

Our 2019 performance audit and sunset review of the Arizona Department of Health Services (Department) found that the Department put long-term care facility residents at risk by failing to investigate or timely investigate some long-term care facility complaints and self-reports. We made 5 recommendations to the Department to address these issues. In May 2022, our 30-month follow-up report found that the Department had not implemented any of the 5 recommendations, and we identified additional significant complaint-prioritization and investigation failures that continued to put long-term care facility residents' health, safety, and welfare at risk; we made 4 additional recommendations related to the inaccurate prioritization and closure of most High-Priority complaints and self-reports. Our 36-month follow-up, issued in May 2023, found that the Department had not implemented 3 of 9 recommendations and was in the process of implementing the remaining 6 recommendations.

This report focuses on our work to assess the Department's process for prioritizing long-term care facility complaints and self-reports and whether the Department has implemented applicable recommendations. During this followup, we also began work to review the Department's long-term care facility complaint/self-report investigation and resolution process. To help conduct this review, for 11 months we worked with the Department and the federal Centers for Medicare and Medicaid Services (CMS) to obtain access to unredacted long-term care facility investigation and resolution records needed to assess the Department's investigations. However, as of November 2024, CMS had not approved our access to these unredacted records. As such, we were unable to assess the Department's investigations process or determine the status of 2 of 9 recommendations, and our work to assess the status of some of the remaining 7 recommendations was limited to information related to the Department's prioritization process (see pages 7 through 12 for detailed information about these recommendations). We will continue to work with the Department and CMS to access these records, and we will issue a separate follow-up report on the Department's long-term care facility-investigation and resolution process after we obtain these records.

The Department's status in implementing the 9 recommendations is as follows:

Status of 9 recommendations

In process	7
Unable to determine at this time	2

Although we found that the Department was in the process of implementing most of our recommendations and changed some of its processes in response to our recommendations after we issued our 36-month followup, we continued to identify problems with its long-term care facility complaint and self-report prioritization that may put long-term care facility residents' health, safety, and welfare at risk (see table, page 2, for key issues we have identified through our audit and related follow-up work at the Department and if/when the Department resolved each issue). We will continue to follow up with the Department on the status of the recommendations that have not been fully implemented.

Department has resolved 3 key issues identified in our previous reports, but additional work remains to resolve 2 outstanding issues

Key issue	30-month followup	36-month followup	48-month followup	Report pages
	Issue resolved?			
Inappropriately closed complaints and/or self-reports to not require an on-site investigation. ¹	No	No	Yes	11
Inappropriately prioritized serious complaints and/or self-reports as a lower priority. ²	n/a	No	No	4-5
Inappropriately changed open High Priority complaints/self-reports to lower priorities.	No	Yes	Yes	11
Assigned much higher percentage of complaints and self-reports to a lower priority than in the past.	No	No	Yes	12
Did not consistently collect needed information to prioritize complaints. ²	n/a	No	No	5

¹ Our May 2023 36-month follow-up report found that the Department continued to close most High- or Medium-Priority self-reports without an on-site investigation, but it stopped this practice in July 2022.

² We first identified this issue during the 36-month followup.

Although the Department changed some of its processes in response to our recommendations, its continued complaint-prioritization issues may put long-term care facility residents’ health, safety, and welfare at risk

In March 2023, the Department received a complaint about a long-term care facility resident who was found unattended, shaking, and turning red and purple by the complainant. The resident was also having a hard time breathing and had a neck pillow that was pushing the resident’s head forward onto their trachea and possibly depriving them of oxygen. The facility’s doctor assessed the resident and had a nurse give the resident pain medication. Later in the day, another individual found the resident in distress and with the same symptoms. The individual asked to see the doctor, but the doctor had left, and the nurse was taking a lunch break. The individual called 911, and the resident was taken to the hospital. Medical staff at the hospital determined that the resident had an infection, dehydration, and a clogged shunt drain, and admitted the resident to the hospital’s intensive care unit.

According to CMS guidance, because the facility’s alleged failure to provide adequate care to the resident resulted in serious injury/harm and because there was a likelihood of other residents also being impacted, the Department should have prioritized this complaint as Immediate Jeopardy, which requires it to initiate an on-site investigation within 3 working days. Instead, upon receiving the complaint, the Department prioritized the complaint as a Medium Priority, which allows it up to 45 calendar days to initiate an on-site investigation. Additionally, according to Department records, although the Department received the complaint in March 2023, it had not initiated an investigation as of April 2024, more than 1 year later.¹

¹ As previously discussed (see page 1), we were unable to assess the Department’s investigations process, including determining why the Department had not started investigating this complaint, because CMS had not approved our access to unredacted investigation records.

