

MEMORANDUM

Texas Department of Aging and Disability Services

TO: Regulatory Services Division
Regional Directors and State Office Managers

FROM: Michelle Dionne-Vahalik, Manager
Policy, Rules & Curriculum Development
State Office MC E-370

SUBJECT: Regional Survey and Certification (RS&C) Letter No. 07-02

DATE: April 25, 2007

The attached Centers for Medicare and Medicaid Services (CMS), Regional Survey and Certification (RS&C) Letter was issued on April 18, 2007. This letter, which was distributed by e-mail on April 19th, is being provided to you for information purposes and should be shared with all professional staff.

- RS&C Letter No. 07-02 – **Federal Monitoring Surveys** – Selecting Providers/Suppliers for Federal Long Term Care Monitoring Surveys

If you have any questions, please contact the Compliance and Oversight Unit at (512) 438-4714.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

7500 Security Boulevard
Baltimore, MD 21244-1850

Ref: S&C-03-01

DATE: October 10, 2002

FROM: Director
Survey and Certification Group
Center for Medicaid and State Operations

SUBJECT: **Policy and Procedures for Conducting the Federal Comparative Survey, FY 2003**

TO: Associate Regional Administrators, DMSO
State Survey Agency Directors

The purpose of this program memorandum is to provide you with the revised procedure regarding the conduct of federal comparative surveys in long term care facilities during fiscal year 2003.

This policy clarifies several issues that result from the conduct of the comparative survey. They are:

1. The Regional Office team performing the survey will cite all deficient practice and allegations of non-compliance that are found during the comparative survey regardless of whether the practice was previously cited by the State Agency.
2. The enforcement procedures that may result from the comparative survey.
3. The results and all CMS-2567's resulting from comparative surveys shall be shared with the State Agency.
4. The results of comparative surveys for data analysis and performance standard purposes must be input into the FMS (FOSS) database. Additional information may still need to be input into the OSCAR system for tracking purposes.

Effective Date: October 1, 2002

Training: This memorandum should be shared with all survey and certification staff, surveyors, their managers, and the state/regional training coordinators.

/s/
Steven A. Pelovitz

Attachment

PROCEDURES FOR CONDUCTING THE FEDERAL COMPARATIVE SURVEY FY 2003

This document presents the procedure that Federal surveyors conducting a comparative survey in SNFs and NFs should be using to obtain and document data for evaluating the effectiveness of the State Agency's (SA) survey and certification process. The strategies outlined below make the data obtained more useful and relevant to the monitoring process and help to standardize the process across the Regions.

CRITERIA FOR SELECTING COMPARATIVE SURVEYS

Policy:

Survey selection will be objectively determined using criteria set forth by CMS and in accordance with all applicable laws, guidelines, regulations and policies relevant to Long Term Care programs. All comparative surveys must be performed on a certification or recertification survey conducted by the State Agency.

Purpose:

To assure that surveys are objectively selected by criteria set forth by CMS Central and Regional Office (RO) staff.

Procedure:

CMS has identified selection criteria for conducting comparative surveys. Each comparative survey should be selected for at least one of the reasons listed below:

Special State Agency Focus

1. District Office
2. Team Composition
3. 2567 Process
4. IDR Process
5. Prior FOSS Results
6. Revisit Survey Performance
7. Complaint Survey Performance
8. Comparative Survey Results
9. Specific Portion(s) of the Survey Process
10. Supervisor Request
11. Other Reason

Specific Facility Focus

1. Geographic Location
2. Number of Beds
3. Facility Type
4. Ownership
5. Chain Affiliation
6. Resident Characteristics
7. OSCAR Data
8. MDS Data
9. Quality Indicator Data
10. No Prior Deficiencies
11. S/S Findings
12. Substandard Quality of Care
13. Immediate Jeopardy
14. Enforcement History
15. Cmpl Level Survey G or above
16. Reported Complaints
17. State Ombudsmen Reports

SCHEDULING COMPARATIVE SURVEYS

Policy:

Federal surveyors shall be available on both a scheduled and as-needed basis to conduct comparative surveys.

Purpose:

To ensure that Federal surveyors are available to assess State Survey Agency's (SA) performance in the interpretation, application and enforcement of Federal Long Term Care (LTC) requirements and to evaluate facility compliance with Medicare and Medicaid requirements.

Procedures:

1. Comparative surveys will be initiated no sooner than 10 working days after the survey has been completed by the SA, but not later than 30 working days following the completion of a survey conducted by the State Survey Agency.
2. To assist the Regional Office in developing the survey schedule, the SA will provide the RO with the following:

Facilities surveyed in the preceding four weeks:

- a) Facility name, location and provider number,
- b) Actual start date and time of the survey (indicating if the survey was conducted during off hours),
- c) Actual type of survey initiated and concluded (initial, recertification, complaint, revisit),
- d) Team size and composition,
- e) Date the State Agency sent the CMS-2567 to the facility.

Facilities scheduled for surveys in the succeeding four weeks:

- a) Facility name, location and provider number,
 - b) Size of the facility,
 - c) Projected start date and time (indicating if the survey will be conducted during off-hours) and exit date of the survey,
 - d) Anticipated type of survey (initial, recertification, complaint, revisit),
 - e) Team size and composition
3. The SA will provide the original four-week schedule by the third week of each month and provide any subsequent schedule changes to the RO.

4. Once the RO selects the survey, the Regional office survey team leader contacts the SA and requests the listed information. The SA should forward the information as soon as possible after the request, but not later than five working days before the comparative survey start date(either by facsimile or overnight mail):

SA survey information:

- a) Quality Indicator Reports used in the offsite preparation (Facility Characteristics; Facility Quality Indicator Profile; and Resident Level Summary), noting selected areas of concern.
 - b) Copy of the SA team's "Offsite Survey Preparation Worksheet" (CMS Form 801), "Offsite Roster Sample Matrix" (CMS Form 802).
 - c) Copy of the SA team's "Roster Sample Matrix" (CMS Form 802) listing the residents selected for focused and comprehensive reviews in phase I, and those selected for focused and closed record reviews in Phase 2, ensuring that concern areas were clearly marked when photocopied or faxed.
 - d) Copy of any complaint information that pertained to the survey.
 - e) Copy of Ombudsman information provided to SA team, with name and number.
5. The RO will use other sources of information as prescribed in Appendix P of the State Operations Manual (SOM).
 6. The RO should not review the CMS-2567 issued by the SA prior to determining the facility's level of compliance relative to the comparative survey.

CONDUCTING THE COMPARATIVE SURVEY

Policy:

All comparative surveys will be conducted in accordance with all applicable laws, guidelines, regulations and policies relevant to LTC programs. The Regional Offices shall ensure that survey protocols are used by all Federal surveyors to measure compliance with Federal requirements.

Purpose:

To ensure consistency and comparability of the survey outcome conducted by the Regional Office (RO) and the State Survey Agency (SA), by comparing the findings of the SA with the RO findings. These procedures are intended to ensure consistency within CMS in the conduct of the comparative and assessment of State Agency performance. The procedures identify when and how the comparative survey will modify the Appendix P protocols to allow for survey comparisons.

Procedures:

1. The RO will follow Appendix P of the State Operations Manual (SOM) and all relevant subsequent transmittals.
2. The RO will complete its own offsite preparation, using the offsite information submitted by the SA (QI reports and other relevant data). The RO compares its concerns and sample selection with those of the State team and determines if there are any significant differences in resident selection or identified concerns.
3. After completing the selection of the Phase 1 sample, the RO should compare the residents selected and the concern areas to those of the SA team. Any significant differences in resident selection and concern area identification should be noted in the appropriate FMS database comment field.
4. During Phase I, the RO will amend (by substitution or supplementation), its sample selection to include 50% of the individuals selected by the SA, either for focused or comprehensive review (if those residents are still residing the facility). These individuals may be selected only from the SA's Phase 1 sample. The RO should not review the SA's Phase 2 sample selection until after they have completed their own Phase 2 sample selection. The amended RO sample should incorporate all residents selected for comprehensive review by the SA unless they are no longer in the facility. If none of the SA's Phase 1 comprehensively reviewed residents are still residing in the facility, the RO should select another resident from the SA's Phase 1 sample. If substitution is not possible, the RO may supplement the sample in accordance with the SOM. When the RO substitutes a resident, the RO should document the reason, following the Appendix P procedure and continue with the appropriate sample.
5. The RO may substitute the sample and not include 50% of the SA sample under the following circumstances (and with supporting documentation):
 - a. The SA chose an inappropriate Phase 1 sample (e.g. the sample did not satisfy the required WHP selection).

- b. The SA failed to select one or more mandatory QIs or sentinel health events.
 - c. The SA selected inappropriate concerns based on the offsite data.
 - d. The RO's tour drastically changed the complexion of the identified concerns (thus impacting the appropriateness of the SA's sample).
6. After the RO has selected their Phase 2 sample, the RO should review the SA sample. The RO should amend its Phase 2 sample to include 50% of the SA sample, if the residents are still residing in the facility. In addition, the RO may, if appropriate, review a resident from the SA sample who no longer resides in the facility as part of the closed record review.
 7. If the areas of concern selected by the RO for Phase 2 are different from those of the SA, this should be documented in the appropriate FMS database comment field. The RO should review the residents selected by the SA, and incorporate those that best reflect the identified concerns. If other residents need to be substituted, the RO should note the reason and make the substitution.
 8. In order to ensure that the facility has identified and met the needs for all residents, the sample should be reflective of the identified concerns. Therefore, the RO should substitute or supplement the sample as necessary.
 9. For findings of Immediate Jeopardy (IJ), please follow procedures outlined in Appendix Q

PROTOCOL for PROCESSING Form CMS-2567 (STATEMENT OF DEFICIENCIES)

Policy:

The Regional Office survey team will follow procedures outlined in the Principles of Documentation, to complete Form CMS-2567. This information will be communicated to the SA with instructions. All findings from a survey will be recorded on Form CMS –2567 and will follow survey protocols established to process Form CMS-2567.

Purpose:

- 1) To clarify the procedures that Regional Office survey teams shall follow to process Form CMS-2567 Statement of Deficiencies.
- 2) To assure accurate reporting of data collection and analysis.

General Procedures:

1. The Regional Office survey team will utilize the ASPEN computer database program to generate Form CMS-2567, the Statement of Deficiencies.
2. The Regional Office survey team will utilize the SOM, Section 2728 and the Principles of Documentation as a resource for processing the Form CMS-2567. The CMS-2567 resulting from the comparative survey must be issued to the facility 10 working days after the survey has been completed.
3. The RO should cite all findings of deficient practice on the CMS-2567, without reviewing the CMS-2567 resulting from the SA's survey. The RO shall ensure that all areas of non-compliance are cited regardless of whether the findings have been previously cited by the SA. In cases where the RO surveys the same areas of concern identified by the SA and finds that the areas of deficient practice cited by the State no longer exists, the RO must confer with the SA to discuss the process for determining compliance. If agreement is reached between the SA and RO that the non-compliance no longer exists, the RO shall be responsible for sending a CMS-2567B to the facility for those areas of non-compliance not cited by the RO. This may result in the issuing of both a CMS-2567 and a CMS-2567B by the RO. The RO cannot issue a CMS-2567B for those tags without discussing the findings with the SA.
4. Informal Dispute Resolutions (IDR) for comparative surveys are to be held in accordance with guidelines in the SOM and must be held at the RO level. Any determinations made in reference to IDRs of comparatives must be communicated to the SA. The SA shall also communicate the result of any IDR of surveys chosen for comparative review to the appropriate RO.
5. Each RO responsible for the comparative survey will be responsible for approving the PoC.
6. When applicable, comparative revisit surveys may be carried out by either the Region or the State, at the discretion of the Regional Office.

There are several enforcement options for the RO to consider when the comparative survey is completed.

Scenario 1A

The State survey determines substantial compliance (below level “D” deficiencies) and the Federal Comparative survey also determines substantial compliance:

1. The RO should cite all findings of deficient practice on the CMS-2567.
2. The RO must send the CMS-2567 to the facility, with a cover letter explaining that if the facility is in the process of implementing a PoC for State survey, the facility should reference this information in their PoC being submitted to the RO, with the current status of the correction and any revised correction dates.
3. The RO will send a copy of the CMS-2567 and the letter to the State Agency (SA).
4. The RO should discuss the differences in findings with the SA.
5. Revisits are discretionary for both the State and the RO for surveys where the highest citation is at a D, E or F and there is no SQC. (SOM 7317)

Scenario 1B

The State survey determines substantial compliance (no deficiencies) and the Federal Comparative survey also determines substantial compliance (no deficiencies):

1. The RO must send the CMS-2567 to the facility, noting that the entity is in compliance with all requirements.
2. The RO will send a copy of the CMS-2567 and the letter to the State Agency (SA).

Scenario 2

The State survey determines substantial compliance and the Federal Comparative survey determines non-compliance.

1. The RO should cite all findings of deficient practice on the CMS-2567.
2. The RO must send the CMS-2567 to the facility, with a cover letter denoting that the plan of correction (PoC) be addressed to the Regional Office. The RO will send a copy of the CMS-2567 and the letter to the SA.
3. The RO will follow the enforcement process as delineated at SOM Section 7301, 7304, 7308, and 7310.
4. The RO will determine whether the enforcement action should be “opportunity to correct” or “no opportunity to correct”. The RO will provide the initial notice to the provider regarding the enforcement action to be taken.
5. The RO should discuss the differences in findings with the SA.
6. At the discretion of the RO, the SA will conduct the revisit survey and make additional recommendations to the RO regarding compliance/noncompliance and associated enforcement remedies.
7. The RO will be responsible for all notice letters in accordance with the SOM.

Scenario 3

The SA determines noncompliance and initiates an enforcement action. The RO conducts a Comparative survey and determines non-compliance. The RO will incorporate the Comparative survey into the enforcement process initiated by the State.

1. As soon as the RO schedules the comparative survey, the RO will contact the SA so that the first revisit is delayed until the Federal survey is completed, unless the SA has completed the follow-up to the State survey. If the SA has completed their revisit and determined compliance, the RO will follow the process at scenario 2. If the SA has completed their revisit and determined continuing noncompliance, they should proceed with the enforcement process timeframes.
2. Following completion of the comparative survey, the RO must send the CMS-2567 to the facility, with a cover letter explaining that if the facility is in the process of implementing a PoC for State survey, the facility should reference this information in the PoC being submitted to the RO, with the current status of the correction and any revised correction dates.
3. The RO will send a copy of the CMS-2567 and letter to the SA.
4. The RO will determine the appropriate enforcement action. If substantial compliance is not achieved, the RO must ensure the timely imposition of mandatory Denial of Payment for New Admissions. This may necessitate that the enforcement action initiated by the SA becomes a “No Opportunity to Correct” case.
5. Once an acceptable PoC is submitted and approved by the RO, the RO will contact the SA.
6. At the discretion of the RO, the SA will conduct the revisit survey for both the State survey and the comparative survey.
7. The enforcement process will be followed as stipulated in the SOM Section 7317.

Scenario 4

The SA determines non-compliance and the Federal Comparative survey determines substantial compliance:

1. As soon as the RO schedules the comparative survey, the RO will contact the SA so that the revisit is delayed until the Federal survey is completed, if possible.
2. Following the completion of the comparative survey, the RO must discuss the findings of the survey prior to issuing a CMS-2567 for those areas found non-compliant by the SA but compliant by the RO. Once agreement has been reached between the SA and the RO, the RO will complete the CMS-2567 and send a letter to the facility.
3. The RO will send a copy of the CMS-2567 and letter to the SA.
4. Revisits are discretionary for both the State and the RO for surveys where the highest citation is at a D, E or F and there is no SQC. (SOM 7317)



Division of Survey and Certification, Region VI

DATE: March 27, 2007

REGIONAL SURVEY AND CERTIFICATION LETTER NO. 07-02

TO: All State Survey Agencies (Action)
All Title XIX Single State Agencies (Information)

FROM: Associate Regional Administrator
Division of Survey and Certification

SUBJECT: **Federal Monitoring Surveys** – Selecting Providers/Suppliers for Federal Long Term Care Monitoring Surveys

Letter Summary

This letter outlines criteria used for selecting long-term care providers for Federal Monitoring Surveys (FMS). It also makes available the policy memorandum (S&C 03-01) for selecting comparative surveys and the Federal Oversight Support Survey (FOSS) Manual guidance for conducting a FOSS survey.

This letter clarifies Centers for Medicare & Medicaid Services (CMS), Dallas Regional Office (RO) policies and procedures for selecting long-term care providers for a FMS Survey. This letter is also intended to dispel myths and misconceptions regarding facilities being chosen for a FMS after a state survey where no deficiencies were identified. This letter should be shared with state agency surveyors and certification staff, providers, ombudsmen, provider associations and other stakeholders.

The CMS ROs nationwide are charged with conducting 5% FMS of all long term care facilities. This authority is defined in the Social Security Act, section 1819 and 1919. In addition, the ROs are charged with conducting surveys of one percent of all non-long term care providers. The CMS conducts two types of federal monitoring surveys: a federal comparative survey (look-behind) and a federal oversight support survey (FOSS). A federal comparative survey may include a full health and/or life safety code survey. CMS Central Office (CO) communicates to the ROs the survey workload requirements at the beginning of each federal fiscal year based on the number of state surveys conducted for each State. The RO makes an effort to spread the FMS surveys across each state, to evaluate as many State Agency (SA) surveyors as possible.

On a federal comparative survey, RO surveyors follow the protocol detailed in the State Operations Manual (SOM) Appendices P and PP when they perform federal comparative surveys. The CMS policy is that survey selection will be objectively determined using criteria

set forth by CMS CO and RO staff in its long term care programs. All comparative surveys must be performed on a certification or recertification survey conducted by the SA. The CMS has identified selection criteria in accordance with all applicable laws, guidelines, regulations and policies relevant to the long term care programs. The attached Survey and Certification memorandum (S&C 03-01) gives the criteria that may be used in selecting the comparative survey. The selection criteria may be a specific facility focus or a special SA focus. The selection criteria may include one of the following facility focus:

- geographic location
- number of beds
- facility type
- resident characteristics
- quality indicator/quality measure data
- minimum data set (MDS)
- CASPER survey data
- no prior deficiencies
- scope and severity findings

Please note, while a facility having no deficiencies on the previous year state survey may be listed as a possible criterion, the RO does not routinely use this criterion for selecting facilities.

The special SA focus criteria may include:

- district office
- team composition
- CMS 2567 process
- informal dispute resolution (IDR) process
- complaint survey performance
- comparative surveys or FOSS results

The second type of FMS is the FOSS survey. The purpose of the FOSS survey is to provide an evaluation of the performance of the SA teams and the SA as well, to gain an accurate picture of the way the SA typically conducts its surveys. A secondary purpose is to provide feedback that will help surveyors improve their survey skills and help SAs and ROs provide appropriate surveyor training. The FOSS Evaluator's Manual gives the criteria for selecting a FOSS survey. FOSS surveys selected should represent a variety of facility types, facility sizes, and geographic locations. The surveys selected should be representative of the SA's surveys. The RO strives to spread the FMS across each state, in an attempt to evaluate as many SA surveyors as possible. Some states have regions or zones. The RO tracks the activity in each region or zone. Some states have set teams and the RO keeps track of the number and type of federal surveys done with each of the teams by fiscal year. There is no directive from CO regarding this type distribution.

The RO process to plan each FOSS survey involves reviewing the schedule of upcoming surveys and selecting a survey based on the considerations described above. The RO will then provide reasonable advance notice to the SA survey team and will coordinate logistical details (including inviting the SA survey team's supervisor to attend the FOSS debriefing) with them. The RO may exercise its discretion to conduct an unannounced FOSS. We also plan to do 10% of our FMS (FOSS and comparatives) as staggered or off-hour surveys.

Effective Date: Please ensure that all appropriate staff is fully apprised of this information within 30 days.

If you have questions regarding this letter, you may contact Diane Murphy at 214 767-6300 or you may e-mail her at diane.wade@cms.hhs.gov .

Sincerely,

Molly Crawshaw
Associate Regional Administrator
Division of Survey and Certification

Attachments:

Federal Oversight Support Survey (FOSS) Evaluator's Manual, revised April 2006
Survey and Certification Letter (S&C 03-01)



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

7500 Security Boulevard
Baltimore, MD 21244-1850

Ref: S&C-03-01

DATE: October 10, 2002

FROM: Director
Survey and Certification Group
Center for Medicaid and State Operations

SUBJECT: **Policy and Procedures for Conducting the Federal Comparative Survey, FY 2003**

TO: Associate Regional Administrators, DMSO
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2. The enforcement procedures that may result from the comparative survey.
3. The results and all CMS-2567's resulting from comparative surveys shall be shared with the State Agency.
4. The results of comparative surveys for data analysis and performance standard purposes must be input into the FMS (FOSS) database. Additional information may still need to be input into the OSCAR system for tracking purposes.

Effective Date: October 1, 2002

Training: This memorandum should be shared with all survey and certification staff, surveyors, their managers, and the state/regional training coordinators.

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- d) Team size and composition,
- e) Date the State Agency sent the CMS-2567 to the facility.

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3. The SA will provide the original four-week schedule by the third week of each month and provide any subsequent schedule changes to the RO.

4. Once the RO selects the survey, the Regional office survey team leader contacts the SA and requests the listed information. The SA should forward the information as soon as possible after the request, but not later than five working days before the comparative survey start date(either by facsimile or overnight mail):

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 - d) Copy of any complaint information that pertained to the survey.
 - e) Copy of Ombudsman information provided to SA team, with name and number.
5. The RO will use other sources of information as prescribed in Appendix P of the State Operations Manual (SOM).
 6. The RO should not review the CMS-2567 issued by the SA prior to determining the facility's level of compliance relative to the comparative survey.

