

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**THE ADMINISTRATION FOR
COMMUNITY LIVING FAILED TO
CONDUCT ANY OF THE REQUIRED
ONSITE COMPLIANCE REVIEWS OF
INDEPENDENT LIVING PROGRAMS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



Joanne M. Chiedi
Acting Inspector General

August 2019
A-05-18-00034

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nation-wide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the healthcare industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <https://oig.hhs.gov>

Section 8M of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

Report in Brief

Date: August 2019

Report No. A-05-18-00034

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Review

In June 2017, HHS-OIG received a hotline complaint alleging that the Administration for Community Living (ACL) was not conducting its required oversight of independent living programs. We performed this audit to determine whether ACL appropriately oversaw the activities of independent living programs.

Our objective was to determine specifically whether ACL conducted required onsite compliance reviews or any other monitoring activities of independent living programs.

How OIG Did This Review

We obtained and reviewed documentation from ACL, such as monitoring policies and procedures and lists of grantees, to determine whether ACL conducted required onsite compliance reviews or any other monitoring activities of independent living programs. We limited our review to 284 Centers for Independent Living grantees that received funds under section 722 of the Rehabilitation Act (the Act) and 2 Independent Living Services grantees that received funds under section 723 of the Act. The Centers for Independent Living grantees received \$146.6 million, and the Independent Living Services grantees received \$4.8 million during the audit period, October 1, 2015, through September 30, 2017.

The Administration for Community Living Failed To Conduct Any of the Required Onsite Compliance Reviews of Independent Living Programs

What OIG Found

ACL did not appropriately oversee the activities of the two independent living programs. Specifically, ACL has not conducted any onsite compliance reviews of either the Centers for Independent Living program or Independent Living Services program since beginning its oversight of the programs in July 2014.

Although ACL conducted some monitoring activities as part of the Compliance and Outcome Monitoring Protocol (COMP) program, ACL's comprehensive and targeted desk reviews did not include any onsite compliance reviews of the programs as of December 31, 2018. ACL was appropriated \$156.6 million for independent living program services during the audit period. Of this amount, ACL awarded \$151.4 million to grantees for independent living program services. However, ACL did not allocate sufficient funds to support onsite compliance reviews.

ACL officials said that they were unable to conduct onsite compliance reviews because of limited travel funding. Without the required onsite compliance reviews, there is no assurance that independent living programs are effectively working to maximize the independence, well-being, and health of older adults, people with disabilities, and the families and caregivers of both.

What OIG Recommends and ACL Comments

We recommend that ACL determine whether it can allocate its funds differently to enable onsite compliance reviews, seek additional department funding or resources to conduct the onsite compliance reviews, and perform required onsite compliance reviews of independent living programs.

In written comments on our draft report, ACL generally did not state whether it concurred with our recommendations but described actions it has taken, or plans to take, in response to the recommendations. ACL responded that it is not seeking resources to support a set percentage of onsite compliance reviews but will seek resources to conduct reviews, including onsite reviews, based on the risk, scope, and scale of the issues.

Although ACL's implementation of the COMP could include onsite reviews to address compliance concerns, we continue to recommend that ACL determine whether it can allocate the funds needed to conduct required onsite compliance reviews of independent living programs.

TABLE OF CONTENTS

INTRODUCTION	1
Why We Did This Review	1
Objective	1
Background	1
Independent Living Programs	1
Federal Regulations and Independent Living Programs Oversight	1
The Compliance and Outcome Monitoring Protocol Program	2
How We Conducted This Review	2
FINDING.....	3
RECOMMENDATIONS	3
ACL COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE	3
APPENDICES	
A: Audit Scope and Methodology	5
B: Administration for Community Living Comments	6

INTRODUCTION

WHY WE DID THIS REVIEW

In June 2017, the Department of Health and Human Services (HHS), Office of Inspector General (OIG), received a hotline complaint alleging that the Administration for Community Living (ACL) was not conducting its required oversight of independent living programs. We performed this audit to determine whether ACL appropriately oversaw the activities of independent living programs.

OBJECTIVE

Our objective was to determine specifically whether ACL conducted required onsite compliance reviews or any other monitoring activities of independent living programs.

BACKGROUND

Independent Living Programs

ACL administers two separate independent living programs: the Centers for Independent Living program and the Independent Living Services program. Both programs work to support community living and independence for people with disabilities nation-wide based on the belief that all people can live with dignity, make their own choices, and participate fully in society. These programs provide tools, resources, and support for integrating people with disabilities fully into their communities to promote equal opportunities, self-determination, and respect.

The Centers for Independent Living program provides discretionary grants directly to organizations that are consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agencies that provide independent living services. These independent living programs provide services such as peer counseling, individual and systems advocacy, and services that facilitate transition from nursing homes and other institutions to the community.

The Independent Living Services program provides financial assistance, through formula grants, to designated States and territories for providing, expanding, and improving the provision of independent living services. States are responsible for receiving, accounting for, and disbursing the funds for independent living programs.

Federal Regulations and Independent Living Programs Oversight

Title VII of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act of 2014 (Rehabilitation Act), governs the two independent living programs. Under section 706(c)(1) of the Rehabilitation Act, ACL must conduct onsite compliance reviews of at least 15 percent of the Centers for Independent Living programs that receive funds under

section 722 of the Rehabilitation Act¹ and at least one-third of the States that receive funding under section 723 of the Rehabilitation Act.² Minnesota and Massachusetts are the only States receiving section 723 funds.

The Compliance and Outcome Monitoring Protocol Program

ACL piloted a new program, the Compliance and Outcome Monitoring Protocol (COMP), to oversee the quality assurance of independent living program grantees' programs. The COMP is a review of program compliance, outcomes, fiscal operations, and the provision of technical assistance incorporated into a three-tiered model. Tier 1 monitoring activities, such as the review of annual project performance reports (grantee reports that document the number and type of individuals served and types of services provided), review of fiscal documents, and regular communications with the grantee and program stakeholders, are applied to all grantees. Tier 2 monitoring involves a comprehensive review intended to verify program compliance and assess outcomes. Tier 3 incorporates targeted desk or onsite reviews. Targeted desk reviews focus on monitoring the grantee in specific areas of concern and are individualized based on issues of compliance with the program. Onsite visits to high-risk grantees could occur during either a Tier 2 or Tier 3 review.

HOW WE CONDUCTED THIS REVIEW

We obtained and reviewed documentation from ACL, such as monitoring policies and procedures and lists of grantees, to determine whether ACL conducted required onsite compliance reviews or any other monitoring activities of independent living programs. We limited our review to 284 Centers for Independent Living grantees that received funds under section 722 of the Rehabilitation Act and 2 Independent Living Services grantees that received funds under section 723 of the Rehabilitation Act. The Centers for Independent Living grantees received \$146.6 million, and the two Independent Living Services designated grantees received \$4.8 million during the audit period, October 1, 2015, through September 30, 2017.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology.

¹ Section 722 designates grants to Centers for Independent Living programs.

² Section 723 designates grants to Independent Living Services programs.

FINDING

ACL did not appropriately oversee the activities of the two independent living programs. Specifically, ACL has not conducted any onsite compliance reviews of either the Centers for Independent Living program or Independent Living Services program since beginning its oversight of the programs in July 2014.³

Although ACL conducted some monitoring activities as part of the COMP program, ACL's comprehensive and targeted desk reviews did not include any onsite compliance reviews of the programs as of December 31, 2018. ACL was appropriated \$156.6 million for independent living program services during the audit period. Of this amount, ACL awarded \$151.4 million to grantees for independent living program services. However, ACL did not allocate sufficient funds to support onsite compliance reviews.

ACL officials said that they were unable to conduct onsite compliance reviews because of limited travel funding. Without the required onsite compliance reviews, there is no assurance that independent living programs are effectively working to maximize the independence, well-being, and health of older adults, people with disabilities, and the families and caregivers of both.

RECOMMENDATIONS

We recommend that the Administration for Community Living:

- determine whether it can allocate its funds differently to enable onsite compliance reviews,
- seek additional department funding or resources to conduct the onsite compliance reviews, and
- perform the required onsite compliance reviews of independent living programs.

ACL COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, ACL generally did not state whether it concurred with our recommendations but described actions it has taken, or plans to take, in response to the recommendations.

³ Prior to July 2014, the Department of Education (ED) administered oversight of the independent living programs. The Workforce Innovation and Opportunity Act transferred the administration and oversight of the independent living programs to HHS. Also, ED independent living program staff were transferred to HHS.