This complaint is 1 of several long-term care facility complaints and self-reports we found during this followup that the Department failed to accurately prioritize according to the CMS requirements, which placed residents' health, safety, and welfare at risk.² See textbox for the Department's complaint and self-report priority levels.

Department continued to inaccurately assign some complaints and self-reports a lower priority and failed to collect important information for making some priority assignments, but assigned Medium Priority to a lower percentage of complaints than in previous followups

CMS views state long-term care facility regulatory agencies, including the Department, as the front-line responders to address concerns, including complaints, raised by long-term care facility residents, their families, and facility staff to help protect vulnerable residents from abuse, neglect, exploitation, or inadequate care.³ Accordingly, CMS' operation manual for states outlines a detailed process for handling complaints and self-reports. This process requires the Department to collect comprehensive information to allow for accurate prioritization of complaints and self-reports, such as the complainant's concerns, views about the frequency and pervasiveness of the allegation, and how/why the event occurred.⁴ Additionally, the process includes specific requirements for prioritizing complaints, including the criteria and time frames for initiating on-site investigations or taking other action, such as referring the complaint or self-report to another agency (see textbox for priority levels requiring an on-site investigation).

Complaint and self-report priority levels that require an on-site investigation¹

Immediate Jeopardy—Alleged noncompliance has caused or is likely to cause serious injury, harm, impairment, or death to a resident. Specifically, adverse outcomes that result in or are likely to result in death; a significant decline in physical, mental, or psychosocial functioning; loss of limb or disfigurement; excruciating pain; or life-threatening complications or conditions. The Department must start its on-site investigation within 3 working days of receipt of the initial report.

High Priority—Alleged noncompliance may have caused harm that negatively impacts a resident's mental, physical, and/or psychosocial status and are of such consequence to the person's well-being that a rapid response is indicated. Usually specific rather than general information, such as names, date/time/location, and description of harm, factors into the assignment of this level. The Department must start its on-site investigation within an annual average of 15 working days, not to exceed 18 working days of receiving the initial report.

Medium Priority—Alleged noncompliance may have caused no actual physical and/or psychosocial harm, but there is the potential for more than minimal harm to the residents. The Department must start its investigation within 45 calendar days of receipt of the initial report.

¹ Federal standards also establish 1 priority (Low) for use when alleged noncompliance may have caused no actual harm. The Department is not required to conduct an on-site investigation but must track and trend allegations for potential followup during its next on-site survey and 4 other priorities that do not require an on-site investigation, such as when the Department is required to refer the intake to another agency or if the allegations are outside of the Department's regulatory authority.

Source: Auditor General staff review of CMS' State Operations Manual Chapter 5 and Appendix Q.

² A self-report is an incident that a long-term care facility must report to the Department. Specifically, facilities must report incidents that involve potential regulatory violations, including resident injuries of an unknown origin, allegations of resident neglect and/or abuse, and misappropriation of resident property.

³ The Department operates as the State agency responsible for ensuring long-term care facilities meet applicable federal requirements for Medicare and Medicaid participation. This responsibility includes conducting initial certification surveys and complaint investigations.

⁴ According to CMS' State Operations Manual, the Department may need to communicate with the complainant to obtain additional information.

Department continued to inaccurately assign some serious complaints and self-reports a lower priority—Similar to the issues we identified in our 36-month follow-up report, the Department has continued to inaccurately assign lower priorities to some Immediate Jeopardy and High-Priority complaints and self-reports.⁵ Specifically, our contractor’s review of a random sample of 135 complaints and self-reports that the Department received between January and September 2023 and prioritized as Medium Priority or High Priority identified 51 complaints/self-reports that should have been prioritized higher to Immediate Jeopardy or High Priority, according to CMS’ requirements (see Table 1, page 5).^{6,7} The Department prioritized 28 complaints as Medium Priority or High Priority that should have been prioritized as Immediate Jeopardy. For example:⁸

In June 2023, the Department received a complaint related to a long-term care resident alleging that while assisting the resident, a nursing assistant fondled the resident’s genitalia and tried kissing the resident.

