

Federal Oversight of ICF/IIDs & PRTFs

Office of Licensure and Certification
Virginia Department of Health



Updates Since Last Meeting

- CMS has announced survey and certification funding for FFY2023
 - Federal funding for Virginia is flat – no change from FFY2022
 - Virginia responsible for covering:
 - The mandated state contribution for Title XIX (Medicaid) federal survey activities (i.e., 25%)
 - Any shortfall in federal funding for Titles XVIII and XIX federal survey activities, *even if in excess of mandated contribution*
 - 100% of state licensing costs
- CMS did not approve any one-time funding requests from Virginia
 - CMS has the option to disperse one-time funding to the states at the end of the federal fiscal year



Updates Since Last Meeting (cont.)

U.S. Senate Special Committee on Aging has requested info about surveyor staffing needs (due Oct. 28, 2022) from all state survey agencies

- Scope and activities of VDH nursing home survey and certification program and issues, challenges or dynamics unique to Virginia
- Extent of turnover among surveyors and how has it affected VDH's ability to conduct its federal work
- Effect of rising competition for nurses, how VDH seeks to attract and retain nurses as surveyors through pay increases, schedule changes or other incentives and how private sector incentives have contributed to difficulty
- How VDH has used contractors to conduct surveys or other certification tasks
- Suggested changes to CMS policies, guidance or technical assistance
- How VDH used CARES Act funding for surveys and effect of sunseting the funding
- Detailed financial, salary, staffing, employee experience, turnover, vacancy, and workload data for the past 5 years

FEDERAL OVERSIGHT

Reminder: VDH is a State Survey Agency

VDH conducts federal surveys to certify if a provider is in compliance with Medicare and/or Medicaid regulations, per agreement under § 1864 of the Social Security Act

Only VDH is authorized to contract with CMS for the purposes of conducting federal surveys

Federal surveys are conducted in conformity with CMS's [State Operations Manual](#), [Mission and Priorities Document](#), and [other directives](#), as well as meeting [metrics from the State Performance Standards System](#)

VDH conducts federal surveys for *all* Medicare and Medicaid provider types, regardless of whether state law requires a license, registration, or permit and whether VDH is responsible for state oversight

Failure to meet CMS's [State Performance Standards System](#) metrics can result in fines for VDH



Reminder: Federal Certified Providers Surveyed by VDH

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| Nursing facility | Critical access hospital | Outpatient rehabilitation providers |
| Skilled nursing facility | End stage renal disease facility | Portable X-ray |
| Intermediate care facility for individuals with intellectual disabilities | Home health agency | Psychiatric hospital |
| Ambulatory surgical center | Hospice | Psychiatric residential treatment facility |
| Community mental health center | Hospital | Rural health clinic |
| Comprehensive outpatient rehabilitation facility | Inpatient rehabilitation facility | |
| | Laboratory and diagnostic testing | |
| | Organ transplant program | |

****Licensed by DBHDS**
****No required license, registration, or permit**



What is an ICF/IID?

Intermediate care facility for individuals with an intellectual disability – an institution (or distinct part of an institution) that:

- Is primarily for the diagnosis, treatment, or rehabilitation of the intellectually disabled or persons with related conditions; and
- Provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each individual function at his greatest ability

Provides for 4 or more individuals unrelated to the proprietor

To receive Medicaid funding, individuals must require and receive active treatment

Federal surveys are unannounced

- Surveys are mandated to occur between 12 and 15 months

ICF/IID Complaint Surveys

VDH triages complaints according to CMS guidelines:

- Immediate Jeopardy (IJ) - within 2 business days
- Non-IJ High – within 10 business days
- Non-IJ Medium – within 180 calendar days
- Non-IJ Low – whenever VDH is next onsite

Complaints are evaluated for alleged violations of federal law

- If a complaint cannot be investigated under federal law, VDH determines what state authority, if any, can address the substance of the complaint

Deficiencies are either condition level (most serious) or standard level

ICF/IID Focused Fundamental Survey Activities

Entrance conference – MFI requests CMS-specific data and informs ICF/IID of survey process

Create sample of individual population

Targeted record review of individuals included in sample

Review of systems to prevent abuse, neglect and mistreatment and to resolve complaints

Targeted interviews about abuse, neglect and mistreatment and failure to resolve complaints with individuals, staff, and family members

Direct client observations of sufficient duration and across environments

Focused observations areas

- Active treatment
- Staffing
- Qualified intellectual disabilities professional (QIDP)
- Healthcare services
- Physical environment

Exit conference – communicate preliminary survey findings

ICF/IID Extended Survey Activities

Everything from the focused fundamental survey *plus...*

- In-depth interviews with individuals, family/advocate, direct care staff, QIDP/professional staff, managers/administrators/dept. heads
- Medication pass observations
- Visit each area of facility serving individuals
- Expanded record review of individuals in the sample
- Full life safety code survey

What is a PRTF?

