

Centers for Medicare and Medicaid Services

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

Evaluator's Manual

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Section 1: Introduction

Ensuring the quality of nursing home care is one of the Centers for Medicare and Medicaid Services' (CMS's) 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 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 state team's conduct of the survey.

In 1999, these monitoring mechanisms were reviewed by the General Accounting Office (GAO), and a number of suggestions were offered. As a result of the GAO's analysis and CMS's experience in using the monitoring protocols, CMS designated a Working Group of Regional Office personnel to revise the FOSS. This group collaborated with CMS Central Office staff and the American Institutes for Research (AIR) to develop the revised FOSS protocol described in this manual.

The protocol differs from the previous FOSS in a number of important respects:

- (1) It is *outcome-oriented*. That is, it focuses on the 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 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, Kitchen/Food Service Investigation, Medications Investigation, and Deficiency Determination*. The 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 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 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.

The new protocol is designed to improve the FOSS process, increase its outcome orientation, and increase the usability of the feedback provided to the states.

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 State Survey Agencies as well. A secondary purpose is to provide feedback that will help surveyors improve their survey skills and that will help State Agencies 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 regional offices shall take a structured and consistent approach in conducting on-site 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 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 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 team submits to document the facility's deficiencies. In all, they evaluate the 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) *Kitchen/Food Service Investigation*, (5) *Medications Investigation*, and (6) *Deficiency Determination*.

At the conclusion of the survey, the evaluator(s) provide feedback in the form of an onsite (or occasionally offsite) debriefing of the survey team, followed by later written feedback to the SA regarding both the survey team's onsite performance and their completion of the CMS 2567. The evaluator(s) may also provide the SA Team and their supervisor with verbal feedback regarding the CMS 2567 after this documentation has been reviewed. Finally, the RO provides the SA with periodic summary information regarding the state's 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 should be used to train RO Evaluators and should serve as a resource during the evaluation process. In particular, evaluators will need to refer to the FOSS measures and rating scales when conducting their evaluations.

The manual is divided into eleven 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 evaluator participation, and assembly of forms and reference documents
- Section 3: Evaluation Process Overview – covers the role of the evaluator(s) and guidelines for setting surveyor and facility expectations; also provides an overview of the evaluator’s(s’) activities during the FOSS, and of procedures for documenting and rating team performance, debriefing the team, evaluating the CMS 2567, and forwarding information to the SAs
- Section 4: Observing Survey Team Behavior – includes specific observation guidance for each measure, and guidance for note-taking
- Section 5: Rating and Documenting Survey Team Performance – provides specific guidance for rating and documenting 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: 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 state 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 state's surveys. Additional considerations in facility selection may include:

- performance differences between district/satellite offices within a state;
- concerns about a state's conduct of some aspects of the survey; and
- State Agency 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 region's required minimum percentage of FMSs. A region 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 survey team performance issues leading to questioning of the 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 should be Comparative Surveys. Revisit and complaint surveys may make up no more than 20 percent of a region'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 survey team and will coordinate logistical details (including inviting the 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 evaluator(s) will need to be prepared for possible last minute changes to the SA’s survey schedule.

Planning of evaluator participation

In order to adequately evaluate survey team performance, evaluator(s) should be present for all 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 Team’s deficiency determination meeting. In the event of extenuating circumstances that prohibit onsite observation of the deficiency determination meeting, the evaluator(s) may be conferenced into the meeting by telephone. For complaint and revisit surveys, the evaluator(s) should generally be present throughout the survey.

The number of evaluators necessary to adequately assess a 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 region’s required number of FOSSs.

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

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 State Agency surveyors should be counted, whether or not they have taken the SMQT or 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 evaluator(s) should use their judgment in allocating additional evaluators to the FOSS. They should also consider factors such as the following as potential reasons for including additional evaluators:

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

In a multiple member evaluation team, the members must make provision for:

- coordinating arrangements with the SA survey team;
- bringing the FOSS rating forms for all team members to the facility site;
- coordinating all onsite activities;
- ensuring that the evaluator team meets daily to discuss progress and salient findings relative to the FOSS;
- holding 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 that it is provided to the SA in a timely manner.

Assembly of forms and reference documents

In preparing for the FOSS, the 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 Team is using, they will generally need to be obtained from the team onsite. The Standard OSCAR Reports 3 and 4 may be generated by the evaluator(s) in advance.