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5. The RO may substitute the sample and not include 50% of the SA sample under the following circumstances (and with supporting documentation):
 - a. The SA chose an inappropriate Phase 1 sample (e.g. the sample did not satisfy the required WHP selection).

- b. The SA failed to select one or more mandatory QIs or sentinel health events.
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 7. If the areas of concern selected by the RO for Phase 2 are different from those of the SA, this should be documented in the appropriate FMS database comment field. The RO should review the residents selected by the SA, and incorporate those that best reflect the identified concerns. If other residents need to be substituted, the RO should note the reason and make the substitution.
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1. The Regional Office survey team will utilize the ASPEN computer database program to generate Form CMS-2567, the Statement of Deficiencies.
2. The Regional Office survey team will utilize the SOM, Section 2728 and the Principles of Documentation as a resource for processing the Form CMS-2567. The CMS-2567 resulting from the comparative survey must be issued to the facility 10 working days after the survey has been completed.
3. The RO should cite all findings of deficient practice on the CMS-2567, without reviewing the CMS-2567 resulting from the SA's survey. The RO shall ensure that all areas of non-compliance are cited regardless of whether the findings have been previously cited by the SA. In cases where the RO surveys the same areas of concern identified by the SA and finds that the areas of deficient practice cited by the State no longer exists, the RO must confer with the SA to discuss the process for determining compliance. If agreement is reached between the SA and RO that the non-compliance no longer exists, the RO shall be responsible for sending a CMS-2567B to the facility for those areas of non-compliance not cited by the RO. This may result in the issuing of both a CMS-2567 and a CMS-2567B by the RO. The RO cannot issue a CMS-2567B for those tags without discussing the findings with the SA.
4. Informal Dispute Resolutions (IDR) for comparative surveys are to be held in accordance with guidelines in the SOM and must be held at the RO level. Any determinations made in reference to IDRs of comparatives must be communicated to the SA. The SA shall also communicate the result of any IDR of surveys chosen for comparative review to the appropriate RO.
5. Each RO responsible for the comparative survey will be responsible for approving the PoC.
6. When applicable, comparative revisit surveys may be carried out by either the Region or the State, at the discretion of the Regional Office.

There are several enforcement options for the RO to consider when the comparative survey is completed.

Scenario 1A

The State survey determines substantial compliance (below level “D” deficiencies) and the Federal Comparative survey also determines substantial compliance:

1. The RO should cite all findings of deficient practice on the CMS-2567.
2. The RO must send the CMS-2567 to the facility, with a cover letter explaining that if the facility is in the process of implementing a PoC for State survey, the facility should reference this information in their PoC being submitted to the RO, with the current status of the correction and any revised correction dates.
3. The RO will send a copy of the CMS-2567 and the letter to the State Agency (SA).
4. The RO should discuss the differences in findings with the SA.
5. Revisits are discretionary for both the State and the RO for surveys where the highest citation is at a D, E or F and there is no SQC. (SOM 7317)

Scenario 1B

The State survey determines substantial compliance (no deficiencies) and the Federal Comparative survey also determines substantial compliance (no deficiencies):

1. The RO must send the CMS-2567 to the facility, noting that the entity is in compliance with all requirements.
2. The RO will send a copy of the CMS-2567 and the letter to the State Agency (SA).

Scenario 2

The State survey determines substantial compliance and the Federal Comparative survey determines non-compliance.

1. The RO should cite all findings of deficient practice on the CMS-2567.
2. The RO must send the CMS-2567 to the facility, with a cover letter denoting that the plan of correction (PoC) be addressed to the Regional Office. The RO will send a copy of the CMS-2567 and the letter to the SA.
3. The RO will follow the enforcement process as delineated at SOM Section 7301, 7304, 7308, and 7310.
4. The RO will determine whether the enforcement action should be “opportunity to correct” or “no opportunity to correct”. The RO will provide the initial notice to the provider regarding the enforcement action to be taken.
5. The RO should discuss the differences in findings with the SA.
6. At the discretion of the RO, the SA will conduct the revisit survey and make additional recommendations to the RO regarding compliance/noncompliance and associated enforcement remedies.
7. The RO will be responsible for all notice letters in accordance with the SOM.

Scenario 3

The SA determines noncompliance and initiates an enforcement action. The RO conducts a Comparative survey and determines non-compliance. The RO will incorporate the Comparative survey into the enforcement process initiated by the State.

1. As soon as the RO schedules the comparative survey, the RO will contact the SA so that the first revisit is delayed until the Federal survey is completed, unless the SA has completed the follow-up to the State survey. If the SA has completed their revisit and determined compliance, the RO will follow the process at scenario 2. If the SA has completed their revisit and determined continuing noncompliance, they should proceed with the enforcement process timeframes.
2. Following completion of the comparative survey, the RO must send the CMS-2567 to the facility, with a cover letter explaining that if the facility is in the process of implementing a PoC for State survey, the facility should reference this information in the PoC being submitted to the RO, with the current status of the correction and any revised correction dates.
3. The RO will send a copy of the CMS-2567 and letter to the SA.
4. The RO will determine the appropriate enforcement action. If substantial compliance is not achieved, the RO must ensure the timely imposition of mandatory Denial of Payment for New Admissions. This may necessitate that the enforcement action initiated by the SA becomes a “No Opportunity to Correct” case.
5. Once an acceptable PoC is submitted and approved by the RO, the RO will contact the SA.
6. At the discretion of the RO, the SA will conduct the revisit survey for both the State survey and the comparative survey.
7. The enforcement process will be followed as stipulated in the SOM Section 7317.

Scenario 4

The SA determines non-compliance and the Federal Comparative survey determines substantial compliance:

1. As soon as the RO schedules the comparative survey, the RO will contact the SA so that the revisit is delayed until the Federal survey is completed, if possible.
2. Following the completion of the comparative survey, the RO must discuss the findings of the survey prior to issuing a CMS-2567 for those areas found non-compliant by the SA but compliant by the RO. Once agreement has been reached between the SA and the RO, the RO will complete the CMS-2567 and send a letter to the facility.
3. The RO will send a copy of the CMS-2567 and letter to the SA.
4. Revisits are discretionary for both the State and the RO for surveys where the highest citation is at a D, E or F and there is no SQC. (SOM 7317)



Survey & Certification Group (SCG)

S&C Operating Protocols *for* Excellence

Date	April 11, 2006	Memo No. SCG-06-06 – FY 06 FOSS Manual
To	Central & Regional Offices	Effective: 30 Days From Issuance
From	Thomas E. Hamilton, Director, Survey & Certification Group	
Topic	Federal Oversight/Support Survey (FOSS) Manual Updated with Reporting State Surveyor Concerns	
Summary	<p>This memorandum:</p> <ul style="list-style-type: none"> • Provides an updated Federal Oversight/Support Survey (FOSS) Manual; • Formalizes policy that encourages State surveyors to raise concerns about the survey and certification process to the Centers for Medicare & Medicaid Services (CMS) through Regional Offices (ROs); • Provides guidance for ROs to follow when surveyors report concerns; and • Provides RO protocol and procedures for processing surveyor concerns. 	
Program Matter & Discussion	<p>The FOSS survey can serve as a resource for State surveyors to report to CMS their concerns regarding their State Agency’s survey and certification process. This memorandum provides ROs with an updated version of the FOSS Manual, which includes guidance for RO surveyors in addressing State surveyor concerns during the FOSS process.</p> <p>Relative to addressing surveyor concerns, each RO is to determine its own process protocol, policy, and procedures. The updated FOSS manual offers guidance on this topic in the following areas:</p> <ul style="list-style-type: none"> • <u>Section 11, “Reported Surveyor Concerns”</u> was added to the manual and discusses the purpose of the policy, appropriate referral of information after the concern investigation, and the protection of the reporting State surveyor’s identity. • <u>Appendix A “Suggested Discussion Points when Introducing Surveyors to FOSS”</u> has an added component titled “Reporting surveyor concerns” which addresses key points of the policy’s protocols and procedures. <p>Enclosure: FOSS Evaluator’s Manual, Appendices A, B, C, D, E, and F</p>	
Con- tact	Linda O’Hara at 410-786-8347	

Centers for Medicare and Medicaid Services

**Federal Oversight/Support Survey
(FOSS)**

Evaluator's Manual

**Revised
April, 2006**

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Section 1: Introduction

Ensuring the quality of nursing home care is one of the Centers for Medicare & Medicaid Services' (CMS') extremely important oversight responsibilities. To implement this responsibility, CMS contracts with State Survey Agencies (SAs) to conduct nursing home inspections but retains for itself the role of monitoring these agencies' performance. As part of its monitoring strategy, CMS uses two types of Federal Monitoring Surveys (FMSs) – a comparative survey in which CMS Regional Office (RO) surveyors essentially replicate a State Agency (SA) survey team's inspection of a facility, and a Federal Oversight/Support Survey (FOSS) in which one or more Federal surveyors observe and evaluate a SA survey team's conduct of the actual survey.

The protocol includes a number of important key elements:

- (1) It is *outcome-oriented*. That is, it focuses on the SA survey team's effectiveness in achieving the desired *outcomes* of the survey rather than on their strict adherence to all survey steps and procedures. (This is not to say that survey protocol is unimportant – rather, it is viewed as a means to an end and a place to look for problems when the team is not achieving the desired outcomes.)
- (2) The SA survey team's effectiveness is judged in relation to six survey measures rather than in relation to many discrete survey steps and an overall score. These measures are *Concern Identification, Sample Selection, General Investigation, Food-borne Illness Investigation, Medications Investigation, and Deficiency Determination*. The SA survey team's effectiveness is also judged in relation to their completion of the CMS 2567 – in particular, how well this document mirrors the deficiencies identified during the survey.
- (3) The feedback provided to the SA survey team regarding a survey consists of a rating on each measure, a narrative describing the team's behavior in relation to each measure, and a description of how well the team's CMS 2567 reflects the deficiencies identified during the survey. By contrast, the previous feedback included an indication of whether the SA survey team followed each of the hundreds of steps of the survey protocol, and narrative descriptions of the team's survey behavior. The feedback was extremely detailed and voluminous but failed to convey a “big picture” view of how effectively the team had achieved the overall survey purpose.

Purpose of the FOSS

The purpose of the FOSS is to provide a fair, objective evaluation of the performance of SA survey teams and, in the case of the CMS 2567, of the SAs as well. A secondary purpose is to provide feedback that will help surveyors improve their survey skills and that will help SAs and ROs provide appropriate surveyor training. The FOSS conforms to the FMS philosophy that was outlined by a previous CMS workgroup as follows:

In order to make valid and comparable evaluations about the adequacy and effectiveness of the survey process and state monitoring of quality of care and quality of life in facilities, CMS through its ROs shall take a structured and consistent approach in conducting onsite long term care surveys and reporting of state performance. This approach will incorporate the basic premises of being onsite, evaluative in nature, producing written reports, incorporating appropriate follow up and allow for cross regional comparisons of results.

Overview of the FOSS procedure

The FOSS is conducted onsite during the survey process. It is designed to focus on observable SA surveyor behaviors and on the adequacy of the survey findings and documentation. It is *not* an evaluation of the technical expertise of the SA surveyors, but rather of the skill with which the SA survey team achieves key *outcomes* at each stage of the survey process. The FOSS is oriented towards *team* rather than individual surveyor performance.

During the FOSS, one or more RO evaluators observe the SA survey team conducting their survey. They observe as the team reviews records; interviews facility residents, staff and visitors; observes facility practices; documents findings; and makes deficiency determinations. After the survey, they review the CMS 2567 the SA survey team submits to document the facility's deficiencies. In all, they evaluate the SA survey team on six survey measures (or a subset of those measures in the case of revisit or complaint surveys), plus the CMS 2567. As previously mentioned, the measures are: (1) *Concern Identification*, (2) *Sample Selection*, (3) *General Investigation*, (4) *Food-borne Illness Investigation*, (5) *Medications Investigation*, and (6) *Deficiency Determination*.

At the conclusion of the survey, the RO evaluator(s) provide feedback in the form of an onsite (or occasionally offsite) debriefing of the SA survey team, followed by written feedback to the SA regarding both the SA survey team's onsite performance and their completion of the CMS 2567. The RO evaluator(s) may also provide the SA survey team and their supervisor with verbal feedback regarding the CMS 2567 after reviewing documentation.

Finally, the RO provides the SA with periodic summary information regarding the States' CMS 2567s and any training needs that the SA surveyors may have.

Purpose and organization of this manual

This manual describes the FOSS process and procedures in detail. It is to be used to train RO evaluators and serve as a resource during the evaluation process. In particular, RO evaluators will need to refer to the FOSS measures and rating scales when conducting their evaluations.

The manual is divided into twelve major sections, followed by appendices that include the FOSS measures, the rating scales, the forms, and other helpful aids for conducting the evaluation. The major manual sections, in addition to this Section 1: Introduction, are as follows:

- Section 2: Preparing for FOSS – covers survey selection, coordination with the SA, planning of RO evaluator participation, and assembly of forms and reference documents
- Section 3: Evaluation Process Overview – covers the role of the RO evaluator(s) and guidelines for setting SA surveyor and facility expectations; also provides an overview of the RO evaluator's(s') activities during the FOSS, and of procedures for documenting and rating SA survey team performance, debriefing the SA survey team, evaluating the CMS 2567, and forwarding information to the SAs
- Section 4: Observing SA Survey Team Behavior – includes specific observation guidance for each measure, and guidance for note-taking
- Section 5: Rating and Documenting SA Survey Team Performance – provides specific guidance for rating and documenting SA survey team performance and for identifying team developmental needs, if any
- Section 6: Conducting the Debriefing – contains specific guidance for conducting the debriefing
- Section 7: Evaluating the CMS-2567 – provides specific guidance for performing this evaluation
- Section 8: Forwarding FOSS Information to the SAs – contains specific guidance for this activity
- Section 9: Procedures for Resolving Disagreements or Proceeding to a Direct Federal Survey – contains specific guidance for handling situations in which there is disagreement between the RO and the SA over findings that affect Immediate Jeopardy
- Section 10: Procedures for Resolving Disagreements Resulting from a FOSS Survey – references the appropriate guidance for resolving disagreements between the SA and the RO regarding the results of a FOSS evaluation
- *Section 11: Reported Surveyor Concerns – provides guidance for the reporting of SA surveyors' concerns.*
- Section 12: Glossary of FOSS Terminology – defines key terms pertaining to the FOSS

Section 2: Preparing for the FOSS

Survey selection

General considerations

Because the primary purpose of the FOSS is to evaluate SA survey team performance, it is important that CMS gain as accurate a picture as possible, over time, of the way the SA typically conducts its surveys. Accordingly, the surveys selected as FOSSs should represent a variety of:

- Facility types;
- Facility sizes; and
- Geographic locations.

The surveys selected should be representative of the SA's surveys. Additional considerations in facility selection may include:

- Performance differences between district/satellite SA offices within a state;
- Concerns about a SA's conduct of some aspects of the survey; and
- SA enforcement variations contingent on the ownership or chain affiliation of the facility.

Revisit and complaint surveys

FOSSs of initial, recertification, revisit, and complaint surveys may contribute to a RO's required minimum percentage of FMSs. A RO may include in their percentage of revisits a FOSS conducted after the FOSS of a recertification survey. However, this should only be done if the FOSS of the recertification survey revealed multiple SA survey team performance issues leading to questioning of the SA survey team's ability to evaluate the facility's return to compliance.

The minimum number of FMSs for a state is five, or five percent of the number of facilities in the state, whichever is greater. At least two of the FMSs in each state and 20 percent of a RO's FMSs should be Comparative Surveys. Revisit and complaint surveys may make up no more than 20 percent of a RO's required annual FMSs. In medium and large states, complaint surveys may make up no more than five percent of the required FMSs. The table that follows provides a facility selection example for a hypothetical medium-sized state.

Total number of providers in state	400
Minimum number of required FMSs	20
Maximum number of FMSs that can be revisit or complaint surveys	4
Maximum number of FMSs that can be complaint surveys	1

Coordination with the State Agency

The RO will plan each FOSS by reviewing the schedule of upcoming surveys and selecting a survey based on the considerations previously described. The RO will then provide reasonable advance notice to the SA survey team and will coordinate logistical details (including inviting the SA survey team’s supervisor to attend the FOSS debriefing) with them. Occasionally, the RO may exercise its discretion to conduct an unannounced FOSS, in which case the RO evaluator(s) will need to be prepared for possible last minute changes to the SA’s survey schedule.

Planning of RO evaluator participation

In order to adequately evaluate SA survey team performance, RO evaluator(s) should be present for all SA survey team activities. At a minimum (and barring unusual extenuating circumstances such as the deficiency determination task being on a non-consecutive day from the rest of the survey), they must be present for at least part of the initial tour and all types of investigation activities, and must observe the SA survey team’s deficiency determination meeting. In the event of extenuating circumstances that prohibit onsite observation of the deficiency determination meeting, the RO evaluator(s) may be conferenced into the meeting by telephone. For complaint and revisit surveys, the RO evaluator(s) should generally be present throughout the survey.

The number of RO evaluators necessary to adequately assess a SA survey team may be determined on a case-by-case basis. However, barring unusual extenuating circumstances, it must include at least the minimum numbers indicated below to be counted toward the RO’s required number of FOSSs.

Number of fully participating surveyors	Required minimum number of RO evaluators
1	1
2	1
3	1 (or 2 if the facility has multiple pods or floors or is very geographically dispersed)

Number of fully participating surveyors	Required minimum number of RO evaluators
Number of fully participating surveyors	Required minimum number of RO evaluators
4	2
5	2 (or 3 if the facility has multiple pods or floors or is very geographically dispersed)
6	2 or 3
7	3

In satisfying these ratios, all fully participating SA surveyors should be counted whether or not they have taken the SMQT or have been observed in previous FOSSs. New or specialized surveyors who are conducting only limited parts of the survey or who are mainly observing the survey are not considered to be “fully participating.” If other than fully participating surveyors conduct selected parts of the survey, the RO should use its judgment in allocating additional RO evaluators to the FOSS. There needs to be enough RO evaluators to observe the SA surveyors, and survey schedules may have to be adjusted to make such observations possible. Other factors to consider in determining the need for additional RO evaluators include:

- Facility size and geographic layout (e.g., if the facility has multiple pods or floors, an RO evaluator for each pod or floor may be needed);
- Types of residents at the facility;
- Number and type of facility concerns;
- RO evaluator experience; and
- Number of SA surveyors on the team.

In a multiple member RO evaluator team, the RO evaluators must make provision for:

- Coordinating arrangements with the SA survey team;
- Bringing the FOSS rating forms for all SA surveyors to the facility site;
- Coordinating all onsite activities;
- Ensuring that the RO evaluator team meets daily to discuss progress and salient findings relative to the FOSS;
- Holding RO survey team meetings to make decisions on the rating for each survey measure;

- Coordinating evaluation of the CMS 2567; and
- Ensuring that written FOSS feedback is complete and appropriate, and is provided to the SA in a timely manner.

Assembly of forms and reference documents

In preparing for the FOSS, the RO evaluator(s) should obtain and review (either in advance or onsite) key information about the facility, such as:

- Facility Characteristics Report;
- Facility Quality Indicator Profile;
- Resident Level Summary; and
- Standard OSCAR Reports 3 and 4.

Because the first three documents must be the same version (i.e., with the same date) that the SA survey team is using, they will generally need to be obtained from the SA survey team onsite. The RO evaluator may generate the Standard OSCAR Reports 3 and 4 in advance.

The RO evaluator(s) should also make a copy of the “FOSS Rating and Documentation Form” (Appendix D) and should bring along the FOSS Evaluator’s Manual as a reference on FOSS procedure, measures, and rating scales. Other aids, such as the form that contains the FOSS measures and indicators, may be helpful.

Section 3: Evaluation Process Overview

Role of the RO evaluator(s)

The RO evaluator's(s') primary role is to observe and collect information about the survey behaviors and decisions of the SA survey team. The information collected must be sufficient to evaluate the SA survey team's effectiveness in achieving key survey goals, as captured in the six FOSS measures and the CMS 2567 evaluation.

In performing this role, the RO evaluator(s) should intrude as little as possible into the normal survey process and, until the time of the debriefing, should scrupulously avoid any words or actions that would alter the SA survey team's effectiveness in conducting its investigation or in making its deficiency determinations. Thus, the RO evaluator(s) should provide no input into the SA survey team's decisions except in very unusual circumstances, such as when an immediate and serious jeopardy situation goes unrecognized by the team.

However, the RO evaluator(s) is expected to engage in normal social interaction with the SA survey team and to try, in this way, to alleviate the natural apprehension SA surveyors may feel surrounding the FOSS. At the conclusion of the survey, the RO evaluator(s) also may serve as a coach (es) by providing feedback and other guidance as appropriate and as time permits to the SA survey team.

Limited independent fact-finding

By the end of the survey, the RO evaluator must have gathered enough information to evaluate the SA survey team on all of the measures and to judge their behavior in relation to the standards in the rating scales. This requires intimate knowledge and constant awareness during the survey of: (1) the measures and their meanings, and (2) the standards in the rating scales. It also requires the gathering of enough information about SA survey team performance during the survey to be able to make the required judgments.

Although the RO evaluator's(s') primary role is that of observer, there may be instances in which he or she will need to do *limited* independent fact-finding to be able to adequately evaluate the SA survey team's performance. Limited independent fact-finding is defined as "supplementary information gathering (e.g., observation, interviews, record reviews) conducted when the RO evaluator's formal observations (i.e., those made while accompanying the SA survey team) fail to provide sufficient information to accurately assess SA survey team performance." In other words, the RO evaluator must be sure that regular observations of the SA survey team would not provide the same information.

Limited independent fact-finding is typically directed at clarifying information, gathering additional facts, further exploration, and/or gathering information to permit evaluation of the SA survey team's Task 6 decisions. It should be directed at *significant* concerns – for example, concerns related to actual harm, Immediate Jeopardy, or substandard quality of care. Such fact-finding is not the same as conducting one's own investigation; it is gathering

just enough information to fill in the gaps so that the RO evaluator(s) is able to fairly rate the SA survey team. (Remember that the RO evaluator(s) does not need to be prepared to write a CMS 2567!)

Limited independent fact-finding might typically consist of:

- A brief question to facility staff (e.g., “Where would I find your documentation of wound care?”);
- An unobtrusive observation of some aspect of facility practice; or
- The review of additional records.

It would not consist of:

- Calling a resident’s family;
- Conducting a complete re-interview of a resident;
- Conducting a formal independent interview with additional residents, family, or staff;
- Conducting a full kitchen investigation;
- Conducting one’s own medication pass; or
- Remaining onsite to perform an investigation when the SA survey team is not present.

Only observations that the SA survey team has access to can be used as information for limited independent fact-finding. Before conducting such fact-finding, the RO evaluator(s) should be sure the SA survey team is through with their investigation of the concern, or is not going to identify the concern for investigation. The RO evaluator(s) should not get involved too early.

From a timing perspective, limited independent fact-finding should be done only when it does not detract from the RO evaluator’s(s’) ability to conduct other parts of the FOSS (for example, when the SA survey team is conducting their record review and the RO evaluator(s) therefore has nothing important to observe). In addition, it should be done only when it does not interfere with the SA survey team’s ability to conduct their survey. For example, even if a SA surveyor fails to ask a particularly important question, the RO evaluator should not interfere with the interview. Rather, the RO evaluator should let the interview proceed on its course and should take time later to briefly question the interviewee. Similarly, the RO evaluator(s) should not review a record before the SA survey team has had the opportunity to review it.

Finally, limited independent fact-finding should be performed in such a way that: (1) the facility is not inadvertently alerted to concerns the SA survey team is investigating, and (2) the SA survey team is not inadvertently alerted to regulatory concerns that they would not otherwise have detected. (For example, it would be inappropriate for the RO evaluator(s) to

ask the SA surveyor such questions as “Did you see that?” or “Can you believe they did that?” or “Were you planning on looking into?”) However, when approaching the facility, it would be appropriate for the RO evaluator(s) to say something like, “As part of our need to conduct our evaluation, we need to ask you some questions.”

Before conducting limited independent fact-finding, the RO evaluator should ask himself/herself:

- What additional information do I need, and why do I need it?
- Is the missed information critical?
- Have I verified that the SA survey team does not have the needed information?
- Is the information needed so extensive that collecting it will force me to shift into survey mode rather than FOSS mode? (If so, the RO evaluator should probably not collect it.)
- Can I fairly rate the SA survey team without this information?
- What is the best source for this information?
- How can I make this inquiry without conducting an in-depth investigation?

Setting surveyor and facility expectations

For the FOSS to be as effective and unobtrusive as possible, it is important that the SA survey team understand the procedure’s purpose and ground rules, and that facility staff understand the role of the FOSS RO evaluator(s) as an observer rather than a participant in the survey.

Accordingly, the RO evaluator(s) should provide the SA survey team with key background *information* on the FOSS at the team’s earliest convenience. At a minimum, this information should include:

- The purpose of the FOSS;
- The RO evaluator’s(s’) role;
- The protocol of the FOSS process, including the measures on which the SA survey team will be rated, *the process for reporting SA surveyor concerns*, and any changes required to the normal survey procedure;
- The criteria for CMS intervention in the event of a disagreement about the existence of Immediate Jeopardy or substandard quality of care; and
- The debriefing and feedback procedures in which the SA survey team and SA will receive information about the team’s conduct of the survey.

Appendix A provides a suggested list of specific points to cover in this discussion. The RO evaluator(s) should make certain that SA surveyors understand the types of adjustments in

their procedure that are needed to accommodate the FOSS. These adjustments may include the following:

- The RO evaluator(s) must be able to be present at most, if not all, SA survey team meetings and on other occasions when survey information is discussed.
- Some flexibility regarding the scheduling of facility tours may be necessary so that each SA surveyor can be observed.
- The RO evaluator(s) must be able to be present at as many interviews as possible with residents and key facility staff.
- The RO evaluator(s) must be able to be present during all investigative activities (e.g., medication pass, food-borne illness investigation) and during resident care observations.
- The RO evaluator(s) will look over at least one medical record reviewed by each SA surveyor, with this record generally being one that reflects as many as possible of the concerns identified by the team.
- The RO evaluator(s) will review most, if not all, other forms and records that are collected from the facility by the SA surveyors.
- At times during the survey, the RO evaluator(s) may briefly interview SA surveyors to determine what inferences they are drawing and the basis for those inferences.
- The RO evaluator(s) will take notes during the survey.
- The RO evaluator(s) will review the SA survey team's documentation.
- At the conclusion of the survey, the RO evaluator(s) will debrief the SA survey team on their performance. The SA survey team's supervisor may attend if he or she desires and is available.
- At times, the RO evaluator(s) may engage in limited independent fact-finding in order to evaluate the SA survey team's performance.

At the conclusion of this orientation, the RO evaluator(s) and SA survey team will need to discuss the state SA survey team's schedule and daily routine. This will help to ensure that the RO evaluator(s) can observe the kinds of behaviors that are necessary to complete the evaluation and that the FOSS is conducted with the least possible disruption of the survey process.

The facility will also need to be told that the RO evaluator's(s') role is to observe the SA survey team, that all communication should be addressed to the SA survey team rather than to the RO evaluator(s), and that the RO evaluator(s) will not question facility staff regarding the performance or observations of the SA survey team.

RO evaluator activities during the FOSS

The FOSS process generally consists of eight steps that the RO evaluator(s) performs:

- (1) Gathering information about SA survey team performance by: (a) observing SA surveyors as they make observations, interview staff, residents, and visitors and interact with facility personnel and other team members; (b) talking with SA surveyors to clarify what the SA surveyors are learning and how they are interpreting what they learn; (c) reviewing facility documentation and SA surveyor notes (e.g., resident records, SA surveyor notes from the record review); and (d) conducting limited independent fact-finding;
- (2) Taking notes to record specific examples of SA surveyor and SA survey team behavior;
- (3) Debriefing the SA survey team about the effectiveness of their survey behaviors in achieving the goals and desired outcomes of the survey;
- (4) Rating SA survey team performance by assigning the team a numerical score on each measure;
- (5) Documenting the SA survey team's performance on each measure that was observable during the survey;
- (6) Completing a checklist to specify the indicators that the SA survey team could work on to improve their survey performance;
- (7) Evaluating the CMS 2567 submitted to the facility by the SA. At the option of each RO, the RO evaluator(s) may also provide a verbal debrief regarding the CMS 2567 to the SA survey team's supervisor and, if available, the SA survey team; and
- (8) Assembling, finalizing, and forwarding to the SA completed FOSS forms and supporting documentation.

In conducting the FOSS, the RO evaluator(s) will need to:

- Attend as many as possible of the formal and informal meetings held by the SA survey team (e.g., onsite and offsite meetings among team members, meetings with facility department heads and administrators);
- Observe, with SA surveyors, at least part of each SA surveyor's facility tour;
- Observe each SA surveyor as he or she conducts interviews (family, resident, or staff; fact-finding or validation);
- Observe at least a portion of the delivery of care or services to a representative sample of residents;
- Interview each SA surveyor as necessary to determine the kinds of inferences the SA surveyor is making and the basis for those inferences; and
- Review at least one resident medical record examined by each SA surveyor and look over the surveyor's notes regarding that record. The record should be chosen to reflect as many as possible of the concerns identified by the SA survey team.

Taken together, the records reviewed by the RO evaluator(s) should reflect all of the SA survey team's highlighted concerns.

The RO evaluator(s) will take notes, record observations, and make ratings (as appropriate) on the following forms:

- Any approved CMS note-taking form (e.g., 807 Surveyor Worksheet),
- FOSS Rating and Documentation Form, and
- FOSS Tags Form.

Throughout the observation process, the RO evaluator(s) should be especially attuned to the SA survey team's behavior as it relates to the measures on which the team will be evaluated. Since the FOSS observations are complex, the RO evaluator(s) must be proactive in planning those observations. Consideration must be given to the kinds of observations needed (so that the RO evaluator(s) can rate the SA survey team on the measures at the end of the survey), and how best to make those observations. The RO evaluator(s) must determine the goals of the observations and how the observations can be performed unobtrusively. The need to plan applies not only to observations, but also more broadly, to all kinds of fact-finding during the FOSS.

The RO evaluator(s) must pay attention to the broader survey context and must be alert to what is going on in the facility as a whole in order to be able to determine whether the SA survey team is finding all of the facility deficiencies. To some extent, the RO evaluator(s) must be dually focused. On the one hand, he/she must focus on what the SA survey team is doing to be able to rate and describe their behavior. On the other hand, he/she must pay attention to what the facility's problems and issues are to be able to tell whether the SA survey team identified what was wrong.

Time management

Time management is extremely important. The focus of the FOSS is to determine how well the SA survey team investigated areas of concern, and the quality of the investigative findings. The RO evaluator(s) will need to know such things as: how well the SA survey team identified poor care practices, followed-up on identified issues, asked appropriate questions, and made necessary observations.

Many of the identified survey concerns and the investigations will involve observations. Observations occupy the greatest amount of survey time for both the SA survey team and RO evaluator(s). It will be impossible for the RO evaluator(s) to make all the same observations as the SA survey team or even to accompany all SA survey team members on many of their observations. By identifying those observations that are critical, we can prioritize or order them. Once the RO evaluator(s) have identified what observations are necessary, the next steps include determining what information is expected to be found during the parallel observation. This should assist the RO evaluator(s) in determining what type of information gathering methods to use.

Proactive planning

Since the FOSS observations are complex, the RO evaluator(s) must be proactive in planning. Consideration must be given to the kinds of observations needed (so that the RO evaluator(s) can rate the SA survey team on the measures at the end of the survey), and how best to make those observations. The need to be proactive in planning applies not only to observations, but also more broadly, to all kinds of fact-finding during the FOSS.

The RO evaluator(s) must pay attention to the broader survey context. He/she must be alert to what is occurring in the facility as a whole in order to be able to determine whether the SA survey team is finding all the facility deficiencies. To some extent, the RO evaluator(s) must be dually focused. He/she must focus on what the SA survey team is doing to be able to rate and describe the team's behavior. However, the RO evaluator(s) must also pay attention to what the facility's problems and issues are to be able to tell whether the SA survey team identified what was wrong.

Considerations in prioritizing RO evaluator activities

The RO evaluator(s) needs to be present during the SA survey team's investigative activities, but realistically will not be able to observe every aspect of every team member's activities. As a consequence, the RO evaluator(s) needs to identify which of the SA survey team's many survey activities are most important to observe – that is, most likely to yield good information about the SA survey team's investigative skills and most likely to help identify possible deficient facility practices. Among the factors to consider in selecting and planning observations are:

- Identified concerns
Concerns that are more complex and/or a large number of concerns will place a greater demand on the RO evaluator's(s') time.
- Sample size
The number of residents for whom the concerns are identified and the way the concerns are assigned to the SA survey team members can influence the number of observations necessary to determine SA survey team performance and to make the required judgments about facility compliance.
- Number of surveyors
The ratio of RO evaluator(s) to members of the SA survey team will impact how time will need to be spent in the evaluation process.
- SA survey team composition
Some SA surveyors (particularly specialty surveyors) may not be present for the entire survey, and the RO evaluator will need to observe them when they are available.

- SA survey team assignments
The individual abilities or strengths of both the RO evaluator(s) and the SA survey team can influence which investigative activities the RO evaluator(s) may be best suited to evaluate.
- Length of survey
A short survey places increased demands on both the SA survey team and the RO evaluator(s) to quickly gather the necessary investigative information.
- SA survey team's scheduling of activities
The RO evaluator will need to work within the SA survey team's schedule as much as possible so as not to disrupt the SA survey team's survey activities.
- Prior experience with SA survey team members
If the RO evaluator has observed a SA survey team member in the past under very similar survey conditions, it may be appropriate to focus observations on other members of the SA survey team.

Rating and documenting SA survey team performance

As previously mentioned, the SA survey team will be evaluated during the FOSS on six standardized measures. These measures are: (1) *Concern Identification*, (2) *Sample Selection*, (3) *General Investigation*, (4) *Food-borne Illness Investigation*, (5) *Medications Investigation*, and (6) *Deficiency Determination*.

Associated with each measure are a number of specific indicators that contribute to effective performance on that measure. Figure 1 shows the indicators associated with the *Concern Identification* measure, while Appendix B shows all six measures and their associated indicators.

Figure 1
Example measure and indicators

CONCERN IDENTIFICATION: Effectiveness with which the SA survey team identified concerns throughout the survey
<p><u>Indicators</u></p> <ul style="list-style-type: none">A. Obtained current versions of all relevant documents (e.g., QI reports, results of complaint investigations)B. Focused on the relevant information in the documentsC. Integrated the information and drew appropriate inferences about potential facility concernsD. Focused additional information gathering on relevant issuesE. Gathered information in a thorough enough way to identify the facility concernsF. Identified new concerns as suggested by further information gathering during the Initial Tour and on-going survey activitiesG. Properly identified concerns that might lead to a determination of Immediate JeopardyH. Shared information among team membersI. Documented information and concernsJ. Ensured that all items requested were received

At the conclusion of the survey, the RO evaluator(s) will review his/her notes pertaining to each measure in turn, will review the 5-point rating scale for the measure, and will rate the team's performance on the measure. The RO evaluator(s) will then formally document observed SA surveyor behaviors that are relevant to the SA survey team's performance on the measure. The documentation should substantiate the ratings given and provide written feedback to the SA survey team and the SA. Finally, the RO evaluator(s) will specify, on a checklist, the indicators that may enhance team performance.

Conducting the debriefing

The debriefing is designed to give the SA survey team feedback about their effectiveness in meeting the survey goals covered by the measures. The debriefing is conducted onsite (or by telephone if not possible onsite) after the team has made its compliance decisions and the RO evaluator(s) has made his/her preliminary assessment of the team's performance.

By the time of the debriefing, the RO evaluator(s) should have formulated an idea of the SA survey team's general effectiveness level on each measure as well as which indicators impacted the SA survey team's achievement of each measure. This advance preparation is necessary so that the impression of SA survey team performance conveyed in the debriefing is consistent with the impression later conveyed by the written feedback.

Evaluating the CMS 2567

The CMS 2567 evaluation is directed at tracing what happens to the deficiencies identified in a facility as they make their way through successive stages of the citation process. More specifically, the evaluation compares the way the deficiencies are captured (in terms of tag numbers and severity levels) from three different perspectives:

- The SA survey team's perspective – what the SA survey team decided to cite during their deficiency determination meeting,
- The RO evaluator's(s') perspective – what the RO evaluator(s) believes the SA survey team should have cited, and
- The State Agency's perspective – what appears on the facility copy of the CMS 2567.

The SA survey team's and RO evaluator's(s') perspectives can be captured by the RO evaluator(s) immediately after the survey has been completed. However, the CMS 2567 cannot be evaluated until after the facility copy has been received from the SA. Once the entire evaluation has been completed, written feedback is provided to the state. At the option of the RO, the RO evaluator(s) may also provide a telephone debriefing to the SA survey team and their supervisor regarding the results.

Forwarding FOSS information to the State Agencies

The RO will provide SA management with written feedback on the FOSS at two key points, as follows:

- The completed "FOSS Rating and Documentation Form" will be provided within 30 calendar days after the completion of the survey.
- The completed "FOSS Tags Form" will be provided within 30 calendar days after receipt of the facility copy of the CMS 2567 by the RO.

The RO will also provide the SA with periodic summary information regarding the SA's CMS 2567s, and the FOSS indicators on which the SA survey teams were most often perceived to need development.

Section 4: Observing SA survey team Behavior

Observation guidance for each measure

As you conduct the FOSS, your observations and note taking will be structured around the six FOSS measures (or as many of them as are observable for the type of survey involved). That is, you will observe the SA surveyors conduct activities related to each measure, and you will record your observations on a CMS-approved note-taking form. Detailed guidance for observing the SA surveyors' behavior related to each measure is provided below. You may find it easiest to review this guidance in advance of the survey so that you will be alert to the issues involved.

(1) Concern Identification

This measure addresses the “effectiveness with which the SA survey team identified concerns throughout the survey.” While the measure is focused primarily on several specific points in the survey, it may be evaluated throughout the survey as the need for additional concern identification and sample selection becomes apparent.

Concerns are findings or issues that will require investigation to validate or invalidate as deficiencies. Concerns include:

- Survey process concerns
Survey process concerns are those identified by the SA survey team as a result of following the Long Term Care (LTC) survey protocol. They include:
 - Concerns identified by the SA survey team through formal LTC survey processes, which include Task 1, Phase 1 and Phase 2 *Concern Identification*; and
 - Findings identified by the team throughout the survey as needing further investigation.
- Concerns identified by the FOSS RO evaluator(s)
These include:
 - Concerns the RO evaluator(s) believes a SA surveyor or the SA survey team should reasonably have been expected to identify during the survey. If a SA surveyor identifies a concern, he/she must communicate this to the entire team; and
 - SA survey team findings that the team does not consider a concern but that the RO evaluator(s) identifies as a concern. These include:
 - (1) Findings that the SA survey team is aware of, but that they fail to identify as concerns and therefore fail to investigate using all appropriate members of the team.

- (2) Findings that were known by at least one SA survey team member but that were not communicated to the team for concern identification and, therefore, could not have been sufficiently investigated.
- (3) Findings that were known by at least one team member but that the team became aware of too late in the survey process to investigate sufficiently to make accurate decisions.

Note that for recertification surveys, food-borne illness and medication issues are identified by the FOSS process itself as areas of concern. Therefore, the SA survey team should not be evaluated on their identification of concerns in these two areas for these types of surveys. However, for any surveys for which food-borne illness and medications are *not* pre-identified as areas requiring investigation (e.g., certain revisit or complaint surveys), the SA survey team should be evaluated on their effectiveness in identifying concerns that present themselves in these areas.

Key RO evaluator activities associated with *Concern Identification* are as follows:

- Ask for copies of reports and other information gathered offsite:
 - Those used during the offsite survey preparation (i.e., Quality Indicator Reports and Facility Quality Indicator Profile, Facility Characteristics, Resident Level Summary, CMS 2567 and Form A, and OSCAR Reports 3 and 4).
 - Information from complaint investigations, the State Ombudsman's Office, the partially completed Roster/Sample Matrix, and any other information you believe may be pertinent.
- Review this information to determine if the SA survey team has, during offsite preparation, identified concerns that are in accord with the information contained in the above material. Specific Quality Indicators (QIs) must be identified as concerns – any sentinel health event that is flagged, any other QI that is flagged (at the 90th percentile), and any unflagged QI at the 75th percentile or greater. Observe whether the SA survey team used information from complaints, ombudsmen, and other relevant sources, as well as from official reports.
- On the initial tour, notice the way the SA survey team members use information from the offsite survey to focus their interviews and discussions with residents and staff and to confirm or discard their identified concerns from the offsite survey. Are they focusing on concerns identified offsite so that those concerns can be confirmed or invalidated? In addition, determine if the SA survey team members make pertinent observations and ask pertinent questions in response to observations or answers to questions that indicate additional possible concerns.
- Notice whether the SA survey team discusses findings at the conclusion of the tour, and meets throughout the survey to share findings. Do team discussions of findings result in the identification of additional concerns, when indicated, and the conduct of coordinated investigative action steps by all relevant team members?

Do team discussions result in a refinement of focus for further information gathering?

- If you observe pertinent information during the initial tour or at any other time throughout the survey, and a SA survey team member you are observing does not take notes, determine later by questioning the SA surveyor, reviewing his/her notes, or observing the actions of the team, if he/she was aware of the relevant information and acted on it.

(2) Sample Selection

This measure is defined as the “effectiveness with which the SA survey team selected and modified a resident sample throughout the survey based on identified concerns and survey procedures.” (Recall that “identified concerns”, as used here, includes only those concerns identified by the SA survey team.) Effective performance requires that the SA survey team select the sample as specified in the State Operations Manual (SOM). Importantly, the sample must be based on identified facility concerns and must facilitate the identification of non-compliance with the long-term care regulations – especially those that address resident care and outcomes.

Sample selection occurs at three defined stages of the survey: (1) pre-selection during the offsite phase, (2) Phase 1 sample during the sample selection meeting, and (3) Phase 2 sample part way through the survey. To observe the SA survey team’s effectiveness on this measure, you should:

- Review the offsite survey information – especially the QI information – to determine if the pre-selected sample is based on concerns identified from that information.
- During the initial tour, determine how the SA survey team assesses their pre-selected sample and if they see all residents who have been pre-selected. Are they able to determine if a pre-selected resident is not now appropriate for inclusion in the sample and select an alternate during Phase 1 *sample selection*? During the tour, are team members alert to conditions that may indicate new concerns, and if they identify these concerns are the concerns brought to the attention of the team and considered in the sample selection?
- Review the SA survey team’s choice of residents. If the residents chosen by the team differ from those chosen by the RO evaluator(s), be sure to allow for variation in the residents selected. It is more important for the team to select residents that allow them to validate or invalidate their chosen areas of concern as deficiencies than it is for them to choose the same residents as the RO evaluators. If the residents chosen have an impact on the team’s ability to investigate their identified concerns, then this information should be included in the narrative for this measure.
- Observe whether all SA survey team members have input into the sample selection.

- Determine whether all required sample specifications are met at the conclusion of the Phase 1 sample meeting.
- For the Phase 2 *sample selection*, notice whether the SA survey team integrates information from all team members to determine concerns not resolved and new concerns identified. Does the team identify any requirements of the case-mix stratified sample that have not been met?
- If sampled residents are found not to provide enough information, determine whether the SA survey team considers and picks a supplementary sample.

General Guidance for All Investigation Measures

Three measures relate to the SA survey team's investigative competence:

- *General Investigation* (which covers the facility's physical and psychosocial environment; resident needs assessment/highest practicable well-being; resident rights; aspects of food service unrelated to food-borne illness (e.g., dining, weight loss, nutrition); and quality assessment and assurance);
- *Food-borne Illness Investigation*; and
- *Medications Investigation*.

Eight indicators are common to all investigation measures, and guidance for observing these indicators is provided below. Guidance for the more unique aspects of each investigative measure is provided in a separate section for that measure.

- A. Made observations under a variety of conditions and used formal and informal interviews, and (as applicable) record reviews as the primary means of gathering and validating information about residents and facility practices.

Do observations and informal interviews begin with the initial tour? Are SA survey team members alert to specific needs/conditions of residents – both those initially selected for the survey sample and those not? Do SA surveyors ask questions of both staff and residents, as appropriate, when observations indicate that something may be out of the ordinary or may indicate facility lack of attention to resident needs?

As the survey progresses, does the SA survey team consistently follow-up as needed on information gathered through routine survey procedures; through informal interviews with staff, residents and family; observations of care provided and staff resident interactions; and, as needed, additional targeted record review?

Does the SA survey team focus survey investigative activity on observation and interview of residents and staff, observation of staff-resident interactions, and the care-giving environment?

Is information collected during the course of the survey validated? Is the information used to form a comprehensive picture of facility practices and their effect on residents?

B. Focused information gathering on relevant issues.

How effective and efficient is the SA survey team in gathering evidence that is directly related to a concern? Are they focused, or are they sidetracked by issues that may be interesting to them but irrelevant to the overall investigation? Excessive record review, observations not related to a concern, questioning of staff, residents and family that is disjointed and not related to concerns are all indications that the investigation is not focused.

C. Analyzed and integrated information from various sources to determine the need for further information gathering and to target the follow-up effort.

Do an independent record review without interfering with the SA survey team member's review. Then determine how the team member uses record information in his/her follow-up observations and interviews. Does he/she observe and assess the physical, mental, and psychosocial status of the resident, and ask questions to assess how closely the resident's Comprehensive Assessment and other medical record information reflects the resident's actual condition? Be sure that you are with the team member for sufficient time so that you can observe him/her making observations and inquiries concerning implementation of the care plan.

Be unobtrusive in monitoring resident/family interviews, but remember that such information is valuable for you. If resident interviews indicate problems with meals, answering of call bells, actions of the staff, facility policies, etc., does the SA survey team follow-up on this information? How do they do it? Do they take information from visitors and attempt to validate it?

Does the SA survey team investigate and get answers to questions posed by conflicting information and data about individual residents and facility practices?

D. Shared among SA survey team members, information related to concerns being investigated and possible additional concerns. Together analyze the information to determine its relevance and to develop strategies for further information gathering.

Ask the SA survey team leader to inform you when the team will be having their meetings, and when there are any other meetings of the entire team called in response to unexpected situations or information. Based on their discussion during these meetings, and your observations, determine if relevant information is being shared. Does the discussion and follow-up action by the team indicate that the shared information is used to enhance the survey?

If the SA survey team does not have daily meetings, try to determine if and how the team shares information.

E. Used interpretations, definitions, probes, and procedures in the Guidance to Surveyors to guide investigations.

Do your observations of the SA surveyors show that they follow the probes and procedures in the Guidance to Surveyors? If they express lack of knowledge or uncertainty about a survey procedure, regulation interpretation, or other survey information, do they refer to the Guidance to Surveyors? In discussions among themselves about questionable situations, do they reference the SOM?

F. Was continually alert to and made relevant observations of, the facility care environment and activities – including staff interactions with residents, family and other visitors.

As members of the SA survey team carry out their activities, do they see and hear activities going on around them when these activities are not the focus of their survey activity at that time? Do they make observations of the physical environment and staff interactions such as: wet spills on the floor that are not cleaned up; caring or harsh interactions between staff and residents and staff and family/visitors; resident requests for assistance that are met or ignored?

Are these observations made and integrated into the SA surveyors' information base and used (as appropriate) in making compliance decisions?

G. Integrated information from a variety of sources to determine if the facility provides appropriate care and services.

Is the SA survey team able to combine information collected from various formal survey activities (e.g., observations, interviews); from multiple residents, family/visitors and staff; and from miscellaneous information gathering, to form an accurate picture of how the facility provides care and services to its residents?

H. Collected sufficient information to confirm or invalidate concerns and to recognize possible Immediate Jeopardy.

During decision-making, does the information presented provide sufficient justification for the SA survey team's decisions? Have you identified additional information that the team should have discovered that may change the team's decision? Should the SA survey team have discovered this information in the normal course of the survey, or did you identify this information by happenstance? Was it unlikely that SA survey team members would have knowledge of it in the normal course of the survey?

If you identify Immediate Jeopardy, has the SA survey team also identified this? Or have they identified the deficient practice but not recognized Immediate Jeopardy? If they do not recognize Immediate Jeopardy, this must be brought to their attention. The RO evaluator(s) will only assume leadership of the survey if the SA survey team will not act on the Immediate Jeopardy.

(3) General Investigation

This measure is defined as “Effectiveness with which the SA survey team collected information to determine how the facility’s environment and care of residents affect residents’ quality of life, health, and safety and residents’ ability to reach their highest practicable physical, mental, and psychosocial well-being.” To provide a usable description of the RO evaluator’s(s’) activities related to this very broad measure, it has been divided for descriptive purposes (and for descriptive purposes only) into the following sub-areas:

- Facility’s physical and psychosocial environment;
- Resident needs assessment/highest practicable well-being;
- Protection and promotion of resident rights;
- Aspects of food service unrelated to food-borne illness (e.g., dining, weight loss, nutrition); and
- Quality assessment and assurance.

Investigative activities related to the facility’s Physical and Psychosocial Environment

This investigative area covers the SA survey team’s collection of information to determine how the facility’s environment and staff interactions affect residents’ quality of life, health and safety. Information is collected on both the physical and psychosocial environment, which are equally important.

In evaluating this area:

- Notice how the SA survey team observes staff-resident interactions throughout the survey. They should not restrict their observations to only the sampled residents.
- Observe how the SA survey team members collect information. Except in unusual situations, they should spend as much time as possible during the survey performing observations and conducting formal and informal interviews. Record review should be limited to obtaining specific information that is needed and should not involve reviewing the whole record.
- During the initial tour, and throughout the survey, notice whether SA survey team members are aware of how the physical plant not only provides a safe environment, but also how the physical environment enhances residents’ psychosocial well-being and physical abilities. If you are unsure of the effect of the environment on the resident and the SA surveyor does not ask questions that would address this issue; you may want to ask the resident one or two focused questions after the surveyor has left.
- Notice what the SA survey team is discussing about staff/resident interactions during their team meetings, and whether the information from these discussions matches what you have observed.

- Notice whether SA survey team members spend a good amount of their survey time observing residents, staff, and, in general, the activities going on in the facility. Does their survey behavior result in insufficient exposure to the residents? Does information given during their discussions in team meetings match what you have observed? If not, why not? If you cannot answer that question, you will need to perform limited additional fact-finding to be able to do so.
- If an Extended Survey was conducted, observe whether the SA survey team collected information to be able to determine how the facility's conduct and policies have allowed deficient practice. If you do not believe they have, you may need to do a brief, focused review of policies you believe are pertinent to substandard quality of care to determine if the SA survey team has identified pertinent information.

Investigative activities related to Resident Needs Assessment/Highest Practicable Well-Being

This area focuses on the SA survey team's collection of information from a variety of sources and through a variety of methodologies, and their integration of that information to ensure it is sufficient to determine the facility's compliance with the regulations regarding quality of care and quality of life for each resident in their sample. It is expected that the majority of the SA surveyor's time will be spent making observations and conducting informal interviews – not reviewing records. RO evaluator activities connected with this area include:

- Do an independent review of at least one record per SA surveyor. Choose a resident record that reflects as many of the concerns identified in Phase 1 as possible. Focus on the Assessment and Care Plan and the relationship of the Care Plan to the Assessment. Also, determine how the resident's condition has changed over time and what the facility's response has been to that change. Based on your review, determine if the SA survey team should implement any of the special Investigative Protocols. If necessary, conduct a focused review of other records to determine if the SA survey team has achieved the correct outcome.
- Observe at least a portion of an interview of at least one resident or family member per SA surveyor, preferably the resident whose chart you have reviewed. Make note of information received by the SA surveyor that indicates that follow-up investigation is needed. If the SA surveyor does not do this follow-up during the survey, and you can do it within the limits of independent fact-finding, do it to determine if lack of follow-up caused the surveyor to miss relevant information.
- In the dining room, residents' rooms, or other eating areas, focus on the SA surveyor's observation of staff attention and attendance to resident needs, including observations of how the facility staff are assisting residents to regain their independent eating ability.

- Determine whether the Investigative Protocols are implemented, as they should be. For example, does the SA surveyor implement the Dining and Food Service Protocol and the Unintended Weight Loss Protocol, as appropriate, and correlate information from these activities to assess whether the care provided assists the resident to reach his/her highest practicable well-being? Is the SA surveyor aware when the Adverse Drug Reaction Investigative Protocol must be implemented, and does he/she implement this with accuracy?
- Determine whether the SA surveyor uses observations and formal and informal interviews with residents, family/visitors, and staff to determine if and how the care plan was implemented. Does their evaluation include care activities such as planned ambulation for the correct number of times and length, and dressing changes/care of pressure sores and other wounds? Do they evaluate whether the care plan was implemented consistently? Do they determine the care plan's effectiveness in meeting resident needs?
- Determine whether the SA surveyor is aware of what is going on around him/her and, as appropriate, adds this information to evidence used to determine compliance with the Quality of Care and Quality of Life requirements.
- Determine whether the SA surveyor goes back to the resident's record, if necessary, to gather additional information or to confirm information.

Investigative activities related to the facility's Protection and Promotion of Residents' Rights

This area covers the SA survey team's information gathering to determine if the facility protects and promotes the rights of residents and prevents abuse and neglect. To perform effectively, the SA surveyors must gather information on the facility's protection and promotion of resident rights in almost all aspects of the way they live their lives in the nursing home – from the right to have their treatment regimen explained in language they can understand, to choosing the time they go to bed, to the right to vote, to notification of their rights and responsibilities in the facility. The regulation has a very strong focus on treating the resident as an individual, not as part of the group – and it also looks at the separate regulatory requirement that the facility must prevent abuse and neglect. The SA surveyor is asked to bring together information from a variety of sources to gain an accurate picture of the resident's life in the nursing home, and to determine if the facility is meeting a wide range of regulatory requirements. Resident and staff observations and interviews are the mainstay of the survey process for this investigative area. The following additional guidance for RO evaluator(s) is provided:

- During both observations and interviews, is the SA surveyor focusing on the resident as an individual, and focusing observations and follow-up questions on information from the record review, the care review, and family and staff informal interviews?
- As you observe the SA surveyor conducting the resident rights review, are you able to get a good picture of the resident from the information that the SA surveyor is eliciting? If not, what is missing? Is the SA surveyor neglecting to

make observations or ask questions and follow-up questions that obtain needed information?

- Is the SA surveyor attuned to subtle hints/comments/body language from the resident or family members, and does he/she follow-up on those hints?
- If the SA surveyor does not obtain what you believe to be pertinent information, you may wish, later on, to ask the resident, staff or family a few pertinent questions to resolve your issues.
- Has the SA survey team evaluated the effectiveness of the facility's implementation of their policies and procedures prohibiting abuse? Does the SA surveyor obtain information from the individual responsible for this implementation, as well as from residents, families, and supervisory and direct care staff? Listen to the way the SA surveyors interview; look at their notes; and determine if they have identified obvious concerns.

Investigative activities associated with aspects of food service unrelated to food-borne illness (e.g., dining, weight loss, nutrition)

This area focuses on the SA survey team's information gathering to determine if: (1) the facility is providing each resident with a nourishing, palatable, well-balanced diet that meets his/her daily nutritional and special dietary needs, (2) the facility is providing services to maintain or improve the resident's eating skills, and (3) the dining experience enhances the resident's quality of life and is supportive of the resident's needs, including food service and staff support during dining. The RO evaluator(s) should look at how the SA survey team focuses on the facility's dietary service system and how observations made in the kitchen are integrated with other survey procedures and protocols to evaluate the facility's ability to provide for the nutritional needs of the residents. The following additional guidance for RO evaluator(s) is provided:

- Does the SA survey team utilize information gained during interviews to determine whether further investigation into the facility food service is necessary?
- During both observations and interviews, does the SA survey team gather and integrate information to determine if the facility's food service meets the individual needs of the residents? If not, does the SA survey team identify the system's failure?
- Determine if the facility is maintaining the nutritive value of food, and if not, whether the SA survey team has identified the cause of food quality compromise.
- Does the SA survey team determine if the dining experience enhances the resident's quality of life and maintains or improves the resident's functional abilities?
- Does the SA survey team gather information and communicate the information to one another to focus further investigation into the facility food service system? Does the SA survey team communicate the findings to the SA surveyor assigned

to perform the Kitchen/Food Service portion of the survey, so that he/she can validate concerns?

Investigative activities related to the facility's Quality Assessment and Assurance Program

This area focuses on the SA survey team's information gathering to determine if the facility has a Quality Assessment and Assurance (QAA) Committee and an effective method of identifying and addressing quality deficiencies. The RO evaluator(s) should look at how the SA survey team focuses on the facility's actions in identifying and correcting their own quality deficiencies. The facility's QAA program cannot be used by the SA survey team to identify deficiencies that they would not have identified otherwise.

(4) Food-borne Illness Investigation

This measure addresses information collection to determine if the facility is storing, preparing, distributing and serving food according to 42 CFR 483.35(h)(2) to prevent food-borne illness. Note that this measure does not include the aspects of food service that are unrelated to food-borne illness (e.g., dining, weight loss, and nutrition). The investigation of these issues is covered under the *General Investigation* measure if the SA survey team has identified them as concerns.

Specific guidance for RO evaluator activities related to this measure is as follows:

- Determine if the SA surveyor focuses his/her activities on the evaluation of how the facility protects its residents from food-borne illness by attention to the handling, preparation, and storage of food. Place special emphasis on those foods known to be particularly hazardous if handled incorrectly.
- As the SA surveyor evaluates food storage, preparation, and service, as well as the sanitary conditions and procedures in the kitchen area, the RO evaluator(s) should make parallel observations to gain an accurate picture of the SA survey team's survey adequacy with respect to food-borne illness.
- Notice whether the SA surveyor (often a specialty surveyor who participates in only this portion of the survey) communicates his/her findings to the SA survey team.

(5) Medications Investigation

This measure focuses on the SA survey team's information gathering surrounding the facility's ability to administer medications without error, as determined from the medication pass observation. Drug-related issues identified by the SA survey team during other parts of the survey should not be included in this measure but may be covered under the *General Investigation* or the *Concern Identification* measure.

The *Medications Investigation* measure addresses whether not only the correct medication was given, but also whether the dosage was correct, the timing of administration was

appropriate, the correct administration technique was used, there was inappropriate crushing of medications, and so forth. Observation of the Medication Pass provides both the SA surveyors and the RO evaluator(s) an opportunity to make general observations of activity in the facility, and may provide information applicable to a variety of regulatory requirements. Specific guidance for observing the SA survey team relative to this measure includes:

- Are the SA surveyors assigned to complete the Medication Pass SMQT certified? If not, they cannot perform this portion of the survey. (Refer to S&C-03-28 Automation of Surveyor Minimum Qualifications Test (SMQT) and Clarification of Survey Activities for further information.) If a SA surveyor, who is not SMQT certified, independently completes this portion of the survey, according to the State Operations Manual (SOM), Task 5C: Section B. General Procedures, “A surveyor must successfully complete the SMQT to survey independently the requirements of quality of care, clinical dietary and medication.”
- Does the SA surveyor follow the correct procedure for observing the Medication Pass? Does he/she observe 20-25 opportunities for error during the first pass? Are those opportunities reflective of the care needs that are representative of the sample or the actual sampled residents? Are different routes of administration observed, and of various facility staff? If more than one SA surveyor is involved in conducting the medication pass, observe at least a portion of the medication pass for each SA surveyor.
- Does he/she reconcile the pass using the appropriate documentation (using physician orders)? Is the reconciliation accurate? (You may not wish to observe the entire reconciliation, but do confirm that it is accurate.)
- Does the SA surveyor do an additional Medication Pass observation if errors are observed in the initial pass? Does the SA surveyor identify all errors and correctly calculate the Medication Error Rate?
- Does the SA surveyor observe what is going on around him/her while observing the medication pass, and does he/she document pertinent information to be considered under *Concern Identification*?
- Notice whether the SA surveyor communicates his/her findings to the team.

(6) Deficiency Determination

This measure focuses on the skill with which the SA survey team integrates and analyzes all information collected, and uses the Guidance to Surveyors and the regulatory requirements to make accurate compliance determinations.

Guidance for RO evaluator observations regarding this measure is as follows:

- Does the SA survey team, in a systematic process, review the long-term care regulatory requirements?

- Do all SA survey team members participate in presenting information for each requirement they reviewed if they have evidence to add?
- Is all pertinent information presented, and is it all integrated and analyzed to determine the facility's compliance status with a specific requirement?
- Are the SA survey team's decisions accurate, and are they in conformance with the regulatory requirements and related interpretive guidelines in the SOM?
- Does the SA survey team accurately cite both actual and potential harm, as well as failure to reach the highest practicable level of well-being?
- Do all SA survey team members participate in decision-making, as appropriate?
- Is substandard quality of care appropriately identified, and is an Extended Survey initiated?
- Is Immediate Jeopardy appropriately identified and, if so, are appropriate responses made?
- If applicable, are scope and severity determinations accurately made?

Including the State Agency Office as part of the SA survey team

While the outcome of decision-making is the focus of what is being rated in Measure 6, the impact of offsite SA office decisions must be accounted for when evaluating SA survey team performance. When the SA office alters the decision-making of their SA survey teams, they have, by extension and through that action, become part of the SA survey team and impacted the final outcome. Therefore, if during a FOSS survey, the SA survey team contacts the SA office and the SA office changes the previously made decision of the SA survey team, the measure is rated based on the resulting decision. This should only occur in two instances: 1) during Immediate Jeopardy situations, and 2) if a SA survey team manager attends and participates in the deficiency determination portion of the survey. In addition to including this activity as part of the narrative for the measure being rated, the RO evaluator(s) should also capture it in the special circumstances section of the FOSS.

Observing revisit and complaint surveys

The purpose of the post-survey revisit (follow-up) is to re-evaluate the specific care and services that were cited as non-compliant during the original survey(s). The nature of the non-compliance dictates the scope and focus of the revisit. The SA survey team should observe the parts of the survey included in the revisit survey just as they would if those parts were embedded in a regular survey. However, they should evaluate the SA survey team on only those measures that are relevant to the parts of the survey conducted. The measures that are most likely to be included as part of a revisit survey includes *Concern Identification*, *Sample Selection*, some combination of the Investigation measures, and *Deficiency Determination*.

A complaint investigation can involve either a general survey of the facility or a more focused effort, depending on the nature of the complaint. Thus, like the revisit survey, it may

encompass only a subset of the FOSS measures. The SA survey team should be rated only on those measures that are actually observable during the complaint investigation.

Note taking

As you observe the members of the SA survey team performing their survey tasks, record key aspects of their behavior. This information will help you prepare for the onsite debriefing of the SA survey team, determine the appropriate rating to assign the SA survey team on each measure, and write the narrative report.

When making your notes of key observations – the types of observations you are likely to use to support your ratings – follow the principles of good documentation. That is:

- (1) Document the date, time (beginning and ending), location, name(s), titles, and information obtained.
- (2) Document all pertinent, observable information – for example:
 - The kinds of questions the SA surveyor asked the staff and/or residents;
 - Whether the SA surveyor asked questions that were appropriate for the type of resident or the expertise of staff;
 - Whether the SA surveyor asked questions relevant to assessing the facility's compliance with federal regulations; and
 - Whether the SA surveyor missed any critical information during observations or interviews.
- (3) If you ask the SA surveyor a question for clarification, be sure to record both the question and the SA surveyor's response.
- (4) Record both important positive and important negative behaviors, because both kinds of behaviors must be considered in evaluating performance.

Section 5: Rating and Documenting SA survey team Performance

Throughout the survey, you will have observed the SA survey team perform a number of activities related to the measures and will have made notes about important aspects of their behavior as related to those measures. This information will prepare you to rate the team's effectiveness on each measure and to document the team's important measure-related behaviors.

Ratings on the measures

To rate the SA survey team's overall effectiveness on each of the six measures on the "FOSS Rating and Documentation Form" (Appendix D), follow the steps below:

- (1) Review the definition of the first measure (*Concern Identification*).
- (2) Review the rating scale for that measure. On the left side of the rating scale is a column entitled "Rating Level." This column identifies five general levels of effectiveness, which are the same for all measures. These levels are:

5 = **EXTREMELY EFFECTIVE**

4 = **VERY EFFECTIVE**

3 = **SATISFACTORY**

2 = **LESS THAN SATISFACTORY**

1 = **MUCH LESS THAN SATISFACTORY**

In the right column of the rating form, more specific guidance is provided for making ratings on the measure. For each measure, descriptions of performance are provided for ratings of "1," "3," and "5."

- (3) Review your notes and consider how the SA survey team compares to the "1," "3," and "5" level descriptions for the measure.
- (4) If the SA survey team met *all* of the criteria for one of these levels, then rate the SA survey team at that level.
- (5) If the SA survey team's performance fell somewhere between the "1" and "3" levels or the "3" and "5" levels, then assign a rating of "2" or "4," as appropriate. A "4" rating might be warranted if some of the SA survey team's behaviors were at the "5" level but others were at the "3" level, or if a number of behaviors were somewhere between the descriptions for a "5" and a "3." By similar logic, a "2" rating could be appropriate if the SA survey team exhibited some "3" and some "1" behaviors, or if they exhibited a number of behaviors that were not as good as "3" but not as bad as "1."
- (6) In making your ratings, exercise judgment, but base each rating on only the behaviors you observed that are relevant to the measure under consideration.

- (7) Once you have determined your rating, enter that rating in the appropriate box on the rating form. If a measure is not applicable to a particular survey (as may occur, for example, in a revisit or complaint survey), enter “NA” in the rating box for that measure. Also, document this latter situation in the “Special Circumstances” section of the rating form.
- (8) Repeat steps (1) through (7) for each of the remaining measures about which you were able to collect information during the FOSS.

Documentation

After you have rated the SA survey team’s overall effectiveness on a measure, document the SA survey team’s behavior relative to that measure in the appropriate section of the “FOSS Rating and Documentation Form”. Remember, every FOSS measure, regardless of the rating given, requires a documented narrative. Follow the guidelines below:

- (1) Begin your documentation with a summary statement describing specific SA survey team behaviors that support and justify the rating you are giving the team on the measure. In general, include a direct reference to the generic language in the applicable rating level (e.g., “extremely effective”), thus providing a bridge between the rating and the supporting documentation.

Then use bullet format to cite more specific SA survey team behaviors that contributed (positively or negatively) to the team’s level of achievement.

Make the documentation clear and concise.

- (2) Check off indicator(s) on the last page for the measure to designate behaviors (if any) that you believe the SA survey team should work on to improve their performance on the measure. Note that the SA survey team need not have performed poorly on a measure to be able to improve their performance by working on specific indicators.
- (3) Repeat the documentation procedure for each measure in turn.

Appendix E shows examples of documentation for different levels of SA survey team performance on selected measures.

Section 6: Conducting the Debriefing

The RO evaluator(s) will provide about a 30-minute onsite summation of the SA survey team's performance at the conclusion of the team's deficiency determination process. When it is not possible for the RO evaluator(s) to be onsite for the deficiency determination meeting, the debriefing may occur via telephone.

The main purposes of the debriefing are to communicate the results of the FOSS and to help SA surveyors improve their survey skills. For this reason, it is important for the RO evaluator(s) to shift from a critical, evaluating mode to a coaching, helping mode for this part of the FOSS. The objective is to provide the SA survey team with a positive learning experience and to present information in such a way that the team can "hear" it and use it to improve their performance. To accomplish this objective, you will almost always want to include examples of positive behavior along with any negatives – even for the most poorly performing teams. Also, you will want to talk in terms of broad categories of performance (e.g., making observations) but to use survey specifics to illustrate your points.

In preparing for the debriefing, select a location that is comfortable for both you and the SA survey team, and try to structure the situation to be as non-threatening as possible. As a courtesy, and to encourage positive communication between the RO and the SA office, invite the team's supervisor to attend. (This is good practice even when it is likely that the supervisor will be unable to attend.) It is important that the RO evaluator prepare for this meeting with the SA survey team by reviewing pertinent team and RO evaluator notes and making preliminary determinations of what areas of non-compliance are expected to be cited during the SA survey team's deficiency determination meeting. It is also very important that the RO evaluator make note of those areas of non-compliance and what evidence is expected to be included to support the non-compliance so that the SA survey team may be effectively debriefed on the information.

During the debriefing, leave the SA survey team with a sense of their performance level on each of the FOSS measures, being sure to convey an impression that is consistent with the one they will later receive in the written feedback. Structure your feedback around the team's effectiveness in achieving each measure, using SA survey team behavior related to the criteria in the rating scale as a basis for more specific feedback about the factors that contributed to the team's success or lack of success on the measure. In general, do not discuss survey tasks, steps, and process unless these were significant deterrents to the SA survey team's effective performance on the survey measures. Pay particular attention to facility issues you observed that the team missed. If the SA survey team missed, or failed to collect enough information to cite, one or more significant deficiencies (those that could result in SQC, harm or immediate jeopardy) that you noticed in the facility, *strongly* urge them to collect the additional information needed to support a citation. If the SA survey team possesses the information they need to cite a deficient practice in the facility, the RO evaluator should inform them of the omission and encourage the team to reflect the non-compliance in their CMS 2567. The SA survey team should have an understanding, based on the language used in the debriefing, of the rating level they should receive.

Before leaving the survey site, request that the SA office forward the facility copy of the CMS 2567 to the RO for review.

Process surveyor concerns in accordance with the established RO protocol.

Section 7: Evaluating the CMS 2567

The purpose of the CMS 2567 evaluation is to compare the way a facility's deficiencies are treated (in terms of Tags cited and severity levels assigned) at three different points in the citation process and/or from three different perspectives:

- The SA survey team's perspective – what the SA survey team decided to cite during their Task 6 deficiency determination meeting.
- The RO evaluator's(s') perspective – what you believe the SA survey team should have cited. Your judgment is based on your: (1) observation of the SA survey team, (2) limited independent fact-finding (if conducted), (3) observation of the SA survey team's deficiency determination meeting, and (4) interpretation of any additional survey or facility-related information the SA survey team provided during the FOSS debriefing.

You may include deficiencies that the SA survey team needs to gather additional information to cite as long as you have communicated to the team: (1) that you have evidence that a deficiency exists, (2) the nature of that evidence, (3) that the team will need to gather additional information to cite the deficiency, and (4) that the team is expected to gather that information.

- The CMS 2567 form – what the SA survey team actually cited on the facility copy of the CMS 2567.

You should enter the information needed to compare the three perspectives into the “FOSS Evaluation Form for CMS 2567”, as follows:

After you have observed the SA survey team's deficiency determination meeting and debriefed them on their performance

- Enter all tag numbers that the SA survey team decided to cite. Use a separate table for each tag. Enter the SA survey team's tag numbers, regardless of whether you believe them to be correct.
- For each tag number the SA survey team cited, complete the appropriate fields to indicate the scope/severity they assigned to the tag, the scope/severity you believe they should have cited, and, if there is a better tag number they could have used, what the better tag number is. (Note: Before using this field, the RO evaluator should make sure that the evidence present cannot support the tag selected by the SA survey team.) If you believe the SA survey team should not have cited the deficiency at all, enter “M” in the upper “RO S/S was” field but complete the other fields as described.
- If the SA survey team did not provide a letter to represent the scope/severity level chosen, the RO evaluator(s) may use severity levels (1, 2, 3, or 4) to represent the SA survey team's decision. The RO evaluator should enter the severity level in the “SA S/S was” field using the appropriate database code.

- If the SA survey team omitted a deficiency(ies) that you think is warranted by the evidence (that is, if they failed to cite it under any tag), enter the appropriate tag number for that tag in a separate table and use the Comments field to note the omission. Also, enter an “X” in the “Task 6 SA S/S was” field and indicate what the scope/severity should be in the “RO S/S was” field.

After you receive the facility copy of the CMS 2567

- For each tag number table you have previously created (either because the SA survey team decided to cite the tag number in Task 6 or because you think they should have decided to cite the tag number), indicate the scope/severity assigned to that tag number on the CMS 2567, and the scope/severity you think is appropriate for that tag. If you think the SA survey team should not have cited the deficiency at all, enter “M” in the lower “RO S/S was” field but complete the other field as described.
- If the CMS 2567 omits the tag number for a particular table that has already been created, enter the database code representing that the tag was not cited in the “Facility 2567 SA S/S was” field for that table and indicate what you think the scope/severity should be in the “RO S/S was” field. The completion of this field should be based on the information that was present onsite and not on the way, the deficiency is written. This is not a critique of the SA survey team’s ability to follow the principles of documentation. The evaluation of the CMS 2567 should be based on the information the RO evaluator(s) knows that the SA survey team had available to them onsite. Comments regarding a deficiency’s defensibility, based on the manner in which it is written, should be noted in the Comments field. The scope and severity that represents the non-compliance should be reflected in the “RO S/S was” field. The omission should also be noted in the Comments field. If you think the SA survey team should not have cited the deficiency at all, enter “M” in the lower “RO S/S was” field but complete the other field as described. (Note that many of the other fields in the tables for these tags will already contain information that you have previously entered.) The RO evaluator(s) should ask the SA survey team why the deficiency was not cited on the CMS-2567. If the SA survey team was provided additional information from the provider, the RO evaluator may request that information prior to completing the related field on the CMS-2567 evaluation form. If the S/S for a previously created tag table has changed on the CMS-2567, the RO evaluator(s) should ask the SA survey team why the S/S was changed (if the RO evaluator does not agree with the change based on the onsite information). This should be performed for all level 3 and 4 deficiencies.
- For any tag number on the CMS 2567 that does not appear in a previously created table, enter the tag number in a new table on the form. Indicate in both fields for Task 6 SA S/S was and RO S/S was “X” (not cited). Indicate the tag’s scope/severity as stated on the CMS 2567 as well as what you think the scope/severity should be based on the evidence that was present onsite. Comments regarding a deficiency’s defensibility, based on the manner in which it

is written, should be noted in the Comments field. If the deficiency was represented in the SA Task 6 citations or in the RO evaluator's(s') unique citations (but at a different tag number) also indicate that previous tag number in the "Was Tag" field. If you think the SA survey team should not have cited the deficiency at all, enter "M" in the lower "RO S/S was" field but complete the other fields as described.

As you complete the CMS 2567 evaluation form, use the Comments fields to provide any additional information you think is necessary for someone to understand how a deficiency was handled.

Appendix F ("Guidance for Completing Data Fields in the FOSS Tags Form") provides more specific guidance for entering information into the evaluation form.

After information from all three perspectives has been entered (but no later than 30 days after RO receipt of the CMS 2567), the RO Office provides written feedback to the SA office. At the option of the RO Office, the RO evaluator(s) may also provide a telephone debriefing of the SA survey team and their supervisor regarding the results.

Section 8: Forwarding FOSS Information to the State Agencies

The written FOSS evaluation should be provided to the SA (and other appropriate individuals) as feedback on the FOSS at two key points:

- The completed “FOSS Rating and Documentation Form” will be provided within 30 calendar days after the completion of the survey.
- The completed “FOSS Tags Form” will be provided within 30 calendar days after receipt of the facility copy of the CMS 2567 by the RO.

Summary aggregate information regarding the CMS 2567s and the SA surveyors’ developmental needs, if any, should be calculated periodically by the RO and forwarded to SA. Finally, the notes taken by the RO evaluator(s) should be retained by the RO, along with a copy of each document sent to SA.

Because of the potentially sensitive nature of the information provided to the SAs, it is recommended that ROs utilize quality assurance procedures to ensure that any feedback provided is accurate and appropriate.

Section 9: Resolving Disagreements or Proceeding to a Direct Federal Survey

When there is disagreement between the RO evaluator and the SA survey team over findings that affect Immediate Jeopardy, the RO may decide to begin proceedings that could lead to an application of the Federal Statutory Look Behind Authority. The basis for this type of intervention is found in the *Social Security Act* at 1919(g)(3) for Medicaid and the Federal Monitoring Authority of 1864, and 1819(g)(3) for Medicare. Prior to initiating a look behind survey, the RO evaluator and SA survey team should make every attempt to resolve differences onsite.

The following process should assist the RO and SA in settling their differences:

- Alert the SA survey team that the RO evaluator(s) has a significant disagreement with the way the SA survey team is conducting the survey.
- Locate a private room to discuss the concern.
- Briefly, but specifically, relay the RO evaluator concern, providing supporting evidence and indicating why it is critical to the accurate determination of the certification status of the facility.
- Encourage a dialogue to resolve the differences.
- Allow time for the team members to consult with one another. Encourage them to consult with their supervisor.

For instances where the RO believes Immediate Jeopardy exists and the SA survey team does not:

- If, after reasonable attempts, the disagreement cannot be resolved, the RO evaluator(s) contacts the RO to either obtain concurrence to initiate a direct Federal survey or to negotiate further with the SA office.
- If the RO agrees to initiate a direct Federal survey, they will contact the SA office to discuss the situation and to inform them of the action.
- After the SA office has been informed, the RO evaluator(s) will inform the SA survey team that the survey they are conducting is suspended until a Federal survey team can complete it. All SA team survey notes, findings, etc., become part of the Federal survey.
- The RO evaluator(s) may extend an invitation to the SA survey team to observe the Federal survey team while they complete the survey. All efforts will be made to expedite this process.

For instances where the SA survey team believes that Immediate Jeopardy exists and the RO does not:

- If, after reasonable attempts, the disagreement cannot be resolved, the RO evaluator(s) contacts the RO to either obtain concurrence and negotiate further with the SA.
- If the RO agrees that Immediate Jeopardy does not exist, they should discuss the situation with the SA survey team prior to the team informing the facility of the possible Immediate Jeopardy situation. The RO must be clear in its decision and have evidence to identify and support why the situation does not rise to the level of Immediate Jeopardy.
- After the SA survey team and SA have been informed, the RO evaluator(s) will document the SA survey team's decisions and rate them accordingly on the applicable measures. The interaction should also be noted in the special circumstances portion of the FOSS documentation forms.

Section 10: Resolving Disagreements Resulting from a FOSS Survey

When the RO and RO evaluator and the SA and the SA survey team disagree about the results of a FOSS survey, resolve the problem by following the procedures described in the relevant Survey and Certification Memorandum.

Section 11: Reporting Surveyor Concerns

The purpose of this policy is to provide SA surveyors with a confidential means to convey to CMS concerns about interference from members of the SA with the survey and certification activities as directed by the 1864 Agreement. Even though the reported concerns may be any level of seriousness, egregious, widespread, and problematic pattern, all concerns will be investigated outside of the FOSS evaluation and by the RO's established protocols and procedures. To the extent permissible under federal law, the RO evaluator must not compromise the anonymity of the SA surveyor or include details of specific situations that may be used to identify SA surveyors unless otherwise requested (i.e., CMS Central Office, Office of Inspector General, Department of Justice). Information disclosed to CMS will be protected to the greatest extent permitted under federal law; Freedom of Information Act, (FOIA) 5 U.S.C. §552(b)(6), (b)(7). The RO Evaluator must follow the Reporting Surveyor Concern Protocol for their respective Regional Office.

By allowing the option for SA surveyors to come to CMS with serious concerns, CMS is able to better address issues surrounding survey process consistency, survey conduct, and survey interpretation.

Section 12: Glossary of FOSS Terminology

Adverse impact

This term is found in the rating scale for *Concern Identification*. Concerns with adverse impact on residents are those that involve actual harm OR harm or potential harm that constitutes Immediate Jeopardy OR substandard quality of care.

Concerns

Concerns are findings or issues that will require investigation to validate or invalidate as deficiencies. Concerns may be:

- Survey process concerns (identified as a result of the LTC protocol),
- FOSS RO evaluator concerns (concerns that the RO evaluator(s) believes an SA surveyor or the SA survey team should reasonably have been expected to identify during the survey), and
- SA survey team findings that the team does not consider a concern but that the RO evaluator(s) does identify as a concern; also, findings that were known by at least one SA survey team member but that were not communicated to the team for concern identification.

Findings

The term is found in the rating scale for *Deficiency Determination*. It refers to both the SA survey team's findings and those discovered by the RO evaluator(s) that the SA survey team should have discovered based on the identified concerns.

Fully Participating

A SA survey team member who conducts a fair portion of the survey independently. Fully participating does not refer to SA survey team members who conduct one "task" during the survey unless that "task" is overarching (Task 5C). Specialty surveyors who attend the survey for only one day may not be considered fully participating.

Identified concerns

This term is found within the rating scale for *Sample Selection*. It refers to concerns that the SA survey team identified.

Indicators

An indicator is a survey behavior that could contribute to or help explain the SA survey team's success or lack of success in performing on a measure.

Information available

This term is found in the *Concern Identification* rating scale and refers to information that the SA survey team and/or the RO evaluator(s) noticed.

Limited independent fact-finding

Supplementary information gathering conducted when the RO evaluator's(s') formal observations fail to provide sufficient information to accurately assess SA survey team performance.

Major impact

This term is found within the rating scale for *Sample Selection*. It means that the sample selected by the SA survey team was representative enough of the concerns that it allowed the SA survey team to validate or invalidate the identified concerns.

Measure

There are six measures: *Concern Identification, Sample Selection, General Investigation, Food-borne Illness Investigation, Medications Investigation, and Deficiency Determination*. They are the dimensions on which the RO evaluator will ultimately evaluate and rate the SA survey team.

Outcome

The desired survey result of identifying and substantiating the facility deficiencies. Each measure has a distinct outcome derived from the objectives in the SOM, Appendix P.

Parallel observations

Concurrent observations made with the SA survey team during the survey.

Reporting SA surveyor concerns

Concerns related by SA surveyors to RO evaluators or staff about problematic issues that occur, or SA surveyors believe occur, within their SA's survey and certification process or concerns related to the SA's survey and certification process that are identified by the RO. All concerns will be processed by the RO's established protocols and procedures.

Appendix A

Suggested Discussion Points when Introducing SA Surveyors to FOSS

Suggested Discussion Points when Introducing SA Surveyors to FOSS

(1) Express appreciation to SA surveyors and acknowledge their possible feelings

- Appreciate surveyors' cooperation in a potentially uncomfortable situation.
- Acknowledge that the FOSS will place some extra requirements on surveyors and that it may not always be convenient or comfortable to have an extra person or two tagging along and observing them during the survey.
- Indicate that you will try to be as unobtrusive as possible while still getting the job done.

(2) Explain the purpose of the FOSS

- To assess the SA survey team's effectiveness in achieving important survey measures.
- To ensure the consistency of survey results across survey teams.
- To help survey teams improve their surveying skills.
- **To ensure the integrity and effectiveness of the survey and certification process.**

(3) Explain your role as a FOSS RO evaluator

- To observe performance, not to serve as a consultant.
- To gather information about team effectiveness in achieving survey outcomes.
- To provide feedback to the team about the effectiveness of their survey behaviors as a way to help them improve their skills.

(4) Describe general aspects of FOSS

- All survey-related information will be directed to the SA survey team, not to the RO evaluator(s).
- The RO evaluator(s) will focus primarily on the survey team's effectiveness in achieving the overall goals of the survey rather than on their strict adherence to every detail of survey protocol. (However, because the protocol was designed to facilitate achievement of survey goals, survey process will not be disregarded altogether.)
- Each SA surveyor's performance will be systematically sampled.
- The RO evaluator(s) will be taking notes throughout the survey to document the behaviors observed. All kinds of behaviors will be noted, so note taking should not be interpreted to mean that something has been done incorrectly.

(5) Describe specific FOSS procedures

- The RO evaluator(s) must be able to be present at most, if not all, survey team meetings and on other occasions when survey information is discussed.
- Some flexibility regarding the scheduling of facility tours may be necessary so that each SA surveyor can be observed performing this task.
- The RO evaluator(s) must be able to be present at as many interviews as possible with residents and key facility staff.
- The RO evaluator(s) must be able to be present during all types of investigative activities (e.g., medication pass, food-borne illness investigation) and during resident care observations.
- The RO evaluator(s) will look over at least one medical record reviewed by each SA surveyor, with this record generally being one that reflects as many as possible of the concerns identified by the team.
- The RO evaluator(s) will review most, if not all, other forms and records that are collected from the facility by the SA surveyors.
- At times during the survey, the RO evaluator(s) may briefly interview SA surveyors to determine what inferences they are drawing and the basis for those inferences.
- The RO evaluator(s) will take notes during the survey.
- The RO evaluator(s) will review the SA survey team's documentation.
- At the conclusion of the survey, the RO evaluator(s) will provide a debriefing of the SA survey team's performance. The SA survey team's supervisor will be invited to attend this debriefing.
- At times, the RO evaluator(s) may engage in limited independent fact-finding in order to evaluate the survey team's performance.

(6) Describe the debriefing and feedback process

- Following the team deficiency determination meeting, the RO RO evaluator(s) will debrief the team on their performance of the survey.
- Feedback will be provided regarding each of the FOSS measures that were observable during the survey. (Share these measures with the team.)
- Within approximately one month after the survey, the SA will receive a written report of the FOSS results, including the team's ratings on the survey measures and narrative descriptions of their survey behaviors related to those measures.
- Within approximately one month after the RO receives the team's CMS 2567, the SA will receive a written evaluation of that document.

(7) Reporting SA Surveyor Concerns

- Explain to the SA survey team that they have the opportunity to approach any member of the RO evaluator(s) team at any time when they have concerns about their SA's survey and certification process.
- Briefly explain that when a SA surveyor verbalizes a concern to a RO evaluator they will be provided privacy/anonymity and reprisal rights.
- Explain that if the concern is observed and not voluntarily reported by the SA surveyor, the RO evaluator may discreetly approach the SA surveyor and inquire about the observation.
- Explain that all reported concerns will be processed by the RO evaluator using their RO's established process protocols and procedures.

Appendix B

FOSS Measures and Indicators

(1) CONCERN IDENTIFICATION

Effectiveness with which the Survey Team identified concerns throughout the survey

Indicators

- A. Obtained current versions of all relevant documents (e.g., QI reports, results of complaint investigations)
- B. Focused on the relevant information in the documents
- C. Integrated the information and drew appropriate inferences about potential facility concerns
- D. Focused additional information gathering on relevant issues
- E. Gathered information in a thorough enough way to identify the facility concerns
- F. Identified new concerns as suggested by further information gathering during the Initial Tour and on-going survey activities
- G. Properly identified concerns that might lead to a determination of Immediate Jeopardy
- H. Shared information among team members
- I. Documented information and concerns
- J. Ensured that all items requested were received

(2) SAMPLE SELECTION

Effectiveness with which the Survey Team selected and modified a resident sample throughout the survey based on identified concerns and survey procedures

Indicators

- A. Analyzed and integrated information from various sources and determined its significance for the sample selection
- B. Correctly followed the sample selection specifications in the SOM
- C. Used the tour to assess the pre-sample and to add or substitute appropriate residents
- D. Shared information among team members

(3) GENERAL INVESTIGATION

Effectiveness with which the Survey Team collected information to determine how the facility's environment and care of residents affect residents' quality of life, health, and safety and residents' ability to reach their highest practicable physical, mental, and psychosocial well-being. This includes the following major investigative areas:

- **Facility's physical and psychosocial environment**
- **Resident needs assessment / highest practicable well-being**
- **Protection and promotion of resident rights**
- **Aspects of food service unrelated to food-borne illness (e.g., dining, weight loss, nutrition)**
- **Quality assessment and assurance**

(See indicators under Measure 5. Those relevant for Measure 3 are A-U, W, Y.)

(4) FOOD-BORNE ILLNESS INVESTIGATION

Effectiveness with which the Survey Team collected information to determine if the facility is storing, preparing, distributing and serving food according to 42 CFR 483.35(h)(2) to prevent food-borne illness

(See indicators under Measure 5. Those relevant for Measure 4 are A-H, V.)

(5) MEDICATIONS INVESTIGATION

Effectiveness with which the Survey Team collected information to determine if the facility's preparation and administration of medications complies with requirements

(The indicators below that are relevant for Measure 5 are A-H, X.)

Indicators

- A. Made observations under a variety of conditions and used formal and informal interviews and record reviews (as applicable) as the primary means of gathering and validating information about residents and facility practices
- B. Focused information gathering on relevant issues

- C. Analyzed and integrated information from various sources to determine the need for further information gathering and to target the follow-up effort
- D. Shared among team members, information related to concerns being investigated and possible additional concerns. Together analyzed the information to determine its relevance and to develop strategies for further information gathering.
- E. Used interpretations, definitions, probes, and procedures in the Guidance to Surveyors to guide investigations
- F. Was continually alert to, and made relevant observations of, the facility care environment and activities – including staff interactions with residents, family and other visitors
- G. Integrated information from a variety of sources to determine if the facility provides appropriate care and services
- H. Collected sufficient information to confirm or invalidate concerns and to recognize possible Immediate Jeopardy
- I. Used record reviews to determine whether assessments and other resident information accurately reflect residents' status
- J. Determined if the facility has developed and implemented care plans that properly address resident quality of care and quality of life needs
- K. Determined if the facility has evaluated residents' response to care and modified care as appropriate
- L. Determined whether facility practices resulted in residents' decline, lack of improvement, or failure to reach their highest practicable well-being
- M. Determined the effect of the facility's medication practices on residents' attainment of their highest practicable well-being
- N. Determined how the facility care environment and activities protect and promote resident rights
- O. Correctly determined when to implement the Adverse Drug Reactions Investigative protocol, and implemented it properly

CONTINUED

- P. Correctly determined when to implement the Pressure Sore/Ulcer Investigative protocol, and implemented it properly
- Q. Correctly determined when to implement the Hydration Investigative protocol, and implemented it properly
- R. Correctly determined when to implement the Unintended Weight Loss Investigative protocol, and implemented it properly
- S. Correctly determined when to implement the Dining and Food Service Investigative protocol, and implemented it properly
- T. Correctly determined when to implement the Nursing Services, Sufficient Staffing Investigative protocol, and implemented it properly
- U. If an extended survey was conducted, collected sufficient information to determine how nursing services, physician services, and administrative activities contributed to inadequate resident care, and how resident-staff interactions and facility policies contributed to problems with resident quality of life
- V. Made appropriate observations of the facility's food storage, preparation, distribution, and food service activities
- W. Appropriately adapted the Abuse Prohibition Review Protocol based on information obtained during the abuse prohibition investigation
- X. Observed the Medication Pass in accordance with the Medication Pass protocol
- Y. Determined if the facility has a Quality Assessment and Assurance Committee and an effective method of identifying and addressing quality deficiencies

(6) DEFICIENCY DETERMINATION

Effectiveness with which the Survey Team determined the facility's compliance with Federal Regulations

Indicators

- A. Systematically reviewed and discussed all evidence gathered as it related to the applicable requirements
- B. Used all relevant information gathered to make decisions
- C. Solicited all team members' input into the decisions
- D. Accurately determined whether
 - Potential or actual physical, mental or psycho-social injury or deterioration to a resident occurred
 - Residents failed to reach their highest practicable level of physical, mental or psychosocial well-being
- E. Accurately determined each regulatory requirement that was not met
- F. Accurately determined if substandard quality of care exists
- G. Accurately determined if Immediate Jeopardy exists
- H. Accurately determined avoidability / unavoidable
- I. Accurately assessed severity
- J. Accurately assessed scope
- K. Invoked correct Immediate Jeopardy procedures
- L. Used interpretations and definitions in the Guidance to Surveyors to make determinations

Appendix C

Rating Scales for FOSS Measures

(1) CONCERN IDENTIFICATION

Effectiveness with which the Survey Team identified concerns throughout the survey*

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
5 EXTREMELY EFFECTIVE	The team identified the full range, magnitude, and number of concerns apparent from the information available**.
4 VERY EFFECTIVE	Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”
3 SATISFACTORY	The team identified all concerns with adverse impact on residents and many of the other concerns that were apparent from the information available**.
2 LESS THAN SATISFACTORY	Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”
1 MUCH LESS THAN SATISFACTORY	The team failed to identify several of the concerns with adverse impact on residents that were apparent from the information available** and/or they failed to identify most or all of the other concerns.

* Note that food-borne illness and medications are identified by the FOSS process itself as areas of concern for recertification surveys. Therefore, the SA Team should not be evaluated on their identification of concerns in these areas for these types of surveys. However, for any surveys for which food-borne illness and medications are not pre-identified as areas of concern (e.g., certain revisit or complaint surveys), the SA Team should be evaluated on their effectiveness in identifying any concerns that present themselves in these areas.

** Concerns “apparent from the information available”, as used here, includes both concerns identified by the SA Team and those that the SA Team should reasonably have been expected to identify during the survey.

(2) SAMPLE SELECTION

Effectiveness with which the Survey Team selected and modified a resident sample throughout the survey based on identified concerns and survey procedures

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">5 EXTREMELY EFFECTIVE</p>	<p>Over the course of the survey, the sample accurately reflected the identified concerns*.</p> <p>Throughout the survey, the residents sampled were optimal for confirming or invalidating all identified concerns* and investigating them as possible deficiencies.</p> <p>The sample was case-mix stratified.</p>
<p style="text-align: center;">4 VERY EFFECTIVE</p>	<p style="text-align: center;">Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”</p>
<p style="text-align: center;">3 SATISFACTORY</p>	<p>Over the course of the survey, the sample reflected most of the identified concerns*.</p> <p>Although a sample could have been selected that would have yielded more information about the identified concerns*, this lack of optimality had no <u>major</u> impact on the team’s effectiveness in confirming or invalidating those concerns or investigating them as possible deficiencies.</p> <p>The sample was case-mix stratified.</p>
<p style="text-align: center;">2 LESS THAN SATISFACTORY</p>	<p style="text-align: center;">Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”</p>
<p style="text-align: center;">1 MUCH LESS THAN SATISFACTORY</p>	<p>Over the course of the survey, the sample failed to reflect several of the concerns that were (or should have been) identified.</p> <p>The characteristics of the sample made it inadequate for confirming or invalidating the identified concerns* and had a substantial impact on the team’s effectiveness in investigating them as possible deficiencies.</p> <p>The sample was <u>not</u> case-mix stratified.</p>

* The term “identified concerns”, as used here, includes only those concerns identified by the SA Team.

(3) GENERAL INVESTIGATION

Effectiveness with which the Survey Team collected information to determine how the facility’s environment and care of residents affect residents’ quality of life, health, and safety and residents’ ability to reach their highest practicable physical, mental, and psychosocial well-being. This includes the following major investigative areas:

- Facility’s physical and psychosocial environment
- Resident needs assessment / highest practicable well-being
- Protection and promotion of resident rights
- Aspects of food service unrelated to food-borne illness (e.g., dining, weight loss, nutrition)
- Quality assessment and assurance

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">5 EXTREMELY EFFECTIVE</p>	<p>The investigation was characterized by the skillful collection, integration, and coordination of information.</p> <p><u>All</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, and relevant to the quality of facility performance. • Corroborated with a variety of other sources of evidence whenever possible. <p>The investigation was comprehensive and:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns identified by the State Agency Surveyor(s) for which information could reasonably have been collected. • Sufficient for making deficiency determinations. <p>If the facility had substandard quality of care (if applicable) or Immediate Jeopardy, the findings clearly supported that determination.</p>
<p style="text-align: center;">4 VERY EFFECTIVE</p>	<p style="text-align: center;">Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”</p>

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">3</p> <p style="text-align: center;">SATISFACTORY</p>	<p>The investigation was characterized by the organized collection of information and some integration and coordination of that information.</p> <p><u>Most</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, although some may not have been relevant to concerns. • Corroborated with other sources of evidence whenever possible. <p>The investigation was:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns identified by the State Agency Surveyor(s) for which information could reasonably have been collected. • Sufficient for making deficiency determinations. <p>If the facility had substandard quality of care (if applicable) or Immediate Jeopardy, the findings clearly supported that determination.</p>
<p style="text-align: center;">2</p> <p style="text-align: center;">LESS THAN SATISFACTORY</p>	<p style="text-align: center;">Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”</p>
<p style="text-align: center;">1</p> <p style="text-align: center;">MUCH LESS THAN SATISFACTORY</p>	<p>The investigation was characterized by the unorganized collection of information and poor integration and analysis of the information.</p> <p><u>Many</u> of the pieces of information gathered were:</p> <ul style="list-style-type: none"> • Subjective rather than factual. • <u>Not</u> corroborated with other sources of evidence, even when this would have been possible. <p>The investigation was <u>not</u>:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate some or all concerns identified by the State Agency Surveyor(s). • Sufficient for making deficiency determinations. <p>If the facility had substandard quality of care (if applicable) or Immediate Jeopardy, the findings did not reflect that situation and/or did not support that determination.</p>

(4) FOOD-BORNE ILLNESS INVESTIGATION

Effectiveness with which the Survey Team collected information to determine if the facility is storing, preparing, distributing and serving food according to 42 CFR 483.35(h)(2) to prevent food-borne illness

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">5 EXTREMELY EFFECTIVE</p>	<p>The investigation was characterized by the skillful collection, integration, and coordination of information.</p> <p><u>All</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, and relevant to the quality of facility performance. • Corroborated with a variety of other sources of evidence whenever possible. <p>The investigation was comprehensive and:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns* for which information could reasonably have been collected. • Sufficient for making deficiency determinations. <p>If the facility had Immediate Jeopardy, the findings clearly supported that determination.</p>
<p style="text-align: center;">4 VERY EFFECTIVE</p>	<p style="text-align: center;">Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”</p>
<p style="text-align: center;">3 SATISFACTORY</p>	<p>The investigation was characterized by the organized collection of information and some integration and coordination of that information.</p> <p><u>Most</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, although some may not have been relevant to concerns. • Corroborated with other sources of evidence whenever possible. <p>The investigation was:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns* for which information could reasonably have been collected. • Sufficient for making deficiency determinations. <p>If the facility had Immediate Jeopardy, the findings clearly supported that determination.</p>
<p style="text-align: center;">2 LESS THAN SATISFACTORY</p>	<p style="text-align: center;">Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”</p>

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">1</p> <p style="text-align: center;">MUCH LESS THAN SATISFACTORY</p>	<p>The investigation was characterized by the unorganized collection of information and poor integration and analysis of the information.</p> <p><u>Many</u> of the pieces of information gathered were:</p> <ul style="list-style-type: none"> • Subjective rather than factual. • <u>Not</u> corroborated with other sources of evidence, even when this would have been possible. <p>The investigation was <u>not</u>:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate some or all concerns*. • Sufficient for making deficiency determinations. <p>If the facility had Immediate Jeopardy, the findings did not reflect that situation and/or did not support that determination.</p>

* Note that food-borne illness is identified by the FOSS process itself as an area of concern for recertification surveys and should always be investigated for these surveys. However, for any surveys for which food-borne illness is not pre-identified as an area requiring investigation (e.g., certain revisit or complaint surveys), the SA Team should be evaluated on their investigative effectiveness in this area only if they themselves have identified it as a concern.

(5) MEDICATIONS INVESTIGATION

Effectiveness with which the Survey Team collected information to determine if the facility’s preparation and administration of medications complies with requirements

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">5 EXTREMELY EFFECTIVE</p>	<p>The investigation was characterized by the skillful collection, integration, and coordination of information.</p> <p><u>All</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, and relevant to the quality of facility performance. • Corroborated with a variety of other sources of evidence whenever possible. <p>The investigation was comprehensive* and:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns** for which information could reasonably have been collected (cannot be met unless two passes are observed when appropriate). • Sufficient for making deficiency determinations (cannot be met unless all errors are identified and the Medication Error Rate is correctly calculated). <p>If the facility had substandard quality of care (if applicable) or Immediate Jeopardy, the findings clearly supported that determination.</p>
<p style="text-align: center;">4 VERY EFFECTIVE</p>	<p style="text-align: center;">Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”</p>
<p style="text-align: center;">3 SATISFACTORY</p>	<p>The investigation was characterized by the organized collection of information and some integration and coordination of that information.</p> <p><u>Most</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, although some may not have been relevant to concerns. • Corroborated with other sources of evidence whenever possible. <p>The investigation was:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns** for which information could reasonably have been collected (cannot be met unless two passes are observed when appropriate). • Sufficient for making deficiency determinations (cannot be met unless all errors are identified and the Medication Error Rate is correctly calculated). <p>If the facility had substandard quality of care (if applicable) or Immediate Jeopardy, the findings clearly supported that determination.</p>

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">2</p> <p style="text-align: center;">LESS THAN SATISFACTORY</p>	<p style="text-align: center;">Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”</p>
<p style="text-align: center;">1</p> <p style="text-align: center;">MUCH LESS THAN SATISFACTORY</p>	<p>The investigation was characterized by the unorganized collection of information and poor integration and analysis of the information.</p> <p><u>Many</u> of the pieces of information gathered were:</p> <ul style="list-style-type: none"> • Subjective rather than factual. • <u>Not</u> corroborated with other sources of evidence, even when this would have been possible. <p>The investigation was <u>not</u>:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate some or all concerns**. • Sufficient for making deficiency determinations. <p>If the facility had substandard quality of care (if applicable) or Immediate Jeopardy, the findings did not reflect that situation and/or did not support that determination.</p>

* The investigation cannot be considered comprehensive if observations fail to include different routes of administration, different facility staff, and some sample residents.

** Note that medications are identified by the FOSS process itself as an area of concern for recertification surveys and should always be investigated for these surveys. However, for any surveys for which medications are not pre-identified as an area requiring investigation (e.g., certain revisit or complaint surveys), the SA Team should be evaluated on their investigative effectiveness in this area only if they themselves have identified it as a concern.

(6) DEFICIENCY DETERMINATION

Effectiveness with which the Survey Team determined the facility’s compliance with Federal Regulations

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">5 EXTREMELY EFFECTIVE</p>	<p>Correctly determined whether all findings* constituted deficiencies OR For revisit surveys, correctly determined all deficiencies above the level of substantial compliance.</p> <p>Correctly selected all regulatory requirements.</p> <p>Made correct determinations of the magnitude and extent of all citations that could contribute to substandard quality of care or rise to severity level 3 or 4.</p>
<p style="text-align: center;">4 VERY EFFECTIVE</p>	<p style="text-align: center;">Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”</p>
<p style="text-align: center;">3 SATISFACTORY</p>	<p>Correctly determined whether findings* constituted deficiencies for all citations that could result in substandard quality of care, or that could rise to the level of harm or Immediate Jeopardy OR For revisit surveys, correctly determined all deficiencies above the level of substantial compliance.</p> <p>Selected some regulatory requirements that were less than optimal, but not totally inappropriate.</p> <p>Made correct determinations of the magnitude and extent of all citations that could contribute to substandard quality of care or rise to severity level 3 or 4.</p>
<p style="text-align: center;">2 LESS THAN SATISFACTORY</p>	<p style="text-align: center;">Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”</p>
<p style="text-align: center;">1 MUCH LESS THAN SATISFACTORY</p>	<p>Made incorrect determinations of whether some findings* constituted deficiencies OR For revisit surveys, did not correctly determine all deficiencies above the level of substantial compliance.</p> <p>Selected some inappropriate regulatory requirements.</p> <p>Made many incorrect determinations of the magnitude and extent of citations, including at least one citation that could contribute to substandard quality of care or rise to severity level 3 or 4.</p>

* The term “findings,” as used here, includes both the SA Team’s findings and those discovered by the RO Evaluator(s) that the SA Team should have discovered based on the identified concerns.

Appendix D

FOSS Rating and Documentation Form

Federal Oversight/Support Survey (FOSS)

Rating and Documentation Form

Survey Identification and Status

This is a FOSS Survey conducted by RO Team # _____ ending _____ (*day of week, month/day/year*)

of a _____ (*initial, recertification, revisit, complaint, revisit/complaint, recertification/complaint*) survey by SA Team # _____ ending _____ (*day of week, month/day/year*)

Based on the RO end date, this FMS survey counts as Fiscal Year _____ (*FY, quarter, month*)

The current status of the FMS survey is _____ (*planned, unknown, holding, alternate, ordered, underway, completed, terminated, cancelled, delete*)

Data entry status of Cover Sheet and Questions Forms _____

Data entry status of Tags Form _____

Facility Information

Provider Number: _____ Provider Type: _____

Facility Name: _____

City: _____ State: _____

Office code normally responsible for Provider, only if different than SA Team _____

Number of facility beds at start of Survey _____ and Census _____

Federal Team Information

RO Survey from _____ (*day of week, month/day/year*) to _____ (*day of week, month/day/year*) with _____ of _____ days onsite.

Number of fully participating RO Surveyors present for survey duration _____

Number of RO Surveyors present for less than survey duration _____

State Team Information

SA Survey from _____ (*day of week, month/day/year*) to _____ (*day of week, month/day/year*) with _____ of _____ days onsite.

Does this survey count towards the ten percent staggered survey initiative? _____ (*yes, no*)

Number of fully participating SA Surveyors present for survey duration _____

Number of SA Surveyors present for less than survey duration _____

Number of Tags Cited on 2567 by SA: _____

If there was Immediate Jeopardy in the facility, should the SA Team have identified it? _____

SA Team identified SQC? _____

SA Team identified Harm? _____

Database Administration Information

Record checked out for mobile use by _____ until _____

Record last updated _____ (*day of week, month/day/year, time of day*) by _____

(*initials*) Sent to CO on _____ (*day of week, month/day/year*) at
_____ (*time of day*)

Special Circumstances

Debriefing/Exit Conference (Who was present, topics covered, information provided)

Directions

After you have completed all observations relevant to a particular survey measure, follow the steps below:

- (1) Review the definition of the measure, the rating scale for the measure and your relevant notes.*
- (2) Consider how the team compares to the “1,” “3,” and “5” level descriptions for the measure, and use the rating box immediately following the rating scale to enter the rating (1-5) that best characterizes the team’s effectiveness on the measure.*

If the team met all of the criteria for one of these levels, then rate the team at that level.

If the team’s performance fell somewhere between the “1” and “3” levels or the “3” and “5” levels, then assign a rating of “2” or “4,” as appropriate. A “4” rating might be warranted if some of the team’s behaviors were at the “5” level but others were at the “3” level, or if a number of behaviors were somewhere between the descriptions for a “5” and a “3.” By similar logic, a “2” rating could be appropriate if the team exhibited some “3” and some “1” behaviors, or if they exhibited a number of behaviors that were not as good as “3” but not as bad as “1.”

- (3) Exercise your judgment when making your ratings, but base each rating on only the observations that are relevant to the measure under consideration.*
- (4) If a measure is not applicable to a particular survey (as may occur, for example, in a revisit or complaint survey), enter “NA” in the rating box for that measure. Also document this situation in the “Special Circumstances” section of the rating form.*
- (5) Document the team’s behavior relative to the measure.*

Begin your documentation with a summary statement describing specific survey team behaviors that illustrate the overall level at which the team was operating with respect to the measure. Then use bullet format to cite more specific team behaviors that contributed to their level of achievement.