Psychiatric residential treatment facility - a facility other than a hospital, that provides psychiatric services to individuals under age 21 in an inpatient setting.

- Must be accredited by The Joint Commission, Commission on Accreditation of Rehabilitation Facilities (CARF), Council on Accreditation of Services for Families and Children (COA), or other accrediting organization with comparable standards recognized by Virginia
- Must have or must execute a provider agreement with DMAS

Federal surveys are unannounced

- Minimum 20% of all Virginia PRTFs surveyed annually
- All Virginia PRTFs must be surveyed within a 5-year period

PRTF Complaint Surveys

VDH triages complaints according to CMS guidelines:

- Immediate Jeopardy (IJ) - within 2 business days
 - If IJ is triggered by restraint/seclusion death report, within 5 business days
- Non-IJ High – within 45 calendar days
- Non-IJ Medium – whenever VDH is next onsite
- Non-IJ Low – track/trend for potential focus areas when VDH is next onsite

PRTF complaint surveys do not count towards the 20% annual survey minimum

Complaints are evaluated for alleged violations of federal law

- If a complaint cannot be investigated under federal law, VDH determines what state authority, if any, can address the substance of the complaint

Deficiencies are either condition level (most serious) or standard level

PRTF Survey Activities – No Focused Option

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| <p>Entrance conference – MFI requests
 CMS-specific data and informs PRTF of survey process</p> <p>Create representative sample of resident population</p> <p>Record review of individuals included in sample</p> <p>Record review of other records</p> <ul style="list-style-type: none"> • Death records • Complaint investigations • Policies and procedures • Serious injury and occurrence reports | <p>Direct resident observations</p> <p>Interviews with residents, staff, and parents/guardians</p> <p>Visit each area serving residents</p> <p>Exit conference – communicate preliminary survey findings</p> |
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Administrative Penalties for ICF/IIDs and PRTFs

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| <p>ICF/IIDs</p> <p>Plan of correction (POC)</p> <p>Directed POC (DPOC)</p> <p>Directed in-service</p> <p>State monitoring</p> <p>Discretionary denial of payment for new admissions</p> <p>Termination</p> | <p>PRTFs</p> <p>POC</p> <p>Termination</p> |
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Key Distinctions between Certified Nursing Facilities, ICF/IIDs & PRTFs

ICF/IIDs & PRTFs are Medicaid-only programs

Each State has discretion on whether allow distinct part ICF/IIDs

Each State has discretion on whether to offer PRTFs as a benefit under the Medicaid State Plan

- States may or may not have a PRTF within its borders that can meet the needs of a Medicaid beneficiary
- A State must pay if it transfers one of its residents to another State to receive PRTF service, regardless of whether the benefit is in its Medicaid State Plan or a PRTF is within its borders
- It is the responsibility of the transferring State to ensure services are provided in a certified PRTF
 - If the receiving PRTF is located in a State without PRTF services in its Medicaid State Plan (i.e., no PRTF in that State is certified) and the transferring State still wishes to transfer, it must make a written agreement for certification of the receiving PRTF prior to transfer



