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

October 13, 2016

MEMORANDUM NO:
2017-BO-1801

Memorandum

TO: Timothy Gruenes
Director, Asset Management and Lender Relations, HI

//**Signed**//
FROM: Ann Marie Henry
Acting Regional Inspector General for Audit, Boston Region, 1AGA

SUBJECT: Sons of Divine Providence Did Not Ensure That the Don Orione Home, East Boston, MA, Operated in Accordance With Its Regulatory Agreement

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's final results of our review of the Don Orione Home, East Boston, MA.

HUD Handbook 2000.06, REV -4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the review.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at http://www.hudoig.gov.

If you have any comments or questions, please contact Tomas Espinosa at (617) 994-8454, or me at (617) 994-8380.

INTRODUCTION

We reviewed the operations of the Don Orione Home, a nursing home owned by Sons of Divine Providence, Inc. Our objective was to determine whether Sons of Divine Providence operated the property within the requirements of its regulatory agreement with the U.S. Department of Housing and Urban Development (HUD). Our review focused on use of beds, legal expenses, management contracts, and loans to the property.

METHODOLOGY AND SCOPE

We conducted our work at the nursing home at 111 Orient Avenue, East Boston, MA, between October 2015 and May 2016. Our review covered activities during the period January 1, 2013, to September 30, 2015. We did not rely on the computer-processed data at the nursing home because of inconsistencies in the automated data and, instead, examined third-party supporting data.

Nursing home revenues primarily come from payments for the number of residents in each bed at the nursing home. For our review, we reviewed a sample of resident-bed-days, which is the unit of measure that Medicare, Medicaid, and private insurance companies use to reimburse nursing homes for the services they provide to residents. We examined a nonstatistical, representative sample of 5,019 resident-bed-days in a universe of 190,713 resident-bed-days. We selected one bed in each of the nursing home's five wings to establish the sample. However, because the nursing home wings were not similar in size or the resident population that was served, we did not project our results to the population.

We then examined resident records and billings for the residents who used those beds over the 2.75 years under review.[1] We also interviewed nursing home personnel to determine what actions they took to maximize census (bed use) and how they billed for these beds to collect associated revenues from Government and private insurance entities. We also examined management controls over timeliness, completeness, and the duplication of insurance payments.

For the legal expenses, we examined relevant documents to determine the nature of the expenses and the sources of funds that the nursing home used to pay these expenses. We compared the contracts to the regulatory agreement for the most recent two management agent contracts. For the loans, we reviewed all of the loans identified on the 2014 audited financial statements. We identified the nature, term, payee, starting date, interest rate, and the signors for each of the loans. We also examined whether the parties to the loan were related to the nursing home or its owners. Additionally, we interviewed HUD account executives to determine whether HUD approved the loans, the management contracts, and legal settlements.

On May 2, 2016, Sons of Divine Providence sold the nursing home to an independent third party. The owners used the proceeds of the sale to pay off the HUD-insured mortgage, which terminated the regulatory agreement with HUD. As a result, we modified our review.

[1]Five beds multiplied by 365 days in a year multiplied by 2.75 years equals 5,019 (rounded) resident-bed-days, while 190 beds multiplied by 365 days in a year multiplied by 2.75 years equals 190,713 (rounded) resident-bed-days.

BACKGROUND

The Sons of Divine Providence, an international religious order, owned the nursing home, a 190-bed facility in East Boston, MA. Sons of Divine Providence built the main building in 1949 and added a two-story addition to each side in the early 1960s. One side housed additional resident rooms while the other side housed a chapel. The nursing home is adjacent to a chapter house for Sons of Divine Providence and a shrine, Shrine to the Madonna, which the order owns and operates. The Sons of Divine Providence has many chapter houses. In the United States, these chapter houses operate a nursing home and a Shrine in Massachusetts, a nursing home in Indiana, and a school in New York. The chapter house in Massachusetts managed only the properties in Boston. In August 1993, HUD insured a mortgage for $2 million, which Sons of Divine Providence used to renovate the nursing home. In July 2015, the order hired a new management agent to manage the property.

RESULTS OF REVIEW

Sons of Divine Providence did not properly oversee the HUD-insured nursing home. We found concerns with bed use, legal expenses, management contracts, and loans.

During our review, we discovered that Sons of Divine Providence voluntarily reduced the resident limit at the nursing home from 190 beds to 112 beds without HUD's approval. The regulatory agreement between HUD and nursing home projects requires that owners obtain HUD's approval for any reduction in beds at a HUD-insured nursing home.[2]

We also discovered that Sons of Divine Providence settled lawsuits without notifying HUD of these lawsuits or obtaining HUD's approval of their settlement. In one case, Sons of Divine Providence signed an exclusive agreement with a broker to market the nursing home for sale. However, the broker sued, alleging that the owners had not fulfilled the terms of this agreement. The court found in favor of the broker for $240,000 in 2012, but after negotiations, the broker agreed to a settlement of $160,000. Sons of Divine Providence paid the $160,000 from a project account on April 18, 2014.

In a separate lawsuit, a vendor sued Sons of Divine Providence in 2012 for $109,000 for nonpayment of an outstanding account. On May 20, 2013, the former administrator of Sons of Divine Providence settled this lawsuit with the vendor for $141,785, which included interest. HUD requires owners to obtain HUD's approval before settling any legal claim over $3,000.[3] However, Sons of Divine Providence did not obtain HUD's approval before settling these claims.

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[2] Paragraph 4c of the regulatory agreement between Sons of Divine Providence and HUD, signed August 26, 1993, lists this requirement.

[3] Paragraph 13 of the regulatory agreement between Sons of Divine Providence and HUD, signed August 26, 1993, lists this requirement.