The 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 evaluator(s)

The evaluator's(s') primary role is to observe and collect information about the survey behaviors and decisions of the SA Team. The information collected must be sufficient to evaluate the 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 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 team's effectiveness in conducting its investigation or in making its deficiency determinations. Thus, the evaluator(s) should provide no input to the team's decisions except in very unusual circumstances, such as when an immediate and serious jeopardy situation goes unrecognized by the team.

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

Although the 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 survey team's performance. Such situations might occur when the survey team has failed to investigate an identified concern or has not noticed and followed up on a concern that should have been readily apparent to the team. Limited fact-finding in such situations might typically consist of a brief question to facility staff, an unobtrusive observation of some aspect of facility practice, or a review of additional records. Such fact-finding should be done *only* when it does not detract from the evaluator's(s') ability to conduct other parts of the FOSS and when it does not interfere with the SA surveyors' ability to conduct their survey (for example, when the survey team is conducting their record review and the evaluator(s) therefore has nothing important to observe). It should be done in such a way that the survey team is not inadvertently alerted to facility problems they would not otherwise have detected.

It would not be appropriate to do obtrusive fact-finding such as:

- calling a resident's family;
- conducting a complete re-interview of a resident; or
- conducting a formal independent interview with additional residents, family, or staff.

Setting surveyor and facility expectations

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

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

- the purpose of the FOSS;
- the evaluator's(s') role;
- the protocol of the FOSS process, including the measures on which the survey team will be rated 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 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 evaluator(s) should make certain that surveyors understand the types of adjustments in their procedure that are needed to accommodate the FOSS. These adjustments may include the following:

- The 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 surveyor can be observed performing this task.
- The evaluator(s) must be able to be present at as many interviews as possible with residents and key facility staff.
- The evaluator(s) must be able to be present during all investigative activities (e.g., medication pass, kitchen/food service investigation) and during resident care observations.
- The evaluator(s) will look over at least one medical record reviewed by each surveyor, with this record generally being one that reflects as many as possible of the concerns identified by the team.
- The evaluator(s) will review most, if not all, other forms and records that are collected from the facility by the surveyors.
- At times during the survey, the evaluator(s) may briefly interview surveyors to determine what inferences they are drawing and the basis for those inferences.
- The evaluator(s) will take notes during the survey.

- The evaluator(s) will review the SA Team's documentation.
- At the conclusion of the survey, the evaluator(s) will debrief the team on their performance. The team's supervisor may attend if he or she desires and is available.
- At times, the evaluator(s) may engage in limited independent fact-finding in order to evaluate the survey team's performance.

At the conclusion of this orientation, the evaluator(s) and survey team will need to discuss the team's schedule and daily routine. This will help to ensure that the 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 evaluator's(s') role is to observe the survey team and that all communication should be addressed to the team rather than to the evaluator(s).

Evaluator activities during the FOSS

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

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

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

- attend as many as possible of the formal and informal meetings held by the survey team (e.g., onsite and offsite meetings among team members, meetings with facility department heads and administrators);
- observe at least part of each surveyor's facility tour;
- observe each 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 surveyor as necessary to determine the kinds of inferences the surveyor is making and the basis for those inferences; and
- review at least one resident medical record examined by each 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 team. Taken together, the records reviewed by the evaluator(s) should reflect all of the SA Team's highlighted concerns.

The 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
- FOSS Evaluation Form for CMS 2567

Throughout the observation process, the evaluator(s) should be especially attuned to the team's behavior as it relates to the measures (with associated indicators) on which the team will be evaluated.

Since the FOSS observations are complex, the evaluator(s) must be proactive in planning those observations. Consideration must be given to the kinds of observations needed (so that the evaluator(s) can rate the SA Team on the measures at the end of the survey), and how best to make those observations. The 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 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 Team is finding all of the facility deficiencies. To some extent, the evaluator(s) must be dually focused. On the one hand, he/she must focus on what the SA Team is doing to be able to rate and describe their behavior. On the other hand, she/she must pay attention to what the

facility's problems and issues are to be able to tell whether the SA Team identified what was wrong.

