

SURVEY GUIDE

HOME HEALTH AND HOSPICE LICENSURE AND CERTIFICATION



STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES

Division of Quality Assurance
Bureau of Health Services

P-63075 (06/2017)

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DQA / BUREAU OF HEALTH SERVICES CONTACT INFORMATION

Central Office – BHS / Acute Care Compliance Section (ACCS)	
<p>DHS / Division of Quality Assurance Bureau of Health Services Acute Care Compliance Section P.O. Box 2969 Madison, WI 53701-2969</p> <p>Fed Ex or UPS Deliveries 1 W. Wilson St., Rm. 450 Madison, WI 53703</p>	<p>Director, BHS Telephone: 608-264-9887 (<i>Madison</i>) 414-227-4556 (<i>Milwaukee</i>) Fax : 608-264-9847 Email: cremear.mims@dhs.wisconsin.gov</p> <p>Section Chief, ACCS Northern Region Telephone: 608-266-0269 Fax: 608-264-9847</p> <p>Section Chief, ACCS Southern Region Telephone: 414-227-4976 Fax: 414-227-4139</p>
Central Office – Licensing, Certification and CLIA Section (LCCS)	
<p>DHS / Division of Quality Assurance BHS / LCCS P.O. Box 2969 Madison, WI 53701-2969</p> <p>Fed Ex or UPS Deliveries 1 W. Wilson St., Rm. 450 Madison, WI 53703</p>	<p>Supervisor, LCCS Telephone: 608-266-7485</p> <p>Home Health Licensing Specialist Telephone: 608-266-7297 Fax: 608-264-9847</p> <p>Hospice Licensing Specialist Telephone: 608-266-2702 Fax: 608-264-9847</p>

IMPORTANT LINKS

- Tell us about your survey experience by completing the DQA Post Survey Questionnaire (DQA form F-62579), at: <https://www.surveygizmo.com/s3/3317414/DQA-Post-Survey-Questionnaire-F-62579>
- Stay up-to-date with regulatory changes by signing up for the DQA Listserv at: <https://www.dhs.wisconsin.gov/regulations/listserv-signup.htm>
- This DQA publication (P-62033) is available at: <https://www.dhs.wisconsin.gov/publications/index.htm>

I. INTRODUCTION

The Division of Quality Assurance is responsible for conducting unannounced surveys in home health agencies and hospice agencies in Wisconsin to ensure that state licensure and federal Medicare certification requirements are met. The following information has been prepared to serve as a guide to the survey process for licensure and federal certification of home health agencies and hospices.

This survey guide is a general reference for informational purposes. In the event of any conflict between information provided in this guide and the state and federal legal requirements for home health agencies and hospice agencies, please rely on the applicable legal requirements.

II. OVERVIEW OF THE SURVEY PROCESS

The purpose of the survey is to determine whether the entity meets applicable state laws, administrative codes, and federal regulations. If an applicant is requesting licensure as a freestanding **hospice**, the Division will determine if it complies with the physical environment requirements of Wis. Admin. Code ch. DHS 131, Subchapter IV. Surveys are conducted by nursing consultants and engineer/architect surveyors employed by the Wisconsin Division of Quality Assurance.

A. Off-Site Survey Preparation

The surveyor reviews the Division's historical file of the entity, profiles, and other applicable information (e.g., waiver/variance reports, OASIS data management, and outcome reports).

The extent of the survey may be increased if the entity has had any of the following:

- Repeat violations from last onsite survey
- Significant complaints, whether or not substantiated, in the past 12 months
- Change in ownership or change in key entity personnel since last survey

B. Entrance Conference

Upon entering the home health agency or hospice, the surveyor will introduce him/herself and ask to meet the administrator and nursing supervisor. The surveyor will request a working area.

The surveyor will inform the entity staff about the survey process, request information needed to conduct the survey, set up a schedule for necessary interviews, and begin to select patients for home visits. The surveyor will inform the entity that staff may accompany the surveyor during the survey and discuss the surveyor's observations and supply additional information throughout the survey and exit conference. The entrance conference takes approximately one half-hour.