According to CMS guidance, because the complaint included an allegation of sexual abuse, the Department should have prioritized this complaint as Immediate Jeopardy, which requires it to initiate an on-site investigation within 3 working days. Instead, the Department prioritized the complaint as Medium Priority, which allows it up to 45 calendar days to initiate an on-site investigation, citing quality-of-care and treatment allegations. According to Department records, although the Department received the complaint in June 2023, it had not initiated an investigation as of April 2024, more than 300 calendar days later.

In addition, the Department also prioritized 23 complaints as Medium Priority that should have been prioritized as High Priority. For example:

In February 2023, the Department received a complaint alleging that a long-term care facility resident had been found in a bed with feces all over. The complaint also alleged that the resident was in pain, crying, and had an infection that can cause diarrhea. According to the complaint, the resident’s family member brought these concerns to facility staff, and most staff members were rude and not alarmed about the resident’s condition. Facility staff also allegedly broke the resident’s glasses and took away their do-not-resuscitate bracelet.

According to CMS guidance, because the complaint alleged resident harm and due to the need for a quick response, the Department should have prioritized this complaint as High Priority, which requires it to initiate an on-site investigation within 18 working days. Instead, the Department prioritized this complaint as Medium Priority, which allows up to 45 calendar days to initiate the investigation. According to Department records, although the Department received the complaint in February 2023, it had not initiated an investigation as of April 2024, more than 1 year later.⁹

⁵ Our 36-month follow-up report reviewed 119 complaints/self-reports the Department prioritized as Medium Priority and identified 41 complaints/self-reports that contained allegations of abuse, sexual assault, and neglect, and thus could have been prioritized higher than a Medium Priority according to CMS’ requirements. The 119 complaints and self-reports we reviewed comprised 2 different samples. The first sample consisted of a random sample of 59 of 213 federal complaints and self-reports the Department received prior to July 1, 2022, and investigated in August 2022. The second sample consisted of 60 of 906 federal complaints and self-reports the Department received between August 1, 2022 and October 20, 2022, and prioritized as Medium Priority.

⁶ We contracted with an experienced healthcare management firm to conduct this review. The contractor’s staff who conducted this review were certified to have successfully completed the Surveyor Minimum Qualifications Test (SMQT). The SMQT addresses the knowledge, skills, and abilities needed to conduct surveys in long-term care facilities, including prioritizing, investigating, and resolving complaints.

⁷ Our contractor reviewed a random sample of 135 of 2,837 complaints and self-reports the Department received and assigned as Medium Priority and High Priority between January 1, 2023 and September 30, 2023.

⁸ As previously discussed (see page 1), we were unable to assess the Department’s investigations process, including determining why the Department had not started investigating this complaint, because CMS had not approved our access to unredacted investigation records.

⁹ As previously discussed (see page 1), we were unable to assess the Department’s investigations process, including determining why the Department had not started investigating this complaint, because CMS had not approved our access to unredacted investigation records.

Table 1

Department assigned a lower priority to 51 of 135 sampled complaints and self-reports that should have been prioritized as Immediate Jeopardy or High Priority

Department-assigned priority	Number of complaints that should have been Immediate Jeopardy Priority	Number of complaints that should have been High Priority
High	7	
Medium	21	23

Source: Auditor General staff summary of 135 sampled complaints and self-reports prioritized as Medium Priority and High Priority that should have been prioritized as Immediate Jeopardy or High Priority.

Department did not collect necessary information to prioritize 41 complaints and self-reports reviewed

—As previously discussed, CMS requires the Department to collect comprehensive information to allow for accurate prioritization of complaints and self-reports and indicates that subsequent communications may be necessary to obtain this information. Additionally, our 36-month follow-up report found that several complaint records lacked specific information to allow for accurate prioritization. At the time of the 36-month followup, the Department also reported that since February 2023, it has directed its staff to make every effort to obtain additional information to allow for accurate prioritization, and if they cannot quickly obtain that information, the Department will err on the side of caution and prioritize the complaint higher than a Medium Priority. The Department also indicated at that time that its staff began including notes in intake records documenting their attempts to obtain additional information. However, despite these reported changes, during this followup, the Department did not collect necessary information to prioritize some complaints and self-reports. Specifically, our contractor’s review of a random sample of 135 complaints and self-reports found that the Department did not collect important information necessary to help it make priority assignments or document its unsuccessful attempt to obtain this information for 41 complaints/self-reports the Department received between February 2023 and September 2023. These complaint/self-reports included 4 complaints/self-reports for which our contractor could not determine a priority level because of a lack of information.¹⁰ Some of the complaints and self-reports that our contractor reviewed were missing important information to allow for accurate prioritization. For example:

In March 2023, the Department received a self-report from a facility that stated a resident was on antibiotics for an infection but reported that there was no adverse reaction. The resident also denied having pain or discomfort, and the facility did not provide an explanation for why it was self-reporting this information.