OVERSIGHT STAFFING



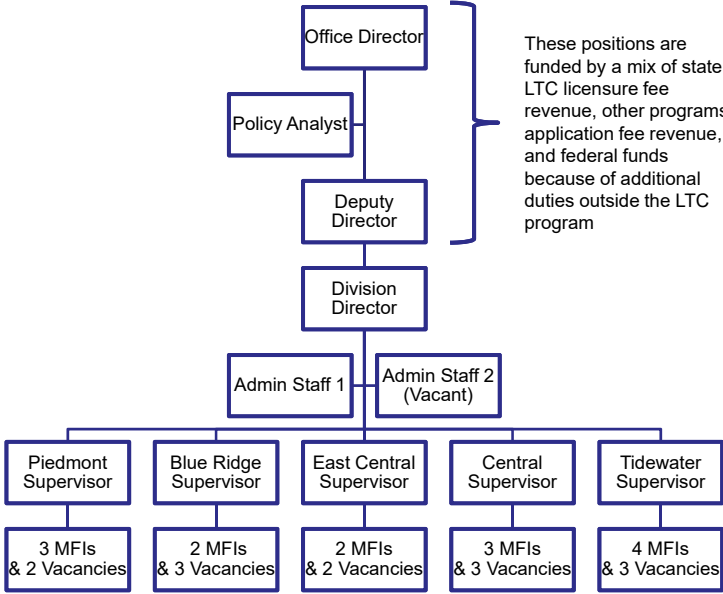
Structure: ICF/IIDs

Portion of MFIs in LTC Division who survey certified nursing facilities and inspect nursing homes *also* perform ICF/IID surveys

There are 62 ICF/IIDs in Virginia, with 3 in progress

The staffing issues (including funding) identified last meeting still apply w/r/t ICF/IIDs

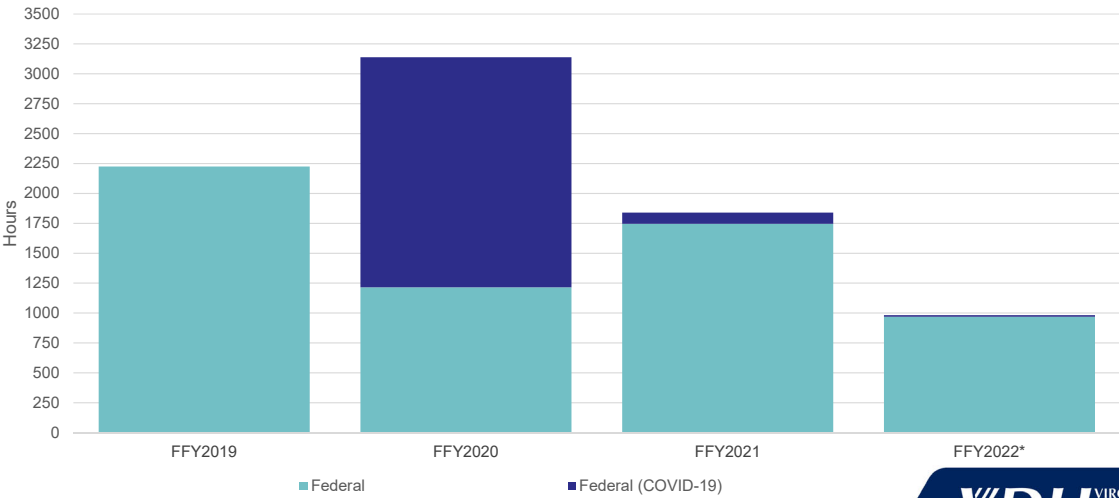
MFIs conducting ICF/IID surveys have additional training requirements



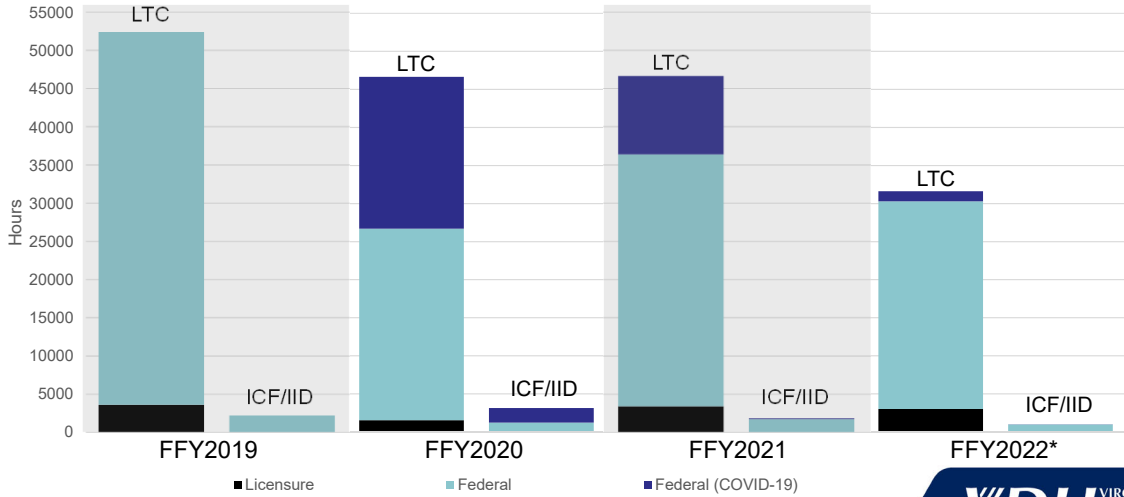
These positions are funded by a mix of state LTC licensure fee revenue, other programs' application fee revenue, and federal funds because of additional duties outside the LTC program