1. The surveyor will request the following information from a **home health agency**:

- **State licensure-only survey** – The unduplicated number of patients admitted for all services for the past 12 months, regardless of payment source
- **Medicare certification survey** – The total number of unduplicated admissions requiring skilled services during a recent 12-month period
- List of personnel, with dates of hire – nurse aides (CNAs) or home health aides, personal care workers (PCWs), nurses, therapists, etc. This should include contracted employees.
- Identification of the services provided entirely and directly by agency employees.
 - Copies of the plans of care for patients of all planned home visits and record reviews; Copies of the current medication list, therapy plan of care, home health aide assignment, and other information for those patients, as applicable
 - Home visit schedule for survey days
 - List of discharges within the previous 30-60 days
 - Copy of the patient admissions packet (service agreement, complaint form, patient/family rights, etc.)
 - As applicable, completion of CMS-1572, *HHA Survey and Deficiency Report*

2. The surveyor will request the following from a **hospice** agency:

- A current unduplicated patient census number for the past 12 months, including all payment sources
- Home visit schedule for survey days
- List of personnel and personnel records for all disciplines represented
- Copy of the patient admissions packet (service agreement, complaint form, patient/ family rights, etc.)
- Copies of the clinical record information (including plans of care, medication sheets, staff assignments, initial evaluations, patient name, diagnosis, date of admission, and services provided) for all planned home visit patients
- List of all families currently in the bereavement process and the dates of entry into the program
- An interview with the bereavement coordinator, quality assurance staff, and volunteer coordinator

- A list of contracted services
- As applicable, completion of CMS-417, *Hospice Request for Certification in Medicare*; and CMS-643, *Hospice Survey and Deficiencies Report*

C. Information Gathering

1. **Home Visits.** The surveyor conducts home visits based on a stratified case-mix sample of all current patients. After receiving the patient's oral or written consent, the surveyor observes entity staff implementing the plan of care in the patient's home.
2. **Record Review.** The surveyor reviews a stratified case-mix sample of patient clinical records. Patients selected for home visits are included in the sample. A minimum of two bereavement records are included in **hospice** surveys.
3. **Personnel Records.** The surveyor reviews a sample of agency personnel records of individuals directly employed or under contract. A sample of nurse aide personnel records is reviewed to ensure that the aides meet the Wisconsin nurse aide directory and competency requirements.
4. **Branch Office/Multiple Location Visits.** Surveyors will visit branch offices or multiple location sites as appropriate to ensure that necessary supervision and quality of care are being provided. A determination will be made whether the location should be separately licensed and Medicare- or Medicaid-certified.
5. **Partial Extended Surveys.** For **home health** agencies, the Division conducts a partial extended survey when there are areas of concern outside of the standard survey components or areas of the standard survey that require a more comprehensive review.
6. **Extended Surveys**
 - For **home health** agencies, the Division conducts an extended survey for initial regular licensure determination and when a deficient practice with potential or actual negative outcome is identified during a standard or partial extended survey.
 - Extended surveys will always be conducted for initial regular licensure surveys for a **hospice**.
 - Extended surveys may also be conducted at any time at the discretion of the Division of Quality Assurance. An extended survey for a **hospice** will include a review of all requirements of Wis. Admin. Code ch. DHS 131 and applicable federal Conditions of Participation. An extended survey for a **home health** agency will include a review of all requirements of Wis. Admin. Code ch. DHS 133 and applicable federal Conditions of Participation. The surveyor will contact management staff of the entity prior to initiating an extended survey.

D. Information Analysis and Compliance Decision Making

The surveyor reviews and analyzes all collected information to determine whether the entity has complied with applicable state rules and federal regulations. The surveyor uses the Medicare State Operations Manual (SOM) as a guide for analysis and decision making. Analysis and decision-making is an ongoing process throughout the survey. The surveyor maintains ongoing, informal communication with the entity's liaison as questions arise. Surveyors will conduct a daily report of findings.