The Department prioritized this complaint as Medium Priority and categorized the allegation as “neglect.” However, the self-report did not have enough information for the Department to determine that the facility was reporting neglect. According to Department records, the Department initiated an investigation in May 2023 and closed the complaint in October 2023 with no substantiated findings.

Department has assigned Medium Priority to a lower percentage of complaints and self-reports since October 2022 and reported that, as of fiscal year 2024, this trend has continued

—As reported in our 30-month follow-up report, in the last half of calendar year 2020, the Department prioritized the majority, or 95 percent of complaints and self-reports, as Medium Priority compared to only 51 percent in the last half of calendar year 2019, despite no changes in prioritization requirements. Similarly, our 36-month follow-up report found that the Department continued to prioritize approximately 95 percent of complaints and self-reports as Medium Priority from April 2021 through October 2022, thereby substantially reducing the number of complaints requiring an investigation within 10 days.

¹⁰ See Footnotes 6 and 7 for more information about our contractor and the sample of 135 complaints, respectively.

During this followup, our review of the Department's complaint and self-report data from October 1, 2022 through September 30, 2023, found that the Department assigned a Medium Priority to a smaller percentage of complaints and self-reports than we found in previous followups. Specifically, the Department prioritized 70 percent of complaints and self-reports it received during this 1-year period as Medium Priority. After we had completed most of our follow-up work, in December 2024, the Department reported that it was assigning Medium Priority to an even smaller percentage to complaints and self-reports. Specifically, for fiscal year 2024, the Department reported assigning approximately 52 percent of complaints/self-reports Medium Priority, which represented further improvement in this area.

Department's complaint-prioritization failures continue to put long-term care residents' health, safety, and welfare at risk

As illustrated by the case example below, when the Department fails to prioritize and investigate complaints in accordance with CMS requirements, it fails to meet 2 of CMS' objectives for the long-term care complaint system: (1) protective oversight, which is accomplished by identifying and responding to those complaints/self-reports that appear to pose the greatest risk to residents; and (2) prevention, which is accomplished by investigating complaints/self-reports to determine if a problem exists that could have a negative impact on the healthcare services provided to all residents and to prevent the escalation of the problems into more serious situations that would threaten their health, safety, and welfare. Further, not collecting enough information and incorrectly prioritizing or using a lower priority for an Immediate Jeopardy or High Priority complaint/self-report can have severe, adverse effects, including compromised investigations impacting the Department's ability to substantiate allegations such as neglect, sexual abuse, and factors leading to death where time is of the essence, and failing to take actions necessary to help protect that resident and other residents of the facility. For example:

In February 2023, the Department received a complaint alleging that a long-term care facility resident was not eating, drinking, or participating in rehabilitation activities and had been hallucinating since being admitted to the facility. Further, the resident had lost a significant amount of weight and had had 3 infections. The complainant also reported observing 2 bruises on the side of the resident's face. According to the complainant, the resident had to be taken to the hospital, and the facility lost several of the resident's personal effects, including their glasses.

According to CMS guidance, because the facility's alleged failure to provide adequate care to the resident had potentially resulted in serious injury/harm and because there was a likelihood of other residents being impacted, the Department should have prioritized this complaint as Immediate Jeopardy, which requires it to initiate an on-site investigation within 3 working days. Instead, the Department prioritized this complaint as a Medium Priority, which allows it up to 45 calendar days to initiate the investigation. According to Department records, although the Department received the complaint in February 2023, it had still not initiated an investigation as of April 2024, more than 1 year later.¹¹

Department's lack of process for monitoring its staff's complaint and self-report prioritization accuracy has allowed complaint prioritization issues to continue

Although the Department has taken some steps to implement our 30-month follow-up report recommendation to monitor its long-term care facility staff to ensure they comply with CMS requirements, the Department's lack of a comprehensive process to monitor its staff's complaint and self-report prioritization accuracy has allowed its complaint-prioritization issues outlined in this follow-up report to continue. Specifically, the Department has developed policies and procedures that require its staff to inform their supervisor when they prioritize Immediate Jeopardy or High-Priority complaints and self-reports or any complex or challenging complaints and self-reports. In addition, the Department has implemented daily and weekly complaint-prioritization and review meetings during which its staff, supervisors, and managers discuss and prioritize these complex or challenging complaints and self-reports.

