



**Center for Clinical Standards and Quality/Survey & Certification Group**

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**Admin Info: 18-06-NH**

**DATE:** December 22, 2017

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** Revised Federal Oversight Support Survey (FOSS) Process National Pilot

**Memorandum Summary**

- **The Centers for Medicare & Medicaid Services (CMS) will be piloting a two phase Federal Oversight Support Survey (FOSS) process beginning in January of 2018.** This pilot will replace the FOSS process used for traditional surveys and the Federal Oversight of Quality Indicator Survey (FOQIS) process used for Quality Indicator Survey (QIS), and includes the following:
  - The revised FOSS process will focus on specific areas of concern. For purposes of the national pilot, the areas of focus will be Abuse and Neglect, Admission/Transfer/Discharge, and Dementia Care services.
  - The Phase 1 Resource and Support Surveys (RSS) will be conducted between January 1 and April 30 of 2018. The Phase 2, Focused Comparative surveys will begin May 1, 2018, and conclude on September 30th, 2018.
- **The new process will be used for all Federal Oversight Support Surveys required in the current scope memo. The full-comparative process remains unchanged.**

**Revised FOSS Process**

In January 2018, CMS will implement a national pilot to test the efficacy of the revised Federal Oversight Support Survey process for long term care (LTC) facility surveys. The new process is a two-phase survey that will replace both the Traditional FOSS and FOQIS processes. Each phase will focus on specific areas of concern. Phase 1 of the process are the “Resource and Support Surveys” (RSS). These surveys will take place between January and April of 2018. During the RSS, Federal surveyors will accompany State surveyors on annual recertification or complaint surveys and will provide instruction and guidance throughout the survey process. The percentage of complaint surveys that may be used for FOSS purposes is reflected in the most recent scope memo. These Resource and Support Surveys will heavily focus on specific concern areas, but are not solely limited to these concerns. The Federal surveyor will serve as an advisor for any survey topic that may arise, but will focus his or her RSS activities on the identified areas

of concern. The Resource and Support Surveys will comprise 30% to 50% of the Regions' FOSS survey activities between January and April 2018.

Phase 2 of the revised process are the Focused Comparative Surveys. Focused Comparative Surveys are the evaluative component of the FOSS process. Focused Comparative Surveys will be conducted from May 1<sup>st</sup> through the end of fiscal year 2018. Focused Comparative surveys will be conducted by one Federal Surveyor who will conduct an independent investigation of the identified concern areas. The surveys will occur within approximately 30 business days after a State recertification or complaint survey. The Federal surveyor will follow all investigative protocols and pathways for the concern areas and assess the effectiveness of State survey performance.

### **Concern Identification:**

The new FOSS process includes identified areas of concern that the federal surveyors will focus on to ensure State surveyors are investigating compliance effectively. For the purposes of this national pilot, CMS has selected Abuse and Neglect, Admission/Transfer/Discharge, and Dementia Care as three concerns for Federal surveyors to specifically address for the remainder of FY18. In subsequent years, each RO will identify concerns unique to that region using Quality Measure Data from Nursing Home Compare, Quality and Certification Oversight Reports (QCOR) and Minimum Data Set (MDS) information. These concerns will be identified in September of each year and will identify the focus areas for the upcoming fiscal year. Instructions and guidance for selecting concerns will be provided at a later date.

### **Resource and Support Surveys:**

The CMS Regional Office (RO) will work collaboratively with the State Agency to identify surveys that will provide good training opportunities. During the RSS, the Federal Surveyor will join the State team and provide active guidance and instruction for the focus areas. The surveyor will accompany the state surveyors when making observations and conducting interviews related to the areas of concern. The Federal surveyor should discuss the findings and assist in applying the given facts to the regulatory requirements. The Federal surveyor will base the guidance and instruction provided on the regulations, interpretive guidance found in Appendix PP of the State Operations Manual (SOM), and instructions in the LTC survey process system. In addition to providing specific guidance related to the areas of concern, the Federal surveyor will provide support for any survey topic that may arise. For the purposes of this initial pilot, the Federal surveyor will also provide guidance as needed with respect to navigating the new survey process.