E. Exit Conference

The exit conference is an informal meeting of the entity and the surveyor at the end of the survey. The surveyor summarizes the preliminary findings, including requirements that have not been met, as well as the facts and examples on which the findings are based. The exit conference also gives the entity the opportunity to discuss the findings and supply additional information. Because of the ongoing dialogue between the surveyor and entity staff during the survey, there should be few instances when the entity is not aware of the surveyor's concerns prior to the exit conference.

The administrator determines which staff, board members, etc., should attend the exit conference. The entity may have an attorney present, but should give advance notice of this to the surveyor. The exit conference is an informal process and attorneys do not usually attend. Surveyors have been instructed not to answer any questions from the entity attorney.

A court reporter may not attend the exit conference. If an entity wishes to audio record or video tape the exit conference, it must first obtain permission from the surveyor. An identical, simultaneous recording must be given to the surveyor at the conclusion of the exit conference. Any eavesdropping, or any audio recording or videotaping without the express knowledge and permission of the surveyor, is considered impeding the survey process. This may result in termination of the survey.

At the conclusion of the exit, the surveyor(s) provide information about how to complete the optional post survey questionnaire, either electronically or in writing.

III. EXPLANATION OF DEFICIENCY STATEMENTS

The surveyor summarizes the survey findings in a final report. If the surveyor determines that the entity is out of compliance with rules, standards, or regulations, the surveyor will document those findings. The findings serve as a basis for the entity to analyze its deficient practices or system failures and develop plans of correction. Federal survey findings are documented on a CMS form CMS-2567, *Statement of Deficiencies*. State survey findings are documented on a separate form. Survey findings are served on site or sent via certified mail within 10 working days following the exit conference.

A. State Rules and Standards of Non-Compliance

A violation exists when an entity fails to comply with a state statute or administrative rule. The Department of Health Services promulgates and enforces rules and minimum standards necessary to provide safe and adequate care and treatment and to protect the health and safety of the patients and employees of the entity. The Department's authority is derived from the following statutes and administrative rules.

Wisconsin State Statutes

§ 50.49	Licensing and Regulation of Home Health Agencies
§ 50.90 to 50.98	Hospices
§ 146.40	Instructional Programs for Nurse Aides; Reporting Client Abuse

Wisconsin Administrative Code

ch. DHS 133	Home Health Agencies
ch. DHS 131	Hospices
ch. DHS 12	Caregiver Background Checks
ch. DHS 13	Reporting and Investigating Caregiver Misconduct
ch. DHS 129	Certification of Programs for Training and Testing Nurse Assistants, Home Health Aides, and Hospice Aides

B. Federal Deficiencies

Entities that participate in the federally sponsored Title XVIII (Medicare) and Title XIX (Medicaid) programs are surveyed for compliance with federal regulations. Federal regulations for **home health** agencies are found at 42 CFR 484. Federal regulations for **hospices** are found at 42 CFR 418. Additional federal regulations are also applicable.

A federal deficiency exists when an entity fails to comply with an applicable federal regulation or statute. There are three categories of federal deficiencies, beginning with the most severe:

1. **Noncompliance with Statutory Requirements:** A statutory requirement is created by an Act of Congress. Noncompliance with a statutory requirement may subject an entity to termination of its provider agreement with Medicare and Medicaid.
2. **Noncompliance with Conditions of Participation:** The essential requirements of each of the major divisions of administration and other services are known as Conditions of Participation. A failure to meet a Condition of Participation indicates a breakdown in one of the major health care systems of the entity. An entity's existing provider agreement may be subject to cancellation or termination if a Condition of Participation is not met.
3. **Noncompliance with Standards:** A standard is a major subdivision of the requirements in the Conditions of Participation. Noncompliance with a standard may be so serious that it causes non-compliance with the

Condition of Participation. Beginning at the Standard level, deficiencies under the federal regulations require an entity to submit a plan of correction to the Department for approval.