In addition, Sons of Divine Providence hired management agents, one in 2012 and another in 2015, without obtaining HUD's approval.[4] HUD requires the borrower (property owner) and its management agent to file a previous participation certification and obtain HUD's approval for its participation. Each time the owners changes its management agent, they must file a new previous participation certification and a new management certification.

As of December 31, 2014, the nursing home had $195,000 in related-party loans, more than $1 million in loans to Catholic-affiliated vendors, and $862,192 in related-party accounts payable. The related nonprofit entities[5] loaned money to the nursing home, which it used to continue to operate. The nursing home also received loans from Catholic-affiliated vendors, which it used for employee health benefits and insurance coverage. The owners did not obtain HUD's approval for these loans as required by the regulatory agreement with HUD.

HUD used a previous participation system[6] to clear companies and individuals who have demonstrated capacity and experience with governmental housing transactions. If HUD has had a problem with a company involved with its governmental housing transactions, it will flag the company in this system. Companies may be flagged for many reasons[7] including mortgage default, foreclosure, unresolved audit findings, and violations of the regulatory agreement. Before HUD does new business with a flagged company, HUD will examine the proposed transaction in greater detail. Sons of Divine Providence violated its regulatory agreement when it reduced the number of beds in the nursing home, settled lawsuits without obtaining HUD's approval, changed its management agents without obtaining HUD's approval, and received loans without obtaining HUD's approval.

CONCLUSION

Sons of Divine Providence did not properly oversee the HUD-insured nursing home to ensure that it operated in accordance with its regulatory agreement. By not informing HUD of the lawsuits, the changes in management agents, and the loans, Sons of Divine Providence did not provide HUD the necessary data to understand the risk to the HUD insurance fund. However, when Sons of Divine Providence sold the nursing home and paid off the HUD-insured mortgage, it also terminated this regulatory agreement.

RECOMMENDATION

We recommend that HUD's Director of Asset Management and Lender Relations

1A Flag Sons of Divine Providence in the HUD previous participation system.

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[4] Handbook 4232.1, Healthcare Mortgage Insurance Program, and paragraph 4e of the regulatory agreement between Sons of Divine Providence and HUD, signed August 26, 1993, list this requirement.

[5] These nonprofit entities are Sons of Divine Providence—Mother of the Church and Sons of Divine Providence—Shrine to the Madonna.

[6] This previous participation system is called the Active Partners Performance System.

[7] A more detailed list is available in Handbook 4232.1 Healthcare Mortgage Insurance Program, Chapter 3, Section 3.6.4.

Attachment A

DON ORIONE HOME • Skilled Nursing and Rehabilitation

September 22, 2016

Cristine Schwartzberg
Senior Auditor
U.S. Dept of Housing and Urban Development
Office of Inspector General
10 Causeway Street Room 370
Boston, MA. 02222

Dear Cristine:

This letter is in response to the draft Audit Memorandum dated August 31, 2016

We would like to provide clarification on the two areas in the billing system that you commented on. While we were not the managers at the time of the billing comments, we felt it was necessary to take the comments seriously and investigate to determine if any questionable billing practices and or fraudulent billing had been conducted.

Comment 1

The first comment was "we found ... 10 instances of irregularities in insurance payments". Please see attachment A, page 2 of 2, that describes the reasons for the over payments. Most Residents pay a portion of their stay with us, it is called a Patient Paid Amount (PPA), and then Medicaid pays the balance. In 9 out of the 10 claims identified, Medicaid had the PPA as a zero and therefore over paid the home. Subsequently, Medicaid realized the mistake and recouped the funds from future check runs.

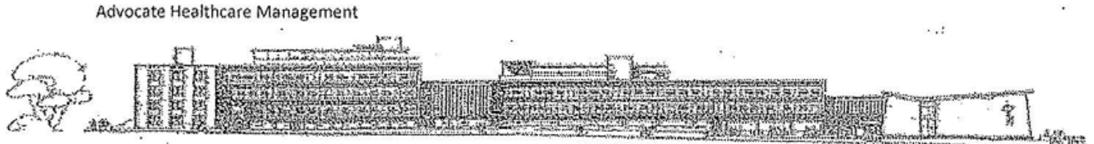
Comment 2

The second comment was "We found 17 instances in which the nursing home double billed for the same bed with different residents' names". Attachment B addresses the 17 instances in which it appears in the Matrix system, the Census and Accounts Receivable accounting system used by the Home, that there was more than one resident in a bed at a time. In all of these cases there were not more than one resident in a bed, and there were no instances of double billing. The Matrix system was not properly maintained to indicate the correct bed that the patients were occupying. We have indicated in Attachment B which beds they were truly in, and have provided a page from the medical record to validate that information. Again, we confirmed that no double billing had occurred only sloppy census records.

Please let me know if you have any additional questions.

Sincerely,

Michael Walsh
Manager
Advocate Healthcare Management



111 Orient Avenue East Boston, MA. 02128 Tel. 617-569-2100 Fax 617-561-1138

Evaluation of Auditee Comments

Comment 1: The auditee provided supporting documentation and an explanation identifying that the irregularities in payments had been previously recouped by the appropriate insurers. As a result, we modified our report to remove the issue of irregular payments. The supporting documentation is in attachments, which are not included in our report. This documentation can be made available upon request.

Comment 2: Initially, we believed that the auditee had double billed for the same bed with different resident's names. The auditee explained that its computer system did not have the patients properly associated with their correct bed number. The auditee provided sufficient documentation to show the proper association of patient to bed number. This information showed it did not have duplicate billings. As a result, we modified our report to remove the issue of duplicate billings. The supporting documentation is in attachments, which are not included in our report. This documentation can be made available upon request.