¹¹ As previously discussed (see page 1), we were unable to assess the Department's investigations process, including determining why the Department had not started investigating this complaint, because CMS had not approved our access to unredacted investigation records.

However, the Department's process requires reviews only of complaints and self-reports that staff bring to their supervisors' attention, and does not include procedures for systematically reviewing and/or monitoring its staff's prioritization accuracy. For example, the Department lacks a process for selecting and reviewing complaints and self-reports its staff have assigned a Medium Priority, despite our 3 followups consistently identifying that Department staff inaccurately used Medium Priority for some Immediate Jeopardy and High-Priority complaints and self-reports, inconsistent with CMS requirements. Implementing such a process could be instrumental in helping the Department identify and correct the prioritization issues we have consistently identified during our 3 followups.

Although the Department is in process of implementing most prior report and follow-up recommendations, additional work remains to fully implement them

During this followup, we found that the Department still has additional work to do to fully implement the recommendations from the 2019 performance audit and sunset review as well as the additional recommendations from the 30-month followup on that report, which are intended to better protect the health, safety, and welfare of long-term care residents.

Status of 2019 performance audit and sunset review recommendations:

1. To help ensure all long-term care facility complaints and self-reports are prioritized, investigated, and resolved in a timely manner, the Department should:
 - a. Continue with its efforts to allocate new or reallocate existing staff to prioritize, investigate, and resolve long-term care facility complaints and self-reports on a full-time basis.

Implementation in process—As reported in our 36-month followup, rather than allocating staff to prioritize, investigate, and resolve long-term care facility complaints and self-reports on a full-time basis, the Department had assigned all compliance officer positions to perform these responsibilities, in addition to completing other responsibilities such as conducting certification and recertification surveys. As of December 2024, 37 of 50 Department compliance officer staff positions were filled, including 17 compliance officers with an SMQT certification (see Figure 1, page 8, for information on the Department's compliance officer staffing levels in calendar years 2021 through 2024).^{12,13} However, according to the Department, it has continued to struggle with hiring and retaining compliance officers despite implementing strategies such as improved pay, promotional opportunities, and hiring incentives. For example, between January and December 2024, the Department increased its total number of compliance officer staff but also experienced significant turnover. Specifically, the Department increased its compliance officer staffing from 26 in January 2024 to 37 in December 2024, but it also lost 15 compliance officer staff during that same time period. Further, most of the compliance officer staff hired in calendar year 2024 were not SMQT certified.

We will continue to follow up on the Department's efforts to allocate staff to prioritize, investigate, and resolve long-term care facility complaints and self-reports during a future followup.