IV. PLAN OF CORRECTION

If, after receiving a Statement of Deficiencies, entity staff has questions regarding the survey findings, they may consult informally with the surveyor's supervisor to discuss compliance issues.

A plan to correct violations or deficiencies found by the Division should be written on the original Statement of Deficiencies and submitted to the appropriate Division of Quality Assurance regional office, to the attention of the surveyor involved. Additional sheets of paper may be attached if more space is needed to write the plan of correction. An authorized representative of the entity should sign and date the plan of correction.

A. Content

To be considered complete, each plan of correction should include the following:

- What the entity will do to correct the deficient practice and ensure continued compliance in the future
- How correction will be accomplished and monitored
- Who will implement the plan and monitor future compliance
- When the correction(s) will be completed

B. Correction of State Violations

An entity that violates state requirements is requested to submit a plan to correct the violations (plan of correction). A **home health** agency that does not participate in the Medicare or Medicaid programs shall submit a plan of correction within 10 **working** days following receipt of the Statement of Deficiencies for state violations.

A **hospice** that does not participate in the Medicare or Medicaid programs shall submit a plan of correction within 10 **calendar** days of receipt of a Statement of Deficiencies for state violations.

If the entity does not submit an acceptable plan of correction for state violations, the Division may impose a plan of correction on the entity. The Division may revoke the entity's license for a substantial failure to comply with state statutes or rules.

C. Correction of Federal Deficiencies

A federally certified home health agency or hospice must submit a plan of correction for all federal deficiencies within 10 **calendar** days following receipt of a Statement of Deficiencies in order to retain certification in the Medicare or Medicaid programs.

Federal plans of correction that do not meet content standards will be rejected. In such cases, the Division will identify why the plan of correction was not acceptable, return the original documents along with the Plan of Correction Review – Non Long Term Care Providers (DQA form F-62045), and request that an acceptable plan be submitted. The amended plan must be re-signed and re-dated by an authorized representative of the entity. Upon receipt, the Division will stamp the amended plan of "original" to designate the amended plan as current.

Failure to submit an acceptable plan of correction within **10 calendar days** of receipt of a Statement of Deficiencies for federal requirements may result in termination of the entity's Medicare or Medicaid provider agreement.

D. Time Period for Correction

Correction should be accomplished within 60 calendar days of the exit conference or sooner. Serious deficiencies or violations require a correction date of 30 calendar days or less. If the completion date extends beyond 60 calendar days, the plan of correction must include benchmark dates to specify when correction stages will be completed. The date for correction must be clearly shown in the appropriate column on the Statement of Deficiencies and plan of correction form.

An entity that cannot correct a deficiency by the established completion date may request an extension by contacting the surveyor involved. The surveyor and one of the Division's Bureau of Health Services Section Chiefs will determine whether the correction time is reasonable and will notify the entity of its decision.

E. Verification of Correction

The Division of Quality Assurance will verify correction of all state and federal deficiencies after the established completion dates have passed. If the provider desires paper documentation of the outcome of the verification visit, they should e-mail DQA's Bureau of Health Services and request a provider profile report. The surveyor(s) will direct the provider to the appropriate Bureau address. (See page 3.)

F. Failure to Correct Deficiencies

An entity that participates in the Medicare or Medicaid programs is subject to termination of certification when certain criteria are not met; e.g., if conditions of participation are not corrected within 45 calendar days or less from the day the entity receives the Statement of Deficiencies. If an entity is unable to meet federal requirements, the Division documents the non-compliance and may initiate termination of federal certification.

Failure to correct a state violation by the date specified in the plan of correction may result in license revocation or conditions being placed on the entity's license.

V. APPEALS

The following information is for general purposes only. An entity should refer to the applicable legal requirements in effect at the time it receives notice of a Department or federal action that may be subject to appeal.

A. State Appeals

Home Health Agencies

Home health agencies may contest decisions or actions of the Department as specified in section DHS 133.03(8), Wis. Admin. Code. A written request for a hearing, including a copy of the notice of action that is being contested, must be sent to:

Division of Hearings and Appeals
P.O. Box 7875
Madison, WI 53707-7875

The request for a hearing must be made within 10 calendar days of receipt of the notice of the contested action.