Considerations in prioritizing evaluator activities

The RO Evaluator(s) needs to be present during the SA Team's investigative activities, but realistically will not be able to observe every aspect of every team member's activities. As a consequence, the evaluator(s) needs to identify which of the SA Team's many survey activities are most important to observe – that is, most likely to yield good information about the 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
More complex concerns 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 Team members can influence the number of observations necessary to determine SA Team performance and to make the required judgments about facility compliance.
- Number of surveyors
The ratio of RO Evaluator(s) to SA Team surveyors will impact how time will need to be spent in the evaluation process.
- Survey team composition
Some 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.
- Survey team assignments
The individual abilities or strengths of both the RO Evaluator(s) and the SA Team can influence which investigative activities the RO Evaluator(s) may be best suited to evaluate.
- Length of survey
A short SA Team survey places increased demands on both the SA Team and the RO Evaluator(s) to quickly gather the necessary investigative information.
- Survey team's scheduling of activities
The RO Evaluator will need to work within the SA Team's schedule as much as possible so as not to disrupt the team's survey activities.
- Prior experience with SA Team members
If the RO Evaluator has observed a SA Team member in the past under very similar survey conditions, it may be appropriate to focus observations on other members of the SA Team.

Rating and documenting survey team performance

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

Associated with each measure are a number of specific indicators (or surveyor behaviors) 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. As the evaluator(s) observes the survey, he/she will pay attention to these indicators (as well as to the measures) and will reference them in his/her notes and documentation.

Figure 1
Example measure and indicators

CONCERN IDENTIFICATION: Effectiveness with which the survey team identified and selected 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 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 evaluator(s) will then formally document observed surveyor behaviors that are relevant to the 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 State Agency. Finally, the evaluator(s) will specify, on a checklist, the indicators that the survey team could work on to improve their performance on the measure.

Conducting the debriefing

The debriefing is designed to give the 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 evaluator(s) has made his/her preliminary assessment of the team's performance.

By the time of the debriefing, the evaluator(s) should have formulated an idea of the team's general effectiveness level on each measure as well as which performance indicators impacted the team's achievement of each measure. This advance preparation is necessary so that the impression of 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 Team's perspective – what the SA Team decided to cite during their deficiency determination meeting,
- the evaluator's(s') perspective – what the evaluator(s) believes the SA Team should have cited, and
- the State Agency's perspective – what appears on the facility copy of the CMS 2567.

The SA Team's and 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 region, the RO Evaluator(s) may also provide a telephone debriefing to the 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 Evaluation Form for CMS 2567” 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 SA management with periodic summary information regarding the state’s CMS 2567s, and the FOSS indicators on which the state’s survey teams were most often perceived to need development.

Section 4: Observing 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 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 surveyors' behavior related to each measure is provided below. You may find it easiest to review this guidance in advance of the survey, but to use the indicators associated with each measure as convenient shorthand during the survey itself.

(1) Concern Identification

This measure addresses the “effectiveness with which the survey team identified and selected 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 Team as a result of following the Long Term Care (LTC) survey protocol. They include:
 - concerns identified by the survey team through formal LTC survey processes, which include Task 1, Phase 1 and Phase 2 concern identification;
 - findings identified by the team throughout the survey as needing further investigation.
- concerns identified by the FOSS evaluator(s)
These include:
 - concerns the RO Evaluator(s) believes a SA surveyor or the SA 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;
 - SA 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 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 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.

Key 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 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 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 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 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 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 team member you are observing takes no notes, determine later by questioning the 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 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 Team.) Effective performance requires that the 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 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 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?
- observe whether all 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 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 team considers and picks a supplementary sample.

General Guidance for All Investigation Measures

Three measures relate to the 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, and quality assessment and assurance);

- Kitchen/Food Service 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 team members alert to specific needs/conditions of residents – both those initially selected for the survey sample and those not? Do 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 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 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 team in gathering evidence that is directly related to a concern? Are they focused, or are they side-tracked 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 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 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 Team investigate and get answers to questions posed by conflicting information and data about individual residents and facility practices?

- 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.

Ask the 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 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 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 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 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 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 team's decisions? Have you identified additional information that the team should have discovered that may change the team's decision? Should the 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 team members would have knowledge of it in the normal course of the survey?

If you identify Immediate Jeopardy, has the 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 Team will only assume leadership of the survey if the SA Team will not act on the Immediate Jeopardy.