Make the documentation clear and concise.

- (6) At the end of the section for a measure, check off the indicators that the team could work on to improve their performance on the measure. The team need not do poorly on the measure to be able to enhance their performance by working on some indicators.*
- (7) Repeat the rating and documentation procedure for each measure in turn.*

(1) CONCERN IDENTIFICATION

Effectiveness with which the Survey Team identified concerns throughout the survey*

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
5 EXTREMELY EFFECTIVE	The team identified the full range, magnitude, and number of concerns apparent from the information available**.
4 VERY EFFECTIVE	Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”
3 SATISFACTORY	The team identified all concerns with adverse impact on residents and many of the other concerns that were apparent from the information available**.
2 LESS THAN SATISFACTORY	Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”
1 MUCH LESS THAN SATISFACTORY	The team failed to identify several of the concerns with adverse impact on residents that were apparent from the information available** and/or they failed to identify most or all of the other concerns.

* Note that food-borne illness and medications are identified by the FOSS process itself as areas of concern for recertification surveys. Therefore, the SA Team should not be evaluated on their identification of concerns in these areas for these types of surveys. However, for any surveys for which food-borne illness and medications are not pre-identified as areas of concern (e.g., certain revisit or complaint surveys), the SA Team should be evaluated on their effectiveness in identifying any concerns that present themselves in these areas.

** Concerns “apparent from the information available”, as used here, includes both concerns identified by the SA Team and those that the SA Team should reasonably have been expected to identify during the survey.

Rating (1-5 or NA)

Supporting Narrative

(2) SAMPLE SELECTION

Effectiveness with which the Survey Team selected and modified a resident sample throughout the survey based on identified concerns and survey procedures

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">5 EXTREMELY EFFECTIVE</p>	<p>Over the course of the survey, the sample accurately reflected the identified concerns*.</p> <p>Throughout the survey, the residents sampled were optimal for confirming or invalidating all identified concerns* and investigating them as possible deficiencies.</p> <p>The sample was case-mix stratified.</p>
<p style="text-align: center;">4 VERY EFFECTIVE</p>	<p style="text-align: center;">Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”</p>
<p style="text-align: center;">3 SATISFACTORY</p>	<p>Over the course of the survey, the sample reflected most of the identified concerns*.</p> <p>Although a sample could have been selected that would have yielded more information about the identified concerns*, this lack of optimality had no <u>major</u> impact on the team’s effectiveness in confirming or invalidating those concerns or investigating them as possible deficiencies.</p> <p>The sample was case-mix stratified.</p>
<p style="text-align: center;">2 LESS THAN SATISFACTORY</p>	<p style="text-align: center;">Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”</p>
<p style="text-align: center;">1 MUCH LESS THAN SATISFACTORY</p>	<p>Over the course of the survey, the sample failed to reflect several of the concerns that were (or should have been) identified.</p> <p>The characteristics of the sample made it inadequate for confirming or invalidating the identified concerns* and had a substantial impact on the team’s effectiveness in investigating them as possible deficiencies.</p> <p>The sample was <u>not</u> case-mix stratified.</p>

* The term “identified concerns”, as used here, includes only those concerns identified by the SA Team.

Rating (1-5 or NA)

Supporting Narrative

(3) GENERAL INVESTIGATION

Effectiveness with which the Survey Team collected information to determine how the facility’s environment and care of residents affect residents’ quality of life, health, and safety and residents’ ability to reach their highest practicable physical, mental, and psychosocial well-being. Included are the following major investigative areas:

- **Facility’s physical and psychosocial environment**
- **Resident needs assessment / highest practicable well-being**
- **Protection and promotion of resident rights**
- **Aspects of food service unrelated to food-borne illness (e.g., dining, weight loss, nutrition)**
- **Quality assessment and assurance**

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
5 EXTREMELY EFFECTIVE	<p>The investigation was characterized by the skillful collection, integration, and coordination of information.</p> <p><u>All</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, and relevant to the quality of facility performance. • Corroborated with a variety of other sources of evidence whenever possible. <p>The investigation was comprehensive and:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns identified by the State Agency Surveyor(s) for which information could reasonably have been collected. • Sufficient for making deficiency determinations. <p>If the facility had substandard quality of care or Immediate Jeopardy, the findings clearly supported that determination.</p>
4 VERY EFFECTIVE	Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”
3 SATISFACTORY	<p>The investigation was characterized by the organized collection of information and some integration and coordination of that information.</p> <p><u>Most</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, although some may not have been relevant to concerns. • Corroborated with other sources of evidence whenever possible. <p>The investigation was:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns identified by the State Agency Surveyor(s) for which information could reasonably have been collected. • Sufficient for making deficiency determinations. <p>If the facility had substandard quality of care or Immediate Jeopardy, the findings clearly supported that determination.</p>
2 LESS THAN SATISFACTORY	Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”
1 MUCH LESS THAN SATISFACTORY	<p>The investigation was characterized by the unorganized collection of information and poor integration and analysis of the information.</p> <p><u>Many</u> of the pieces of information gathered were:</p> <ul style="list-style-type: none"> • Subjective rather than factual. • <u>Not</u> corroborated with other sources of evidence, even when this would have been possible. <p>The investigation was <u>not</u>:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate some or all concerns identified by the State Agency Surveyor(s). • Sufficient for making deficiency determinations. <p>If the facility had substandard quality of care or Immediate Jeopardy, the findings did not reflect that situation and/or did not support that determination.</p>

(3) GENERAL INVESTIGATION (CONT.)

Indicators

Check the box beside each indicator that the team could work on to improve their performance on the measure.

- A. Made observations under a variety of conditions and used formal and informal interviews and (as applicable) record reviews as the primary means of gathering and validating information about residents and facility practices
- B. Focused information gathering on relevant issues
- C. Analyzed and integrated information from various sources to determine the need for further information gathering and to target the follow-up effort
- D. Shared among team members, information related to concerns being investigated and possible additional concerns. Together analyzed the information to determine its relevance and to develop strategies for further information gathering.
- E. Used interpretations, definitions, probes, and procedures in the Guidance to Surveyors to guide investigations
- F. Was continually alert to, and made relevant observations of, the facility care environment and activities – including staff interactions with residents, family and other visitors
- G. Integrated information from a variety of sources to determine if the facility provides appropriate care and services
- H. Collected sufficient information to confirm or invalidate concerns and to recognize possible Immediate Jeopardy
- I. Used record reviews to determine whether assessments and other resident information accurately reflect residents' status
- J. Determined if the facility has developed and implemented care plans that properly address resident quality of care and quality of life needs
- K. Determined if the facility has evaluated residents' response to care and modified care as appropriate
- L. Determined whether facility practices resulted in residents' decline, lack of improvement, or failure to reach their highest practicable well-being
- M. Determined the effect of the facility's medication practices on residents' attainment of their highest practicable well-being
- N. Determined how the facility care environment and activities protect and promote resident rights
- O. Correctly determined when to implement the Adverse Drug Reactions Investigative protocol, and implemented it properly
- P. Correctly determined when to implement the Pressure Sore/Ulcer Investigative protocol, and implemented it properly
- Q. Correctly determined when to implement the Hydration Investigative protocol, and implemented it properly
- R. Correctly determined when to implement the Unintended Weight Loss Investigative protocol, and implemented it properly
- S. Correctly determined when to implement the Dining and Food Service Investigative protocol, and implemented it properly
- T. Correctly determined when to implement the Nursing Services, Sufficient Staffing Investigative protocol, and implemented it properly

(3) GENERAL INVESTIGATION (CONT.)

- U. If an extended survey was conducted, collected sufficient information to determine how nursing services, physician services, and administrative activities contributed to inadequate resident care, and how resident-staff interactions and facility policies contributed to problems with resident quality of life
- W. Appropriately adapted the Abuse Prohibition Review Protocol based on information obtained during the abuse prohibition investigation
- Y. Determined if the facility has a Quality Assessment and Assurance Committee and an effective method of identifying and addressing quality deficiencies

(4) FOOD-BORNE ILLNESS INVESTIGATION

Effectiveness with which the survey team collected information to determine if the facility is storing, preparing, distributing and serving food according to 42 CFR 483.35(h)(2) to prevent food-borne illness

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">5 EXTREMELY EFFECTIVE</p>	<p>The investigation was characterized by the skillful collection, integration, and coordination of information.</p> <p><u>All</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, and relevant to the quality of facility performance. • Corroborated with a variety of other sources of evidence whenever possible. <p>The investigation was comprehensive and:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns * for which information could reasonably have been collected. • Sufficient for making deficiency determinations. <p>If the facility had Immediate Jeopardy, the findings clearly supported that determination.</p>
<p style="text-align: center;">4 VERY EFFECTIVE</p>	<p style="text-align: center;">Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”</p>
<p style="text-align: center;">3 SATISFACTORY</p>	<p>The investigation was characterized by the organized collection of information and some integration and coordination of that information.</p> <p><u>Most</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, although some may not have been relevant to concerns. • Corroborated with other sources of evidence whenever possible. <p>The investigation was:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns* for which information could reasonably have been collected. • Sufficient for making deficiency determinations. <p>If the facility had Immediate Jeopardy, the findings clearly supported that determination.</p>
<p style="text-align: center;">2 LESS THAN SATISFACTORY</p>	<p style="text-align: center;">Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”</p>
<p style="text-align: center;">1 MUCH LESS THAN SATISFACTORY</p>	<p>The investigation was characterized by the unorganized collection of information and poor integration and analysis of the information.</p> <p><u>Many</u> of the pieces of information gathered were:</p> <ul style="list-style-type: none"> • Subjective rather than factual. • <u>Not</u> corroborated with other sources of evidence, even when this would have been possible. <p>The investigation was <u>not</u>:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate some or all concerns*. • Sufficient for making deficiency determinations. <p>If the facility had Immediate Jeopardy, the findings did not reflect that situation and/or did not support that determination.</p>

* Note that food-borne illness is identified by the FOSS process itself as an area of concern for recertification surveys and should always be investigated for these surveys. However, for any surveys for which food-borne illness is not pre-identified as an area requiring investigation (e.g., certain revisit or complaint surveys), the SA Team should be evaluated on their investigative effectiveness in this area only if they themselves have identified it as a concern.

(4) FOOD-BORNE ILLNESS INVESTIGATION (CONT.)

Indicators

Check the box beside each indicator that the team could work on to improve their performance on the measure.

- A. Made observations under a variety of conditions and used formal and informal interviews and (as applicable) record reviews as the primary means of gathering and validating information about residents and facility practices
- B. Focused information gathering on relevant issues
- C. Analyzed and integrated information from various sources to determine the need for further information gathering and to target the follow-up effort
- D. Shared among team members, information related to concerns being investigated and possible additional concerns. Together analyzed the information to determine its relevance and to develop strategies for further information gathering.
- E. Used interpretations, definitions, probes, and procedures in the Guidance to Surveyors to guide investigations
- F. Was continually alert to, and made relevant observations of, the facility care environment and activities – including staff interactions with residents, family and other visitors
- G. Integrated information from a variety of sources to determine if the facility provides appropriate care and services
- H. Collected sufficient information to confirm or invalidate concerns and to recognize possible Immediate Jeopardy
- V. Made appropriate observations of the facility's food storage, preparation, distribution, and food service activities

(5) MEDICATIONS INVESTIGATION

Effectiveness with which the survey team collected information to determine if the facility’s preparation and administration of medications complies with requirements

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">5 EXTREMELY EFFECTIVE</p>	<p>The investigation was characterized by the skillful collection, integration, and coordination of information.</p> <p><u>All</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, and relevant to the quality of facility performance. • Corroborated with a variety of other sources of evidence whenever possible. <p>The investigation was comprehensive* and:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns* for which information could reasonably have been collected (cannot be met unless two passes are observed when appropriate). • Sufficient for making deficiency determinations (cannot be met unless all errors are identified and the Medication Error Rate is correctly calculated). <p>If the facility had substandard quality of care or Immediate Jeopardy, the findings clearly supported that determination.</p>
<p style="text-align: center;">4 VERY EFFECTIVE</p>	<p style="text-align: center;">Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”</p>
<p style="text-align: center;">3 SATISFACTORY</p>	<p>The investigation was characterized by the organized collection of information and some integration and coordination of that information.</p> <p><u>Most</u> of the information gathered was:</p> <ul style="list-style-type: none"> • Factual, although some may not have been relevant to concerns. • Corroborated with other sources of evidence whenever possible. <p>The investigation was:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate all concerns* for which information could reasonably have been collected (cannot be met unless two passes are observed when appropriate). • Sufficient for making deficiency determinations (cannot be met unless all errors are identified and the Medication Error Rate is correctly calculated). <p>If the facility had substandard quality of care or Immediate Jeopardy, the findings clearly supported that determination.</p>
<p style="text-align: center;">2 LESS THAN SATISFACTORY</p>	<p style="text-align: center;">Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”</p>
<p style="text-align: center;">1 MUCH LESS THAN SATISFACTORY</p>	<p>The investigation was characterized by the unorganized collection of information and poor integration and analysis of the information.</p> <p><u>Many</u> of the pieces of information gathered were:</p> <ul style="list-style-type: none"> • Subjective rather than factual. • <u>Not</u> corroborated with other sources of evidence, even when this would have been possible. <p>The investigation was <u>not</u>:</p> <ul style="list-style-type: none"> • Reflective of the extent and magnitude of deficient practice within the facility. • Sufficient to confirm or invalidate some or all concerns*. • Sufficient for making deficiency determinations. <p>If the facility had substandard quality of care or Immediate Jeopardy, the findings did not reflect that situation and/or did not support that determination.</p>

* The investigation cannot be considered comprehensive if observations fail to include different routes of administration, different facility staff, and some sample residents.

** Note that medications are identified by the FOSS process itself as an area of concern for recertification surveys and should always be investigated for these surveys. However, for any surveys for which medications are not pre-identified as an area requiring investigation (e.g., certain revisit or complaint surveys), the SA Team should be evaluated on their investigative effectiveness in this area only if they themselves have identified it as a concern.

(5) MEDICATIONS INVESTIGATION (CONT.)

Indicators

Check the box beside each indicator that the team could work on to improve their performance on the measure.

- A. Made observations under a variety of conditions and used formal and informal interviews and (as applicable) record reviews as the primary means of gathering and validating information about residents and facility practices
- B. Focused information gathering on relevant issues
- C. Analyzed and integrated information from various sources to determine the need for further information gathering and to target the follow-up effort
- D. Shared among team members, information related to concerns being investigated and possible additional concerns. Together analyzed the information to determine its relevance and to develop strategies for further information gathering.
- E. Used interpretations, definitions, probes, and procedures in the Guidance to Surveyors to guide investigations
- F. Was continually alert to, and made relevant observations of, the facility care environment and activities – including staff interactions with residents, family and other visitors
- G. Integrated information from a variety of sources to determine if the facility provides appropriate care and services
- H. Collected sufficient information to confirm or invalidate concerns and to recognize possible Immediate Jeopardy
- X. Observed the Medication Pass in accordance with the Medication Pass protocol

(6) DEFICIENCY DETERMINATION

Effectiveness with which the Survey Team determined the facility’s compliance with Federal Regulations

RATING LEVEL	DESCRIPTION OF SURVEY TEAM BEHAVIOR
<p style="text-align: center;">5 EXTREMELY EFFECTIVE</p>	<p>Correctly determined whether all findings* constituted deficiencies OR For revisit surveys, correctly determined all deficiencies above the level of substantial compliance.</p> <p>Correctly selected all regulatory requirements.</p> <p>Made correct determinations of the magnitude and extent of all citations that could contribute to substandard quality of care or rise to severity level 3 or 4.</p>
<p style="text-align: center;">4 VERY EFFECTIVE</p>	<p style="text-align: center;">Exceeded the description for a rating of “3” but did not meet the description for a rating of “5”</p>
<p style="text-align: center;">3 SATISFACTORY</p>	<p>Correctly determined whether findings* constituted deficiencies for all citations that could result in substandard quality of care, or that could rise to the level of harm or Immediate Jeopardy OR For revisit surveys, correctly determined all deficiencies above the level of substantial compliance.</p> <p>Selected some regulatory requirements that were less than optimal, but not totally inappropriate.</p> <p>Made correct determinations of the magnitude and extent of all citations that could contribute to substandard quality of care or rise to severity level 3 or 4.</p>
<p style="text-align: center;">2 LESS THAN SATISFACTORY</p>	<p style="text-align: center;">Exceeded the description for a rating of “1” but did not meet the description for a rating of “3”</p>
<p style="text-align: center;">1 MUCH LESS THAN SATISFACTORY</p>	<p>Made incorrect determinations of whether some findings* constituted deficiencies OR For revisit surveys, did not correctly determine all deficiencies above the level of substantial compliance.</p> <p>Selected some inappropriate regulatory requirements.</p> <p>Made many incorrect determinations of the magnitude and extent of citations, including at least one citation that could contribute to substandard quality of care or rise to severity level 3 or 4.</p>

* The term “findings,” as used here, includes both the SA Team’s findings and those discovered by the RO Evaluator(s) that the SA Team should have discovered based on the identified concerns.

Rating (1-5 or NA)

Supporting Narrative

(6) DEFICIENCY DETERMINATION (CONT.)

Indicators

Check the box beside each indicator that the team could work on to improve their performance on the measure.

- A. Systematically reviewed and discussed all evidence gathered as it related to the applicable requirements
- B. Used all relevant information gathered to make decisions
- C. Solicited all team members' input into the decisions
- D. Accurately determined whether
 - Potential or actual physical, mental or psycho-social injury or deterioration to a resident occurred
 - Residents failed to reach their highest practicable level of physical, mental or psychosocial well-being
- E. Accurately determined each regulatory requirement that was not met
- F. Accurately determined if substandard quality of care exists
- G. Accurately determined if Immediate Jeopardy exists
- H. Accurately determined avoidability/unavoidability
- I. Accurately assessed severity
- J. Accurately assessed scope
- K. Invoked correct Immediate Jeopardy procedures
- L. Used interpretations and definitions in the Guidance to Surveyors to make determinations

Appendix E

Examples of FOSS Documentation

Example Documentation for a Rating of “5” (Extremely Effective) on Measure 1 – Concern Identification

This team was extremely thorough and organized in their data gathering activities and extremely effective in identifying concerns from the data collected. They seemed particularly skilled in sifting through all of their observations to identify those that were relevant to the task. While they did not review complaint investigations off-site or follow up on one of the pieces of information requested, these lapses were more than offset by the excellence of their other activities. Onsite monitoring and limited independent fact-finding revealed that there were no concerns missed due to these lapses. The team’s sharing of information on an ongoing basis was instrumental in the excellence of their concern identification.

More specifically:

- Prior to the start of the on-site survey, the team reviewed the off-site data and set up a plan for data collection that covered all potential concerns in each area of the facility. They also set up a tentative time for a 10-minute meeting to ensure that they were collecting all necessary information and to share new, relevant information.
- This meeting was held, and alterations were made to the plan for the Initial Tour to focus on two possible new concerns.
- Periodic sharing of data/information occurred formally and informally throughout the survey. Team members looked for each other if they believed that they had new information to share. This sharing allowed all team members to be alert to all concerns.

Example Documentation for a Rating of “3” (Satisfactory) on Measure 1 – Concern Identification

The SA Team did a satisfactory job in that they identified concerns with adverse impact on residents and many of the other facility concerns. While they did not identify several potentially significant concerns that the RO Evaluator noticed, none of these concerns was determined to have an adverse impact on residents.

During Phase 2, the SA Surveyors were not as successful in identifying new areas of concern that were apparent in the facility and that were identified by the RO Evaluator. More specifically:

- The SA Team did not identify or fully explore two issues – the use of side rails, and the large number of residents eating in their rooms.
- The team identified physical restraints as a concern as part of Phase 1 and Phase 2 sample selection. However, as manifest in team discussions, their definition of physical restraints did not include bedside rails.
- Over the five days of the survey, the RO Evaluator noticed that approximately 81% of the residents were eating their meals in their rooms, and that eight of the ten residents in the Phase 1 sample were eating all of their meals in their rooms.
- In identifying concerns, the SA Team did not always share information among themselves.

Example Documentation for a Rating of “2” (Less than Satisfactory) on Measure 2 – Sample Selection

The team was less than satisfactory in their sample selection in both Phase 1 and Phase 2. Because they did not look beyond the obvious in selecting the sample, the sample reflected only easily recognized problems and did not provide information to validate or invalidate complex concerns, some of which were chosen off-site.

In addition, several sample selection criteria were not met, and the inadequacy of sample selection had a negative impact on the team’s ability to identify deficiencies.

More specifically:

- The sample selection was not optimal for confirming or validating concerns by investigating them for possible deficient practice. One resident (Resident #8) was substituted for another resident who did not have any of the SA Team’s identified concerns, and only six (rather than seven) residents were included for the WHP review (Residents #1, 3, 5, 15, 16, 17).
- The team did not include residents with restraints in their sample. The team was thus unable to investigate this concern area, which could have a major impact on the residents’ quality of care and life. RO limited independent fact-finding consisting of multiple observations revealed several residents in restraints, and the multiple types of restraints observed was cause for concern.
- During the Phase 2 sampling meeting, because the team had no new information or concerns, they chose additional residents to continue to evaluate their current concerns. They did not discuss the need to make sure that they had residents who would meet all criteria for the sample selection, and the final sample did not include any resident at risk of dehydration, any new admissions (there were five), or any closed record reviews.
- The incomplete sample selection put the team at risk for missing significant deficient care practices.