Hospices

Hospices may contest decisions or actions of the Department as specified in section DHS 131.14(11), Wis. Admin. Code, and sections 50.93(4) and 50.98(4) of the Wisconsin State Statutes. A written request for a hearing, including a copy of the notice of action that is being contested, must be sent to:

Division of Hearings and Appeals
P.O. Box 7875
Madison, WI 53707-7875

The request for a hearing must be made within 10 calendar days of receipt of the notice of the contested action.

B. Federal Appeals

A home health agency or hospice that wishes to contest an adverse CMS determination may request a hearing before an Administrative Law Judge of the federal Department of Health and Human Services as provided in 42 CFR 498.

C. Informal Dispute Resolution (IDR) for Medicare-certified Home Health Agencies

When there is a Condition of Participation out of compliance, the home health agency administration may request an IDR. An independent review organization uses a systematic review process and a decision algorithm to arrive at a determination to withdraw citations, keep citations as written, or modify citations.

More information about IDR is contained in DQA publication P-00842, *Informal Dispute Resolution (IDR) Process for Medicare-certified Home Health Agencies (HHA)*, available at this link:

<https://www.dhs.wisconsin.gov/publications/index.htm>

VI. COMPLAINTS

A. Entity Patient Complaints

The Division of Quality Assurance responds to two types of health care complaints – entity practices and caregiver misconduct. The Division’s Bureau of Health Services receives complaints and conducts complaint surveys for entity practice concerns such as inappropriate or inadequate health care, lack of entity staff training, understaffing, poor quality care, etc.

A patient may use any of the following methods for submitting a home health or hospice agency complaint.

- By **telephone**:
 - Home Health / Hospice Hotline (toll free) 1-800-642-6552
 - Home Health / Hospice Hotline (Madison) 608-267-1441

Information about the hotline is contained in the following DQA publication, accessible at <https://www.dhs.wisconsin.gov/publications/index.htm>:

P-63065 *Home Health Care Information* (2 x 3.5 Card)
- By submitting a **letter** to:
 - DQA / Office of Caregiver Quality
 - Caregiver Intake Unit
 - P.O. Box 2969
 - Madison, WI 53701-2969
- By submitting a **form**, accessible at <https://www.dhs.wisconsin.gov/forms/index.htm>, to DQA:
 - F-62069 *Home Health Agency Complaint Report*
 - F-62287 *Hospice Complaint*

B. Caregiver Misconduct

Complaints about caregiver misconduct relate to specific incidents between a caregiver and patient, such as:

- Abuse – hitting, slapping, verbal, or sexual actions
- Neglect – intentional carelessness or disregard of policy or care plan
- Misappropriation – theft, using property without consent (i.e., telephone or credit cards)

For complaints concerning non-credentialed caregivers, such as nurse aides or personal care workers, contact:

DQA / Office of Caregiver Quality
 Caregiver Intake Unit
 P.O. Box 2969
 Madison, WI 53701-2969

Telephone: 608-261-8319
 Fax: 608-264-6340
 Email: dhscaregiverintake@wisconsin.gov

For complaints concerning credentialed staff (e.g., nurses, doctors, LPNs, social workers, etc.) contact:

Department of Safety and Professional Services
 608-266-2112

All entities regulated by the Division of Quality Assurance must investigate all allegations of caregiver misconduct, immediately protect patients from subsequent incidents of caregiver misconduct, and determine whether or not the incident must be reported to DQA.

To assist in making those determinations refer to the *Caregiver Misconduct and Injuries of Unknown Source Entity Investigation and Reporting Requirement Flowchart*.

To report allegations, use DQA form F-62447, *Incident Report of Caregiver Misconduct and Injuries of Unknown Source*. These documents and much more information about the Wisconsin Caregiver Program are located on the Department of Health Services internet site at: <http://dhs.wisconsin.gov/caregiver/contacts/complaints.htm>