

NEWS

Nursing home asks court to block Five-Star changes tied to schizophrenia audits

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A nursing home suing the Centers for Medicare & Medicaid Services over its “punitive” use of schizophrenia audits has asked a federal court to block the agency from imposing star-rating downgrades while the case proceeds.

Attorneys for Forest City Rehab and Nursing Center asked the US District Court for Eastern Illinois to intervene immediately, pause enforcement of the audit program and prevent the use of audit results in the plaintiff’s Five-Star quality rating calculation pending a decision in the case.

The motion, filed Friday, also asks for a court order to stop CMS from publishing or maintaining related rating reductions on Care Compare.

That relief could extend across all providers affected by the audit program, attorney Mark Reagan told *McKnight’s Long-Term Care News* Tuesday.

“This program is doing mischief everywhere, in lots of different ways,” added Reagan, managing shareholder of Hooper, Lundy & Bookman. “It’s having lots of secondary impacts, and we think that it’s outside of CMS’ authority to do it, and the APA [Administrative Procedures Act] gives us a primary right to go after that.”

Forest City sued the federal government in late 2025, arguing that CMS was weaponizing an off-site audit program that had been launched without an appropriate comment period or any true appeals process. As the audits are conducted by a third-

party auditor, it remains unclear how many have been conducted, or how many providers have been able to prove diagnoses are warranted and supported by documentation.

By many accounts, the audits have affected every nursing home with even a single diagnosis of schizophrenia, which excludes a given resident's use of antipsychotics from a related quality measure. In some cases, providers found to have failed an audit have waited much longer than expected to have their star ratings restored.

The Illinois example

The case in Illinois could be a significant test case for providers across the country. The state is one of several that requires a certain star rating to earn Medicaid funding incentives; Forest City alleges it has lost at least \$200,000 in revenue since it was audited.

In a court filing last week, Administrator Tony Valentino said an estimated 45% of the nursing home's patients have been diagnosed with schizophrenia or schizoaffective disorder. He noted that he knows no other nursing home in the state that cares for such a large proportion of residents with serious mental illnesses, and that the facility employs multiple psychiatry specialists and seven social workers and uses other staffing techniques to address their specific needs.

"The demand for psychiatric services at our facility continues to increase," he wrote in an affidavit supporting the injunction request. "If we were discouraged from admitting or continuing to care for residents with schizophrenia or related psychiatric disorders because of increased regulatory scrutiny ... many of these individuals will have few, if any, appropriate placement options."

He predicted hospital and inpatient psychiatric facilities would face additional strain if the Five-Star downgrades continue.

It's also already affecting patient access, according to Chad Bogar, founder and managing partner of healthcare law firm sb2. He's aware of one facility that lost its Veterans Affairs contracts due to a lower quality rating, forcing some veterans to go 300 miles away for care.

“When we filed, the scope [of the audits] was pretty myopic in comparison to what it is now,” Bogar told *McKnight’s*. Now, the star ratings implications even extend to eligibility for a Risk-Based Survey and it’s proving near impossible for some providers to get their good ratings back.

“The tentacles just keep getting bigger and bigger,” Bogar added. “If the residents of the initial audit remain in the facility, then the star rating continues to be downgraded without any due process, without any follow up.”

At the same time, a resident whose schizophrenia diagnosis is removed or changed could also trigger a new investigation.

Transparent or punitive?

Friday’s motion argues that Congress directed CMS to create the Nursing Home Compare website as an informational tool for beneficiaries and their families, but statute does not authorize CMS “to use the platform to impose pre-adjudicatory penalties on facilities, publish unverified or disputed findings that directly alter reimbursement rates and participation rights for facilities, or convert informational ratings into de facto enforcement sanctions.”

“Congress carefully separated informational reporting from regulatory enforcement,” attorneys added, referring to the deficiency-and-remedy cycle established in the survey process. “The Audit Program, however, operates outside that framework through Memo QSO-23-05-NH – something Congress did not authorize.”

That, they argued, has transformed Nursing Home Compare “from a transparency tool into a punitive mechanism” that can affect state payments and reduce referrals as well. They said it would be in the public interest to at least temporarily block audit-related adjustments.

“Confidence in the Five-Star rating system is important to residents and families making care decisions,” they wrote. “That confidence is undermined when disputed contractor determinations are publicly incorporated into ratings before a facility can challenge them.

The same legal group is also challenging the use of Payroll-Based Journal audits to

suppress ratings, citing similar Constitutional concerns.

A judge is expected to set hearing dates in the schizophrenia case on Thursday.