Example Documentation for a Rating of “1” (Much Less than Satisfactory) on Measure 4 – Food-Borne Illness Investigation

The food-borne illness investigation was not reflective of the extent and magnitude of deficient practice within the facility, was not sufficient to confirm or invalidate concerns, and was not sufficient for making deficiency determinations. More specifically:

- The team did not investigate sufficiently to determine whether the evening meal that was about to be served had been adequately prepared. The chili had undercooked ground beef mixed into it, and the final temperature at the steam table was only 101 degrees F. The chili sat on the steam table for two hours prior to the meal service. When the facility realized that the chili was not at the proper 140 degrees F holding temperature, they reheated a partial batch in the microwave to 140 degrees F. The SA Team took no other temperatures of the food and did not investigate how the chili had been prepared. However, the RO Evaluator did limited independent fact-finding and determined that (1) according to the recipe, the ground beef should have been browned and should have reached a temperature of 155 degrees F, and (2) the facility had no functional thermometers in the kitchen that would have allowed staff to determine the temperature of the cooked chili. Given the 15 degree difference between the temperature the meat should have reached and the temperature it did reach, and the length of time the chili sat on the steam table at minimal temperatures, the RO Evaluator was concerned about the potential for food-borne illness and about possible Immediate Jeopardy.
- During the kitchen tour, the team had not observed a large roast thawing in the walk-in that had dripped blood onto the shredded cabbage stored on a wire shelf below it. During the noon meal preparation, the cook used the shredded cabbage in the preparation of cole slaw and served it at room temperature.
- The team did not ask or observe how the facility insures the proper sanitizing of pots and pans in the three-compartment sink; in addition, they were reluctant to have the facility demonstrate how they ensure proper sanitizing of dishes – whether by machine or sink methods.
- The RO Evaluator observed that the kitchen staff were not wearing hair restraints.

Example Documentation for a Rating of “4” (Very Effective) on Measure 5 – Medications Investigation

This team’s information collection was organized and followed the Medication Pass Protocol with minor deviations that did not limit their ability to determine the extent and magnitude of possible deficient practice in the facility. ALL of the information collected was not corroborated with a variety of sources, but this did not keep the team from correctly determining the facility’s compliance with requirements.

- The investigation was not comprehensive because one of the six medications given to one resident on the ‘B’ Hall and one of the four medications given to a resident on the ‘A’ Hall were dispensed in a different route than was documented on the Medication Administration Record, and the SA Team did not identify this discrepancy. When the RO Evaluator checked the medical record, he determined that the route of administration was correct and that the documentation of the route on the Medication Administration Record was incorrect.

- The SA Team used the probes and definitions to assist them with questions during reconciliation. The team was also very alert to the environment and shared observations of Residents #4 and #6 with their teammates to help validate other concerns being investigated.

Appendix F

Guidance for Completing Data Fields in the FOSS Tags Form

FOSS CMS 2567 Evaluation

The “Tags Form” is used for entering information into the FOSS database about the deficiencies that were cited or should have been cited as a result of the survey. The information is used for comparing what the SA Team thought should be cited during their Task 6 (Deficiency Determination) meeting, what the RO Evaluator(s) thought should be cited, and what the SA actually cited on the facility copy of the CMS 2567.

The form is to be completed in two parts. The first part is the Task 6 (Deficiency Determination) section, which captures the SA’s and RO’s perspectives regarding the deficiencies that should have been cited based on the SA Team’s Task 6 meeting. This part of the form should be completed upon the RO Evaluator’s(s’) return to the office. The second part is the facility copy of the SA’s CMS 2567, which captures what was actually cited on that document. It should be completed later, when the RO receives the facility copy from the SA.

Completing the Task 6 (Deficiency Determination) data fields

Upon returning to the office, the RO Evaluator(s) will have the information needed to enter the Task 6 (Deficiency Determination) data using the Tags Form. (Note that entry of Task 6 data should be done before – not in conjunction with – entry of the SA’s CMS 2567 facility copy information.)

The information to be entered for Task 6 includes the tag number and the scope/severity level (both SA Team’s and RO Evaluator’s(s’) perspectives) for all tags the SA Team decided to cite at their deficiency determination meeting, as well as for any additional tags the RO Evaluator thought they should have cited. This information should be entered regardless of whether the RO Evaluator agreed with the SA Team’s decisions.

For each tag the SA Team decided to cite, they should have determined the scope/severity or, at minimum, the severity level (1 through 4)¹. However, if the team failed to make this determination during the deficiency determination meeting, the tag should still be entered into the Tags Form, and the scope and severity (S/S) menu code that indicates that no scope/severity determination was made should be selected. In summary, data for all tags the SA Team decided to cite, as well as any additional tags the RO Evaluator thought they should have cited, must be entered in the appropriate “Task 6 was” fields.

¹ State Operations Manual - 4151.1 “The SA Team must determine if actual harm, substandard quality of care and/or Immediate Jeopardy are present during the information gathering tasks of the survey and/or during information analysis and decision-making”.

* →
denotes
new tag
record

Entering Scope and Severity (S/S) information

There are four severity levels:

- Level 1 - no actual harm with potential for minimal harm
- Level 2 - no actual harm with potential for more than minimal harm that is not Immediate Jeopardy
- Level 3 - actual harm that is not Immediate Jeopardy
- Level 4 - Immediate Jeopardy to resident health or safety

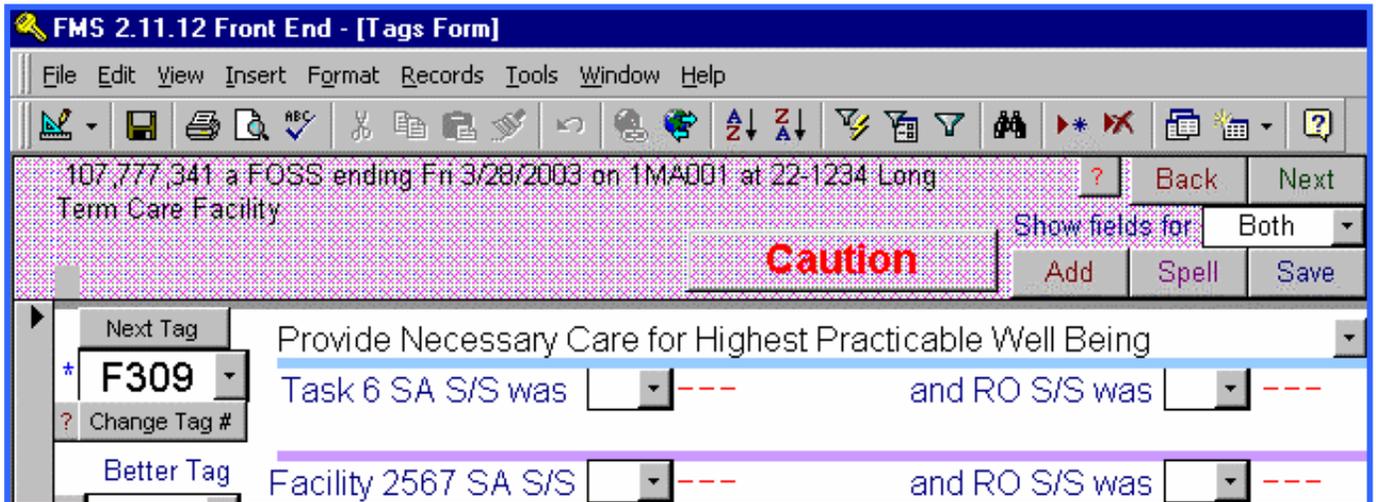
There are three scope levels:

- Isolated
- Pattern
- Widespread

For additional guidance on deficiency categorization, refer to Appendix P - (Survey Protocol For Long Term Care Facilities) Part 1.

For each tag, there are four data fields for scope and severity on the Tags Form. They are:

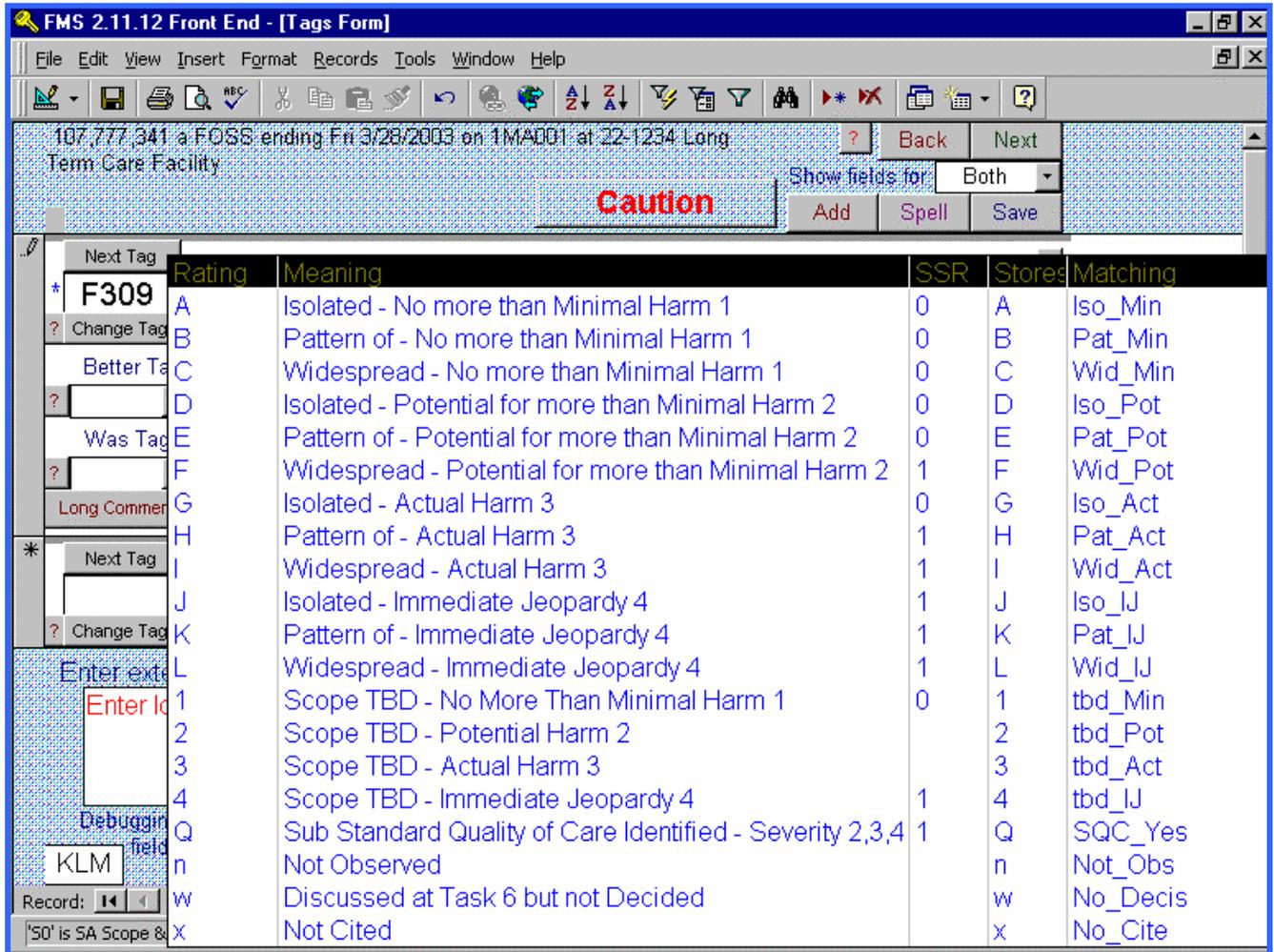
- Task 6 SA S/S was field
- Task 6 RO S/S was field (RO's view)
- Facility 2567 SA S/S field
- Facility 2567 RO S/S field (RO's view)



Each data field has its own scope and severity menu with options pertaining to that specific data field (A through L, and/or 1-4, and other options). A scope and severity level or other designated selection must be assigned to all tag records for all four data fields.

“Task 6 SA S/S was” field

In the “Task 6” section of the Tags Form, all tags must be entered and assigned a scope and severity (A - L), or at least a severity level (1 - 4, Q), if the SA Team determined scope and severity or severity during their deficiency determination meeting. If not, there are other options available for the scope and severity field. The full set of options for this field are as follows:



If the SA Team discussed a deficiency but did not determine at least the severity level, then “w” should be entered into the “Task 6 SA S/S was” field, denoting “Discussed at Task 6 but not Decided”.

If the SA Team made an observation that the RO Evaluator(s) believed should have led to a citation, but the team did not discuss or cite the tag during their deficiency determination meeting, then “x” should be entered into the “Task 6 SA S/S was” field, denoting “Not Cited”.

Task 6 “RO S/S was” field

This field is the RO Evaluator’s(s’) view of the tags the SA Team discussed, cited and/or missed. There is a scope and severity menu with options pertaining to the RO Evaluator’s(s’) view of the SA Team’s Task 6 discussion.

The following are the options for the Task 6 “RO S/S was” field:

The screenshot shows the 'FMS 2.11.12 Front End - [Tags Form]' window. The main area displays a list of Task 6 S/S options. The table below represents the data shown in the screenshot:

Rating	Meaning	SSR	Stores
A	Isolated - No more than Minimal Harm 1	0	A
B	Pattern of - No more than Minimal Harm 1	0	B
C	Widespread - No more than Minimal Harm 1	0	C
D	Isolated - Potential for more than Minimal Harm 2	0	D
E	Pattern of - Potential for more than Minimal Harm 2	0	E
F	Widespread - Potential for more than Minimal Harm 2	1	F
G	Isolated - Actual Harm 3	0	G
H	Pattern of - Actual Harm 3	1	H
I	Widespread - Actual Harm 3	1	I
J	Isolated - Immediate Jeopardy 4	1	J
K	Pattern of - Immediate Jeopardy 4	1	K
L	Widespread - Immediate Jeopardy 4	1	L
1	Scope TBD - No More Than Minimal Harm 1	0	1
2	Scope TBD - Potential Harm 2		2
3	Scope TBD - Actual Harm 3		3
4	Scope TBD - Immediate Jeopardy 4	1	4
Q	Sub Standard Quality of Care Identified - Severity 2,3,4	1	Q
x	Not Cited		x

The “Task 6 RO S/S was” field is required. Also, if there are any differences between the “Task 6 SA S/S was” field and the “Task 6 RO S/S was” field, comments must be entered into the “Comments” field.

Completing the Facility CMS 2567 data fields

When the RO receives the SA's CMS 2567 (facility copy), the tag information must be entered using the Tags Form.

“Facility 2567 SA S/S” field

For every tag on the CMS 2567, an entry must be made in the “Facility 2567 SA S/S” field.

Facility 2567 SA S/S --- and RO S/S was ---

FMS 2.11.12 Front End - [Tags Form]

File Edit View Insert Format Records Tools Window Help

107,777,341 a FOSS ending Fri 3/28/2003 on 1MA001 at 22-1234 Long Term Care Facility

Caution

Show fields for: Both

Add Spell Save

* Next Tag

Task 6 SA S/S was and RO S/S was

? Change Tag #

Better Tag

? Facility 2567 SA S/S and RO S/S was

? Was Tag

? Long Comments?

Enter extended comments for current Tag here:

Enter long comments here:

Debugging fields -> CurSurvey() = 107,777,341 Updated 6:26a 4/7/2003

KLM SortTag F309 RT 0 TFlag

Record: 1 of 1

'S0' is SA Scope & Severity rating (A-L) for this Tag as of Task 6. Enter a 1,2,3,4 if only Severity determined, NUM

Any tags that are on the CMS 2567 but that are not already entered into the database (i.e., for which there are no “Task 6” entries) must be added to the survey record using the Tags Form. Before entering data into the “Facility 2567 SA S/S was” field for these tags, complete Task 6 information for them by selecting “x” (Not Cited) in the “Task 6 SA S/S” field and entering the appropriate selection for the “Task 6 RO was” field.

The following are the options for the “Facility 2567 SA S/S was” field:

Rating	Meaning	SSR	Stores	Matching
A	Isolated - No more than Minimal Harm 1	0	A	Iso_Min
B	Pattern of - No more than Minimal Harm 1	0	B	Pat_Min
C	Widespread - No more than Minimal Harm 1	0	C	Wid_Min
D	Isolated - Potential for more than Minimal Harm 2	0	D	Iso_Pot
E	Pattern of - Potential for more than Minimal Harm 2	0	E	Pat_Pot
F	Widespread - Potential for more than Minimal Harm 2	1	F	Wid_Pot
G	Isolated - Actual Harm 3	0	G	Iso_Act
H	Pattern of - Actual Harm 3	1	H	Pat_Act
I	Widespread - Actual Harm 3	1	I	Wid_Act
J	Isolated - Immediate Jeopardy 4	1	J	Iso_IJ
K	Pattern of - Immediate Jeopardy 4	1	K	Pat_IJ
L	Widespread - Immediate Jeopardy 4	1	L	Wid_IJ
y	Not Received		y	Not_Rcvd
x	Not Cited		x	No_Cite

Any tag that was identified in “Task 6” (either because the SA Team decided to cite it and/or because the RO thought they should cite it) that is not on the SA’s CMS 2567 must have an “x” (Not Cited) in the “Facility 2567 SA S/S” field.

The information for all tags on the CMS 2567 (including scope and severity) should match the entries made on the “Tags Form” in the “Facility 2567 SA S/S” fields.

For any differences between the “Task 6 SA S/S was” field and the “Facility 2567 SA S/S” field, “Comments” must be made to document the difference.

Facility 2567 “RO S/S was” field

Facility 2567 SA S/S and RO S/S was

The “RO S/S was field” is for the RO Evaluator’s(s’) assessment of the SA’s CMS 2567. For every tag cited on the CMS 2567, the RO must enter their perspective of the SA’s scope and severity determination. There must be an entry for every tag cited. Include any tags that were added or changed on the CMS 2567 in comparison to “Task 6”. If there is a tag entry for “Task 6”, but the tag was dropped from the CMS 2567, enter the appropriate “RO S/S” view of this tag from the options available on the “RO S/S was” drop down menu.

The following are the options for the facility 2567 “RO S/S was” field:

The screenshot shows the 'FMS 2.11.12 Front End - [Tags Form]' interface. The main data area contains a table with the following columns: Rating, Meaning, SSR, and Stores. The table lists various ratings and their corresponding meanings and scores.

Rating	Meaning	SSR	Stores
A	Isolated - No more than Minimal Harm 1	0	A
B	Pattern of - No more than Minimal Harm 1	0	B
C	Widespread - No more than Minimal Harm 1	0	C
D	Isolated - Potential for more than Minimal Harm 2	0	D
E	Pattern of - Potential for more than Minimal Harm 2	0	E
F	Widespread - Potential for more than Minimal Harm 2	1	F
G	Isolated - Actual Harm 3	0	G
H	Pattern of - Actual Harm 3	1	H
I	Widespread - Actual Harm 3	1	I
J	Isolated - Immediate Jeopardy 4	1	J
K	Pattern of - Immediate Jeopardy 4	1	K
L	Widespread - Immediate Jeopardy 4	1	L
1	Scope TBD - No More Than Minimal Harm 1	0	1
2	Scope TBD - Potential Harm 2		2
3	Scope TBD - Actual Harm 3		3
4	Scope TBD - Immediate Jeopardy 4	1	4
Q	Sub Standard Quality of Care Identified - Severity 2,3,4	1	Q
x	Not Cited		x

Additional codes for this section include:

- “P” Poorly Written – Correct tag but not supportable
- “T” Discussed at Task 6 under a different tag
- “V” Should not have been cited

Every tag entered for “Task 6” must have entries in this field. Additional comments must be made if there are any differences that have not already been documented in the “Comments” section.

“Better Tag” and “Was Tag” fields

The “Better Tag” field is used for any tag the SA cited that the RO Evaluator(s) believes should have been cited at a different tag. However, if a tag can stand where it is (e.g., where the SA Team discussed or cited the tag), then the “Better Tag” field should not be used. If the tag cannot stand where it is, then the “Better Tag” field should be used. If the “Better Tag” field is used by the RO Evaluator(s), the “Comments” section should have thorough documentation supporting the RO’s viewpoint.

The “Was Tag” field is used for tags that were judged to be deficiencies by the SA Team (Task 6), but that were cited under a different tag on the CMS 2567.

Better Tag field →

Was Tag → **field**

Reviewer Comments

The “Comments” section is a text field that the RO Evaluator(s) should use to explain such things as:

- Special circumstances;
- Differences between the Deficiency Determination (Task 6) process and the SA’s CMS 2567;

- Differences between what the SA cited and what the RO Evaluator(s) thought they should have cited;
- Differences between the RO Evaluator’s(s’) and SA’s judgments in any of the four S/S data fields; and/or
- Circumstances surrounding any instance of “harm, substandard quality of care or Immediate Jeopardy”, even if all four data fields are the same (i.e., “No issues” is the system default response to the S/S data entries).

107,777,341 a FOSS ending Fri 3/28/2003 on 1MA001 at 22-1234 Long Term Care Facility

Caution

Next Tag: [Dropdown]

Change Tag #: [Dropdown]

Better Tag: [Dropdown]

Was Tag: [Dropdown]

Long Comments? [Button]

Task 6 SA S/S was [Dropdown] and RO S/S was [Dropdown]

Facility 2567 SA S/S [Dropdown] and RO S/S was [Dropdown]

Enter extended comments for current Tag here
 Enter long comments here:

Use this text field only after “Reviewer Comments” text field has been used.

← Reviewer Comments text field

← Long Comments text field

CurSurvey() = 107,777

SortTag [Dropdown] RT [Dropdown] TFlag [Dropdown]

Record: 1 of 1

'Tag' is the Tag for the findings rated on this record...