(3) General Investigation

This measure is defined as "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." To provide a usable description of the evaluator's(s') activities related to this very broad measure, it has been divided it up 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
- quality assessment and assurance

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

This investigative area covers the 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 survey team observes staff-resident interactions throughout the survey. They should not restrict their observations to only the sampled residents.
- observe how the 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 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 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 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 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'll need to perform limited additional fact-finding to be able to do so.
- if an Extended Survey was conducted, observe whether the 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 state team has identified pertinent information.

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

This area focuses on the 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. Evaluator activities connected with this area include:

- Do an independent review of at least one record per 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 any of the special Investigative Protocols should be implemented by the survey team. If necessary, conduct a focused review of other records to determine if the SA Team has achieved the correct outcome.

- Observe at least a portion of an interview of at least one resident or family member per surveyor, preferably the resident whose chart you have reviewed. Make note of information received by the surveyor that indicates that follow-up investigation is needed. If the 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 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 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 surveyor aware when the Adverse Drug Reaction Investigative Protocol must be implemented, and does he/she implement this with accuracy?
- Determine whether the 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 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 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 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 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 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 evaluator(s) is provided:

- During both observations and interviews, is the 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 surveyor conducting the resident rights review, are you able to get a good picture of the resident from the information that the surveyor is eliciting? If not, what is missing? Is the surveyor neglecting to make observations or ask questions and follow-up questions that obtain needed information?
- Is the 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 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 team evaluated the effectiveness of the facility’s implementation of their policies and procedures prohibiting abuse? Does the 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 surveyors interview; look at their notes; and determine if they have identified obvious concerns.

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

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

(4) Kitchen/Food Service 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.

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

- Determine if the 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 surveyor evaluates food storage, preparation, and service, as well as the sanitary conditions and procedures in the kitchen area, the evaluator(s) may do limited parallel data gathering to gain an accurate picture of the state's survey adequacy.
- Notice whether the surveyor relays this information to the team.

(5) Medications Investigation

This measure focuses on the survey team's information gathering surrounding the facility's ability to administer medications without error. It addresses not only whether 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, etc. Observation of the Medication Pass provides both the surveyors and the 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 survey team relative to this measure includes:

- Does the surveyor follow the correct procedure for observing the Medication Pass? You may not need to observe the entire pass, but you should observe enough to determine the surveyor's compliance with the Medication Pass protocol. If more than one surveyor is involved in conducting the medication pass, observe at least a portion of the medication pass for each surveyor.
- Does he/she do an accurate reconciliation of the pass? You may not wish to observe the entire reconciliation, but do confirm that it is completed.
- Does the surveyor do an additional medication pass observation if errors are observed in the initial pass? Does the surveyor correctly determine the Drug Error Rate?
- Does the surveyor observe what is going on around him/her while observing the medication pass, and does he/she document pertinent information?

(6) Deficiency Determination

This measure focuses on the skill with which the 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 evaluator observations regarding this measure is as follows:

- Does the survey team, in a systematic process, review the long term care regulatory requirements?
- Do all 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 team's decisions accurate, and are they in conformance with the regulatory requirements and related interpretive guidelines in the SOM?
- Does the team accurately cite both actual and potential harm, as well as failure to reach the highest practicable level of well-being?
- Do all 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?

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

Where applicable, you may want to record on your notes the number-letter designators (e.g., 1A, 3C) of the relevant indicator(s). This will make it easier for you to review your notes and extract relevant information when you make your ratings and write supporting documentation. 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 surveyor asked the staff and/or residents;
 - whether the surveyor asked questions that were appropriate for the type of resident or the expertise of staff;
 - whether the surveyor asked questions relevant to assessing the facility's compliance with federal regulations;
 - whether the surveyor missed any critical information during observations or interviews.
- (3) If you ask the surveyor a question for clarification, be sure to record both the question and the 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 Survey Team Performance

Throughout the survey, you will have observed the SA 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 and associated indicators. 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 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 team compares to the "1", "3", and "5" level descriptions for the measure.
- (4) If the team met *all* of the criteria for one of these levels, then rate the team at that level.
- (5) 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".
- (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. If the SA Team did not permit the RO Evaluator(s) to make the necessary observations for rating the measure, enter “NP” 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 survey team’s overall effectiveness on a measure, document the team’s behavior relative to that measure in the appropriate section of the “FOSS Rating and Documentation Form”. Follow the guidelines below:

- (1) Begin your documentation with a summary statement describing specific 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.
- (2) Then use bullet format to cite more specific team behaviors that contributed (positively or negatively) to the team’s level of achievement. These specific behaviors can be content-based (e.g., the team failed to identify that restraints was a concern) and/or can be based on indicators that contributed to the team’s effective or ineffective performance (e.g., failure to communicate among themselves).