The Federal surveyor will be present for as much of the State survey as possible and should remain on site to assist with decision making. Following the state's compliance decisions, the federal surveyor should recap the significant learning opportunities that were discussed with team members during the survey. Following completion of the survey, the Federal Surveyor will complete the FOSS Phase 1 worksheet (Attachment A) to document the survey findings and guidance the Federal surveyor provided during the survey. This document is intended to be a learning tool to communicate survey related guidance to all surveyors within the state. This document should be completed within two weeks of the survey end date. There are no scoring of survey teams or evaluations of survey performance that will be conducted during the RSS.

**Focused Comparative Surveys:**

The Regional Office will independently select facilities to conduct Focused Comparative Surveys. These surveys will be conducted within 30 working days of the state survey end dates. The surveys selected for Focused Comparative Surveys can be annual recertification surveys or complaint surveys selected in accordance with the requirements of the most recent Scope memo. Federal surveyors should strive to complete two surveys during a survey week. Not all concern areas may be present for a given survey, but at least one concern area must have been triggered by the state survey team for the survey to be selected. Complaint surveys selected must specifically involve an area of focus.

During these surveys, the federal surveyor will independently investigate the areas of concern by following the investigative protocols and investigative pathways for Abuse and Neglect, Admission/Transfer/Discharge, and Dementia Care. The survey sample used will be 60% of the state survey sample of residents who triggered for the concern area. Following completion of the investigation, the surveyor will then make compliance decisions related to these areas of focus and exit with the facility administrator and other staff that the facility wishes to include. The evidence supporting non-compliance will be shared with the facility. The facility will be notified at exit if any of the Federal findings have been determined to be Substandard Quality of Care (SQC), Harm, or Immediate Jeopardy (IJ).

Since the primary objective of the FOSS process is to assess State performance, Federal surveys with findings that identify non-compliance at non-SQC or lower will not be surveys of record and no 2567 will be drafted. A 2567 will only be drafted if non-compliance was identified by the Federal surveyor at the IJ, Harm or SQC level *and was not identified by the state agency*. While no 2567 will be issued for non-SQC or lower findings, sufficient information will be provided to the facility so that they can correct the deficiencies. The Federal Surveyor will follow the guidance in Appendix Q for any situations of suspected Immediate Jeopardy. An extended survey does not need to be completed for Focused Comparative Surveys that identify SQC.

If a 2567 is required, the Regional Office will take appropriate enforcement action on the findings. In addition to writing the 2567 for any SQC, Harm, or IJ citations not identified by the State Agency, the Federal surveyor will complete a survey scoring sheet following each Focused Comparative survey that gives a rating of Met, Partially Met or Not Met for each of the concern areas investigated. Focused Comparative Scoring sheets and the State Performance Data base will be provided at a later date.

**Contact:** For questions or concerns, please contact your RO.

**Effective Date:** January 8, 2018. This policy should be communicated with all State and Regional Office Survey and Enforcement staff and their managers.

/s/  
David R. Wright

Attachment: FOSS—Phase 1 worksheet

cc: Survey and Certification Regional Office Management

**Federal Oversight Support Surveys (FOSS)**  
**Phase 1 – Consultative Surveys**

1. RO Surveyor name:
2. State surveyor names:
3. Facility name:
4. Facility ID:
5. Survey dates:
6. Survey ID:
7. Concerns of focus:
  - a. Abuse and Neglect
  - b. Admission, transfer, and discharge
  - c. Dementia Care Services
8. Survey findings (tags and S/S related to concerns of focus):
9. Observation assessment (summary of observed performance on focused areas):
10. Areas for consultation:
11. Other findings (Deficiencies (S/S) related to other areas):
12. Summary or additional comments:
13. Consultation completion date: