a State (or its political subdivision) and provide accommodations for people who are not acutely ill but are in need of skilled nursing care. ORCF uses SNF, a Medicare term, to describe nursing homes in its portfolio.
- Assisted living facilities are licensed or regulated by a State (or its political subdivision) and provide accommodations, including continuous protective oversight, for people at least 62 years of age who are unable to perform at least three activities of daily living.
- Intermediate care facilities are licensed or regulated by a State (or its political subdivision) and provide accommodations for people who require continuous care but do not need continuous medical care.
- Board and care homes are regulated in accordance with the Social Security Act and a State's eligibility requirements and provide room, board, and continuous protective oversight.

The Office of Public and Indian Housing's REAC administers HUD's physical condition inspection program. The purpose of the physical inspection process is to provide HUD with the ability to assess whether such properties are in a safe, decent, and sanitary condition and in good repair. The facility starts an inspection with a score of 100, and each deficiency reduces the score. In general, deficiencies that present a greater threat to residents' health and safety reduce a facility's score by a more than those with a lower potential threat. The score determines the timeline for a facility's next REAC inspection according to a 3-, 2-, or 1-year schedule. If a property scores at least 90 on its inspection, the property's next routine inspection should be in 3 years. If a property scores from 80 to 89, the property's next routine inspection should be in 2 years. If a property scores less than 80, the property's next inspection should be in 1 year. In addition to the number, the score may include an asterisk or a letter "a," "b," or "c." The asterisk indicates that the inspector observed health and safety deficiencies with respect to smoke detectors. The letters indicate whether the inspector observed health and safety deficiencies. An "a" indicates that the inspector observed no health and safety deficiencies, a "b" indicates that

the inspector observed non-life-threatening health and safety deficiencies, and a “c” indicates that the inspector observed exigent life-threatening health and safety deficiencies.

The owner must carefully review the physical inspection report, particularly those items classified as exigent life-threatening health and safety deficiencies. The owner is also responsible for conducting its own survey of the total project based on the REAC’s physical inspection findings. The owner must mitigate all exigent life-threatening health and safety items immediately, and the owner must file a written report with the applicable HUD official within 3 business days of the date of the inspection, which is the date the owner was provided with the exigent life-threatening health and safety notice. The report filed by the owner must provide a certification and reasonable evidence that the exigent life-threatening health and safety items have been resolved.

In 2012, HUD allowed SNFs to be exempt from REAC physical inspections. Under 24 CFR (Code of Federal Regulations) 200.855, ORCF no longer requires REAC to routinely perform physical inspections on SNFs as long as the most recent inspection score was 60 or above. This change was made because HUD determined that it was burdensome for the facilities to have multiple agencies perform inspections on the same property. One example is the Centers for Medicare & Medicaid Services (CMS), which is part of the U.S. Department of Health and Human Services. CMS created the Five-Star Quality Rating System to help consumers, their families, and caregivers compare nursing homes more easily and to help identify a facility for loved ones. HUD relies on CMS inspections for HUD-insured SNFs and no longer has REAC inspectors perform physical inspections. However, a REAC memorandum issued after the rule’s implementation in 2012 indicated that REAC did not support the rule change. REAC said the rule change reduced the uniformity and the level of objectivity in REAC’s inspection process. REAC also said CMS standards focus more on patient issues, whereas REAC standards focus entirely on physical condition. Another concern of HUD’s relying solely on CMS inspections is that CMS inspects only the residential buildings, whereas REAC inspections cover all buildings located on the property that is insured by HUD.

RESULTS OF REVIEW

The following are the results of our onsite physical inspections. The results are broken down into the three categories: (1) RCFs that received REAC inspection scores below 31 in their most recent inspection; (2) RCFs that received REAC inspection scores between 31 and 59 in their most recent inspection and it had been at least 3 years since the previous inspection; and (3) SNFs that received REAC inspection scores of 60 or above, are no longer required to be inspected by REAC, and had not been inspected by REAC for at least 5 years.

REAC Inspection Scores Below 31

The RCFs we visited in this category continued to have violations that were identified in the prior REAC inspections. In addition, the REAC inspectors identified many violations not previously identified. The physical condition of the facilities ranged from very poor to decent. One facility was in such disrepair that we reached out to the State licensing agency to express our concerns over the health and safety of the residents. Under a separate letter to HUD, we

questioned whether the facility met the requirements for a board and care home to receive insurance under the Section 232 program. However, other facilities showed that efforts were being made to repair and maintain them.

At five of the nine facilities, the REAC inspectors noted that many exigent health and safety violations identified during their prior inspections had not been corrected. Examples of these deficiencies included openings in electrical panels and missing breakers or fuses. Owners of these five facilities certified that the exigent health and safety deficiencies had been corrected. The inspectors also noted remaining health and safety violations, including paint on sprinkler heads, unusable bathtub or shower, damaged toilet, no hot water, broken or missing glass, erosion, and leaks causing mold.

At seven of the nine facilities, roof deficiencies existed at the time of our inspections. These deficiencies included damaged roofing membranes and damaged parts of the drainage system. Roof deficiencies are particularly important because they can be costly and can cause other deficiencies if they are not repaired correctly and in a timely manner. Also important to note is that even though roof deficiencies are potentially devastating to the physical condition as well as the properties' finances, the REAC inspectors were not required to access the roof when a permanent means of access was not available. In general, if a ladder was required to access the roof, the roof might not be inspected, and potentially significant deficiencies might not be identified and repaired.

At six of the nine facilities, the quality of repairs was poor. REAC had found the practice of minimal inferior repairs to be a growing trend and issued Inspector Notice 2016-03 to require repairs to meet industry standards. Repairing items in a manner that meets industry standards means that the component, as repaired, performs as it was intended. Additionally, to meet the industry standard requirement, the repair must be finished in a manner that is reasonably compatible with the design and quality of the original and adjoining decorative materials. Examples observed during our inspections included a hole in a bathroom door that was repaired with a drywall patch, holes in the walls that had been repaired but not painted, and substandard materials used to repair electrical equipment.

As identified in the report issued by the Office of Evaluation, there were a significant number of days between REAC physical inspections. We found that the REAC inspections with scores below 31 were performed an average of almost 3 years after the prior inspection and the prior inspection scores were under 60. The longest time span between inspections was more than 6 years.

REAC Inspection Scores Between 31 and 59

The RCFs we visited in this category had violations identified in the prior REAC inspections. The physical condition of these facilities ranged from poor to well maintained. At two of the three facilities, REAC inspectors noted many health and safety violations identified during their prior REAC inspections that had not been corrected.

All three of the facilities had roof deficiencies. These deficiencies included water stains and water damage noted on ceiling tiles and walls, missing or damaged gutters, and damaged roof membranes. As discussed earlier, the REAC inspectors were not required to access the roof when a permanent means of access was not available. At one of the properties, the inspector did not have access available to the roof, and the representative for this property indicated that there were ongoing issues with the roof.

There was a significant amount of time between REAC physical inspections for these RCFs. The three RCFs had not had a REAC inspection in more than 4 years when the scores were under 60 on the prior inspections.

REAC Inspection Scores of 60 or Above

The REAC inspection scores based upon the full inspections performed during our onsite visits were below 60 for all three of these properties as documented in the table below. HUD did not require REAC to inspect the physical condition of these properties because they had received scores of at least 60 on their last inspection. It had been more than 5 years since the last REAC inspection.

Name of facility	REAC inspection date	REAC score	OIG-REAC inspection date(s)	Unofficial REAC inspection score ⁴
Miller’s Merry Manor Logansport	July 5, 2012	60c	August 10, 2017	43c
Somers Manor Nursing Home	April 11, 2012	62c	August 8-9, 2017	21c
Amsterdam N.H. Corp	April 23, 2012	62c	July 26-28, 2017	35c

REAC inspectors noted health and safety issues even though the three SNFs were well maintained. Examples of health and safety deficiencies included exposed wires, infestation, unlockable windows, missing and broken exit signs, broken or missing handrails on stairs, missing components or painted sprinkler heads, and plumbing leaks. A representative at one of the facilities told us that the facility’s preparation for inspections focused on what CMS was concerned with, such as items associated with the medical care of the residents, and not necessarily on HUD’s interest, which is the physical condition of the property.

The REAC inspectors also noted roof deficiencies at these three facilities. These deficiencies included damaged and clogged drains, missing or damaged components from the downspout and gutters, ponding on the roof, and damaged roof membranes. In addition, the REAC inspectors noted repairs that had been made at all three facilities, but the repairs did not meet industry standards. The repairs were for damaged walls, peeling paint, and missing breakers.

⁴ The reinspections were for informational purposes. The REAC inspectors performed full REAC inspections with new scores because REAC was no longer required to inspect SNFs. These inspections were nonbinding and not subject to the appeals process.

The SNFs in this category had received their last physical inspection more than 5 years ago. These SNFs fall under the new guidelines, which allow SNFs in HUD's portfolio to be exempt from REAC inspections. These SNFs received scores of at least 60 on the REAC inspections performed in 2012; however, it is important to note that the physical condition of the facilities was declining. Even though the physical condition of these facilities was declining, because the SNF met the exemption score of at least 60, HUD no longer required physical inspections by REAC.