When referencing indicators in the documentation, however, tailor them to the situation observed (e.g., “The team was effective in the way they identified concerns throughout the survey. However, they failed to integrate the information that was shared by team members, thereby impeding identification of the full magnitude of the concerns.”)

Make the documentation clear and concise.

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

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

Section 6: Conducting the Debriefing

The evaluator(s) will provide about a 30-minute onsite summation of the 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 surveyors improve their survey skills. For this reason, it is important for the 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 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 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 Regional Office and the State Agency, invite the team's supervisor to attend. (This is good practice even when it is likely that the supervisor will be unable to attend.)

During the debriefing, leave the 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 survey team behavior related to the criteria in the rating scale and the indicators 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 team's attainment of the survey measures. Pay particular attention to facility issues you observed that the team missed. If the team missed, or failed to collect enough information to cite, one or more significant deficiencies that you noticed in the facility, *strongly* urge them to collect the additional information needed to support a citation.

Prior to leaving the survey site, request that the SA forward the facility copy of the CMS 2567 to the Regional Office for review.

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

You may include deficiencies that the 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 state 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 Team's deficiency determination meeting and debriefed them on their performance

- Enter all Tag numbers that the SA Team decided to cite. Use a separate table for each Tag. Enter the SA Team's Tag numbers, regardless of whether you believe them to be correct.
- For each Tag number the team cited, complete the appropriate boxes 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. If you believe the team should not have cited the deficiency at all, enter "M" in the upper "RO S/S was" box but complete the other boxes as described.
- If the 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 box to note the omission. Also enter an "X" in the "Task 6 SA S/S was" box and indicate what the scope/severity should be in the "RO S/S was" box.

After you receive the facility copy of the CMS 2567

- For each Tag number table you have previously created (either because the SA 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 Team should not have cited the deficiency at all, enter “M” in the lower “RO S/S was” box but complete the other box as described.
- If the CMS 2567 omits the Tag number for a particular table that has already been created, enter “X” in the “Facility 2567 SA S/S was” box for that table and indicate what you think the scope/severity should be. Also note the omission in the Comments box. If you think the SA Team should not have cited the deficiency at all, enter “M” in the lower “RO S/S was” box but complete the other boxes as described. (Note that many of the other boxes in the tables for these Tags will already contain information that you have previously entered.)
- 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 the Tag’s scope/severity as stated on the CMS 2567 as well as what you think the scope/severity should be. 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” box. If you think the SA Team should not have cited the deficiency at all, enter “M” in the lower “RO S/S was” box but complete the other boxes as described.

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

Appendix F (“Evaluation Form for CMS 2567”) and Appendix G (“Specific Guidance for Completing Data Fields on the FOSS Evaluation Form for CMS 2567”) provide 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 provides written feedback to the SA. At the option of the region, the RO Evaluator(s) may also provide a telephone debriefing of the 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 SA management (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 Evaluation Form for CMS 2567” 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 management. 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 management.

Because of the potentially sensitive nature of the information provided to the states, 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 and the SA 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.

The following process should assist the offices in settling their differences:

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

Section 10: Resolving Disagreements Resulting from a FOSS Survey

When the RO and SA 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: Glossary of FOSS Terminology

Measure

There are six measures: Concern Identification, Sample Selection, General Investigation, Kitchen/Food Investigation, Medications Investigation, and Deficiency Determination. They are the dimensions on which the RO will ultimately evaluate and rate the SA 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.

Indicators

An indicator is a survey behavior that could contribute to or help explain the SA Team's success or lack of success in performing on a measure. Indicators help explain what it was about the SA Team's survey-related skills or behavior that caused them to excel or fall short.

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 evaluator concerns (concerns that the RO Evaluator(s) believes an SA surveyor or the SA Team should reasonably have been expected to identify during the survey),
- SA 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 Team member but that were not communicated to the team for concern identification.

Information available

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

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.

Identified concerns

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

Major impact

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

Findings

The term is found in the rating scale for Deficiency Determination. It refers to 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.

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 Team performance.