

May 2, 2023

Chiquita Brooks-LaSure, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9911-P, P.O. Box 8016
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

We are writing to express our significant concerns regarding the Department of Health and Human Services Office of Inspector General's (OIG) report¹ finding widespread inaccuracies in the information reported to the public on Care Compare and the Center for Medicare & Medicaid Services' (CMS) response. Nearly 20 years ago, the Inspector General identified many of these same inaccuracies in a report on Nursing Home Compare, Care Compare's predecessor website.² Although CMS promised two decades ago to correct the problems that led to the inaccuracies (and to require state agencies to verify that the database includes the most recent inspections), the same problems remain today, based on the same underlying causes. More troubling still, CMS now dismisses OIG's detailed concerns about how Care Compare fails to identify health, life safety code, and emergency preparedness deficiencies for two-thirds of the nursing facilities in the country. CMS refuses to commit to correcting the problems that make Care Compare understate deficiencies so significantly and extensively. We urge CMS to take the findings of the OIG report seriously, to adopt all of the report's recommendations, and to undertake a system-wide review to determine how these serious errors were made.

Care Compare's understatement of deficiencies is widespread. In the sample of 100 facilities, 56 health deficiencies were missing for 26 nursing facilities, including an immediate jeopardy deficiency when a resident with a history of smoking while using oxygen died in a fire and an actual harm deficiency for pressure ulcers.³ Twenty-three health deficiencies were reported at nine facilities, although the deficiencies did not appear on the inspection report.⁴ Scope and severity levels of deficiencies were also misstated at three of the 100 facilities.⁵

OIG found that 231 fire safety deficiencies were missing for 41 facilities and inaccuracies affected 16 facilities with 19 fire safety deficiencies.⁶ Care Compare did not accurately report emergency preparedness at two sampled facilities.⁷ In its response to the OIG's findings, CMS admits that it discovered a programming error that resulted in roughly 35,000 fire safety deficiencies not to be

¹ U.S. Dept. of Health and Human Services Office of Inspector General (2023), *CMS Did Not Accurately Report on Care Compare One or More Deficiencies Related to Health, Fire Safety, and Emergency Preparedness for and Estimated Two-Thirds of Nursing Homes*, (A-09-20-02007).

² OIG, *Inspection Results on Nursing Home Compare: Completeness and Accuracy*, OEI-01-03-00130 (Jun. 2004), <https://oig.hhs.gov/oei/reports/oei-01-03-00130.pdf>


³ Id. 8-9.

⁴ Id.8, 10..

⁵ Id. 10-11.

⁶ Id. 11-13.

⁷ Id. 13-14



reported on Care Compare.⁸ How an oversight of this magnitude can go undetected by CMS is not explained and is extremely concerning.

The importance of Care Compare to consumers cannot be understated. It is the primary tool for consumers to make decisions about nursing home care. There is no other centralized and publicly available tool that provides in-depth information on nursing homes, including performance on annual and complaint surveys, staffing levels and staff turnover, and provides a 5-Star quality rating system. Accordingly, the accuracy of the information on this website is essential to making well-informed decisions about healthcare. Additionally, the OIG report undermines the public's confidence in Care Compare, who will not trust a system that is riddled with errors and omits critical information.

The OIG report makes a host of recommendations to address the identified problems, including strengthening the processes for reviewing the inspection results reported on Care Compare. Additionally, the report recommends that CMS correct the inaccurately reported deficiencies for the sampled nursing homes. Yet, CMS did not agree with this recommendation, instead noting that many of these deficiencies no longer appear on Care Compare because they are older than three years old. We find it extremely troubling that CMS, when presented with evidence of widespread inaccuracies in the data on Care Compare, seems comfortable with dismissing these concerns, because they no longer appear on Care Compare. The OIG report reveals a deeply flawed system that potentially affects the accuracy of information on Care Compare for two-thirds of nursing homes in the United States. CMS's reaction should be one of great concern. Instead, as the OIG report repeatedly notes, CMS was at times unresponsive to their recommendations and seemed to suggest the problems were corrected, despite the OIG noting that many errors were still present, despite CMS's claims.

The integrity and reliability of the information on Care Compare is undermined by this report. Consumers will not be able to trust the information on Care Compare, when it is estimated that two-thirds of the nursing homes on the website do not contain complete and accurate information. We urge CMS to take this report seriously and to conduct a systematic review of Care Compare and the various systems that provide the information on the website.

Sincerely,

California Advocates for Nursing Home Reform
Center for Medicare Advocacy
The Geriatric Circle
Justice in Aging
Long Term Care Community Coalition
Michigan Elder Justice Initiative
National Consumer Voice for Quality Long-Term Care

⁸ Id. 10.