ACL did not directly respond to the first recommendation to determine whether it could allocate funds differently to enable onsite compliance reviews. ACL stated that it routinely reviews administrative resources to determine their most efficient and effective use and stated that it would use the COMP to move forward with grantee reviews, including onsite reviews as needed. Regarding the second recommendation to seek additional funding to conduct onsite compliance reviews, ACL responded that it is not seeking resources to support a set percentage of onsite compliance reviews but will seek resources to conduct reviews, including onsite reviews, based on the risk, scope, and scale of the issues. ACL did not directly respond to the third recommendation to perform required onsite compliance reviews. ACL stated that it has not met the 15-percent onsite compliance review requirement but is implementing the COMP, which will include onsite activities as necessary to address compliance concerns.

Appendix B contains ACL's comments in their entirety.

Although ACL's implementation of the COMP could include onsite reviews to address compliance concerns, we continue to recommend that ACL determine whether it can allocate the funds needed to conduct required onsite compliance reviews of independent living programs.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed ACL monitoring policies and procedures to determine whether ACL conducted required onsite compliance reviews at Centers for Independent Living programs and Independent Living Services programs. We limited our review of ACL's internal controls to those that relate to our audit objective.

We limited our review to 284 Centers for Independent Living grantees that received funds under section 722 of the Rehabilitation Act and 2 Independent Living Services grantees that received funds under section 723 of the Rehabilitation Act. The Centers for Independent Living grantees received \$146.6 million, and the two Independent Living Services designated grantees received \$4.8 million during the audit period, October 1, 2015, through September 30, 2017.

We conducted our fieldwork from July through December 2018.

METHODOLOGY

To accomplish our audit objective, we:

- reviewed applicable Federal regulations,
- reviewed ACL's organizational structure,
- interviewed key ACL personnel to obtain an understanding of ACL's process for monitoring grantees,
- identified all Centers for Independent Living grantees and Independent Living Services grantees awarded independent living program funds during the audit period,
- determined the number of onsite compliance reviews completed by ACL staff, and
- discussed the results of our audit with ACL officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: ADMINISTRATION FOR COMMUNITY LIVING COMMENTS



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for Community Living

Washington, D.C. 20201

June 10, 2019

Ms. Gloria L. Jarmon
Deputy Inspector General for Audits
U.S. Department of Health and Human Services
Washington, D.C. 20201

Dear Ms. Jarmon:

The Administration for Community Living (ACL) appreciates the opportunity to respond to the Office of the Inspector General's (OIG) report entitled, *The Administration for Community Living Did Not Conduct Required Onsite Compliance Reviews of Independent Living Programs (A-05-18-00034)*.

The following are ACL's response to the OIG recommendations:

Recommendation 1: Determine if it can allocate its funds differently to enable onsite compliance reviews.

Response: ACL routinely reviews programmatic and administrative resources to determine their most efficient and effective use to support ACL's mission and programs. ACL is moving forward with the risk-based, three-tiered oversight protocol, i.e. Compliance and Outcome Monitoring Protocol (COMP), as mentioned in the report. Onsite reviews are an important tool for program monitoring and will be conducted when needed, and after less costly but effective protocols have been completed.

Recommendation 2: Seek additional department funding or resources to conduct the onsite compliance reviews.

Response: ACL routinely works with the Department of Health and Human Services and the President's Office of Management and Budget to determine the availability and flexibility of funding and other resources to efficiently and effectively support programs and ACL's mission. ACL is not seeking resources to support a set percentage of onsite compliance reviews but will seek resources to conduct compliance reviews employing a variety of approaches that are appropriate to address the risk, scope and scale of the issue(s) present – and which will include onsite reviews when needed.

Recommendation 3: Perform required onsite compliance reviews of independent living programs.

Response: ACL acknowledges that the 15 percent onsite compliance review requirement has not been achieved. ACL is implementing the COMP which will include onsite activities as necessary to address a compliance concern when the concern cannot be addressed through less resource intense and equally effective methods. Current technology makes this is an efficient and effective approach to monitoring the independent living programs.

Thank you again for the opportunity to respond to this report.

Sincerely,

Lance Robertson
Administrator and Assistant Secretary for Aging