General Observation About REAC Inspection Scores

The REAC inspection scores were not a good indicator of the overall physical condition of the facilities. After several inspections, we determined that we could not assess the overall physical condition of the property based on the REAC inspection score and that the scores could not be used to compare the physical condition of properties. For example, New Rochelle Manor, which received a 27c REAC score, was in worse physical condition than Bala Nursing Center, which received a 2c. Additionally, even though Westfield Health Care Center and Miller's Merry Manor Plymouth both received 38c on their REAC scores, in our opinion, the physical condition of Homestead was significantly worse.

CONCLUSION

HUD failed to monitor the physical condition of RCFs in its portfolio to ensure sustainable properties for the life of the HUD-insured mortgage. HUD did not verify that exigent health and safety violations were mitigated and required repairs were made to the facilities. Additionally, even though roof deficiencies are potentially devastating to the physical condition of properties, the REAC inspectors were not required to access the roof when a permanent means of access was not available. Further, HUD did not ensure that the routine inspection schedule was followed and had allowed SNFs to be exempt from REAC physical inspections. We also found that the REAC inspection scores did not accurately reflect the physical condition of the facilities and could not be used to compare facilities.

RECOMMENDATIONS

We recommend that the Director of HUD's Office of Residential Care Facilities

- 1A. Implement procedures to ensure that deficiencies identified during the REAC inspections have been corrected and meet industry standards.
- 1B. Ensure that timely physical condition inspections of all Section 232 program facilities are performed. (This expands on the Office of Evaluation's third recommendation in report number 2017-OE-0011.)
- 1C. Reimplement the REAC physical condition inspections for the SNFs that were exempted from routine physical inspections by 24 CFR 200.855.

We recommend that the Deputy Assistant Secretary for the Real Estate Assessment Center

- 1D. Develop and implement an inspection process for the Section 232 program that better reflects those properties' physical conditions and how those properties differ from other properties REAC inspects (for example, multifamily properties).
- 1E. Ensure that all areas of the properties are inspected, including the roofs and all buildings located on the property that is insured by HUD.

Appendix A – Inspection Pictures

Health and safety items



Image 1: Unsecured electrical boxes - Bala Nursing Center



Images 2 and 3: Fencing leaning and sections damaged - Speary Care Center

Health and safety items (cont.)



Images 4, 5, and 6: Mold spores and water-damaged refrigeration equipment - Speary Care Center

Health and safety items (cont.)



Image 7: Paint on fire sprinkler head - Glen Park Boynton



Image 8: Missing fire sprinkler escutcheon - Westfield Health Care Center



Image 9: Damaged fire sprinkler escutcheon - Cherry Springs Village

Roofing and water damage



Image 10: Damaged roofing membrane - Bala Nursing Center



Image 11: Water-stained ceiling tile and water-damaged wall - Bala Nursing Center



Image 12: Water-stained and bowed ceiling tile - Bala Nursing Center

Roofing and water damage (cont.)



Image 13: Roof low and soft spots - Spearly Care Center



Image 14: Standing water - Homestead Nursing Home



Image 15: Standing water - New Rochelle Manor

Roofing and water damage (cont.)



Images 16 and 17: Water leaking in residential unit and water damaged wall - New Rochelle Manor



Image 18: Roof damage - Amberwoods of Farmington

Non-industry-standard repairs



Image 19: Caulking - Spearly Care Center



Image 20: Drywall repair - Bala Nursing Center



Image 21: Materials not suitable for door magnet repair - Spearly Care Center

Non-industry-standard repairs (cont.)



Image 22: Repair not compatible with design and quality of the original and joining decorative materials - Searly Care Center



Image 23: Circuit breaker knockout filler plate on left side - Bala Nursing Center

Non-industry-standard repairs (cont.)



Image 24: Repair not compatible with design and quality of the original and joining decorative materials - New Rochelle



Image 25: Repair not compatible with design and quality of the original and joining decorative materials - Indian River Rehabilitation and Nursing Center



Image 26: Materials not suitable for tile repair - New Rochelle Manor

Appendix B – Acronyms

Acronym	Definition
CFR	Code of Federal Regulations
CMS	Centers for Medicare & Medicaid Services
HUD	U.S. Department of Housing and Urban Development
OIG	Office of Inspector General
ORCF	Office of Residential Care Facilities
RCF	residential care facility
REAC	Real Estate Assessment Center
SNF	skilled nursing facility