VDH Staff Time & Effort: ICF/IID Surveys



VDH Staff Time & Effort: LTC Division



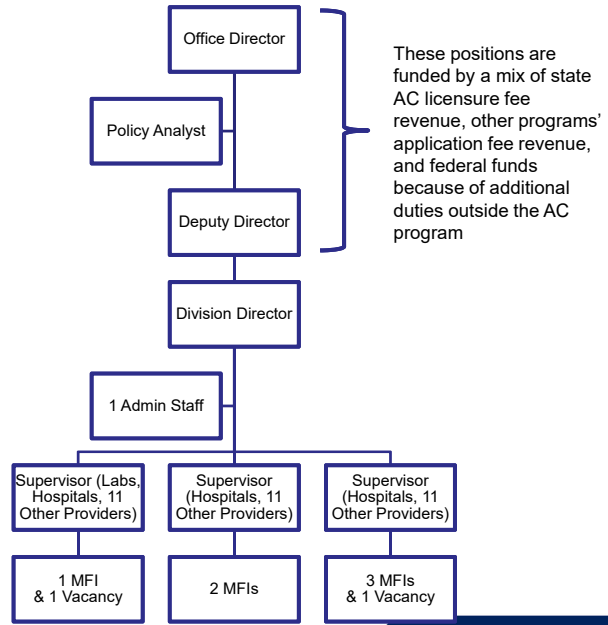
Structure: PRTFs

The same home-based MFIs in AC Division** who survey PRTFs *also* survey 11 other federal provider types and inspect hospitals licensed in Virginia

There are 20 PRTFs in Virginia

The staffing issues (including funding) identified last meeting still apply w/r/t PRTFs

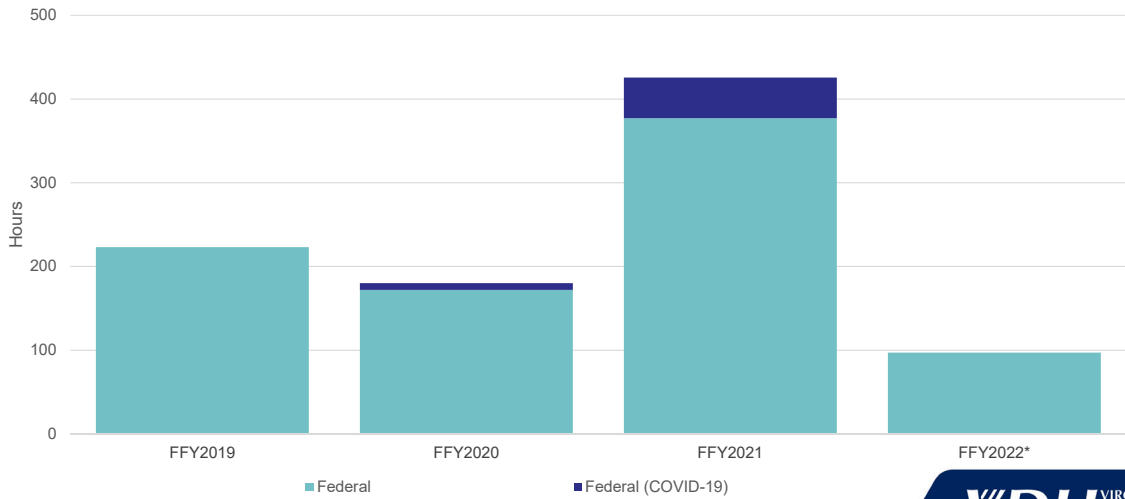
**AC Division has additional staff (including MFIs and supervisors) whose responsibilities do not include PRTFs and are not included here



These positions are funded by a mix of state AC licensure fee revenue, other programs' application fee revenue, and federal funds because of additional duties outside the AC program



VDH Staff Time & Effort: PRTF Surveys



VDH Staff Time & Effort: AC MFIs Surveying PRTFs