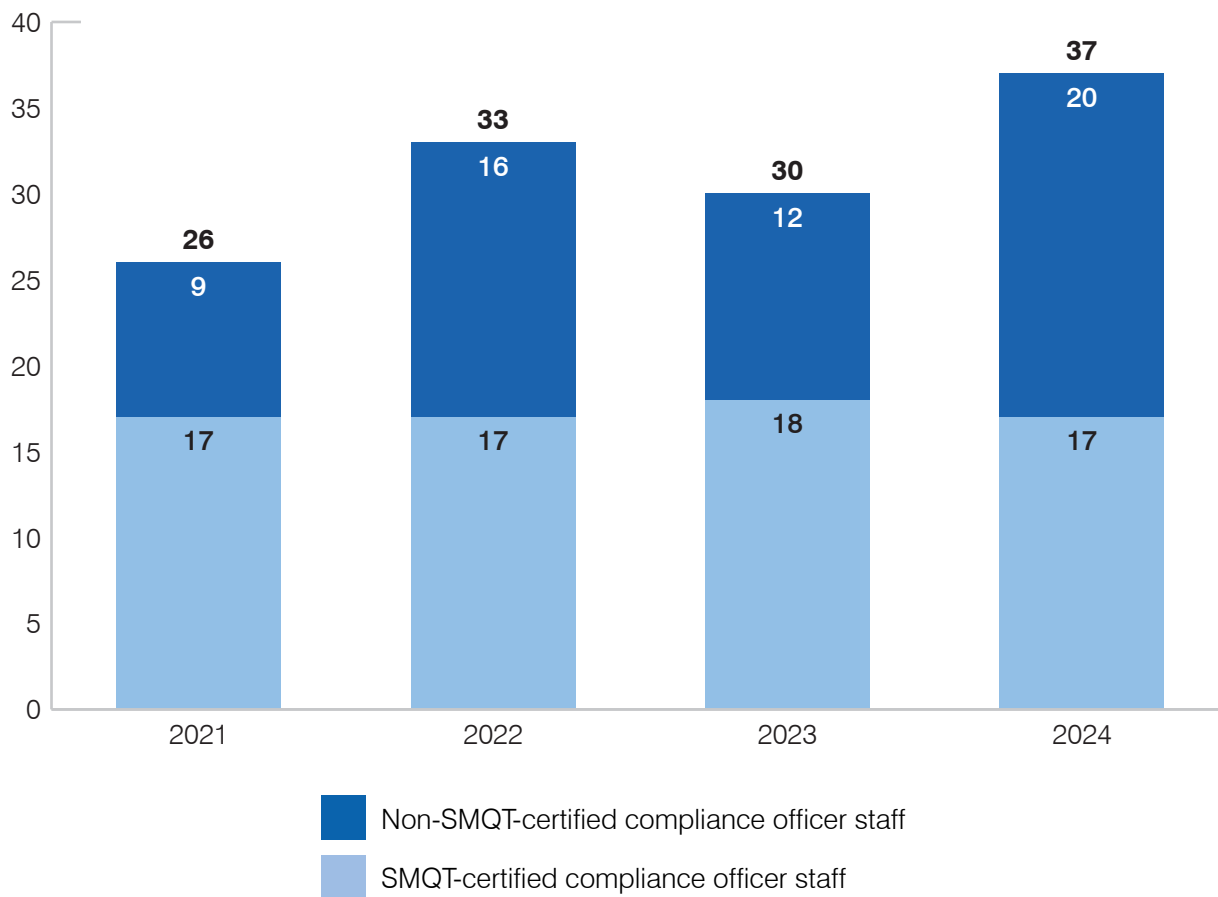
¹² As reported in our 36-month followup, as of April 2023, 29 of the Department's 42 compliance officer positions were filled.

¹³ The SMQT addresses the knowledge, skills, and abilities needed to conduct surveys in long-term care facilities, including prioritizing, investigating and resolving complaints and self-reports.

Figure 1

**Department increased its total compliance officer staffing level and the number of SMQT-certified compliance officers has remained the same
Calendar years 2021 through 2024¹**

(Unaudited)



¹ Staffing levels reported are as of the end of the calendar year except for calendar year 2024, which is as of December 6, 2024.

Source: Auditor General staff analysis of Department-provided long-term care compliance officer data for calendar years 2021 through 2024.

- b. Develop and implement a time frame for completing investigations and closing long-term care facility complaints and self-reports.

Unable to determine at this time—As previously discussed (see page 1), we will issue a separate follow-up report on the Department’s complaint-investigation and resolution process. Additionally, as reported on pages 4 and 5, the Department continues to inaccurately assign some Immediate Jeopardy and High-Priority complaints and self-reports a lower, Medium Priority, and this inaccurate prioritization artificially extends the Department’s time frame for completing complaint/self-report investigations and closures. In addition, as illustrated by the case examples included in this follow-up report (see pages 2 through 6), the Department did not initiate investigations for some of the complaints/self-reports we reviewed within CMS’ required time frames, and thus continues to not timely investigate and resolve complaints and self-reports.

- c. Regularly update its policies and procedures to reflect changes in its current long-term care facility complaint and self-report investigation and resolution practices and CMS requirements.

Implementation in process—The Department has updated its long-term care complaint and self-report prioritization policies and procedures to reflect changes to its practices and CMS requirements. Specifically, the Department updated its complaint-prioritization policy in April 2023 to remove a provision that allowed Department staff to assign an Off-site Investigation Priority to complaints/self-reports from public agencies. Our review of Department long-term care prioritization data from October 2022 through September 2023 found that it did not assign an Off-site Investigation Priority to any complaints/self-reports. However, as discussed on pages 4 and 5 the Department continues to inaccurately assign some Immediate Jeopardy and High-Priority complaints and self-reports a lower priority, inconsistent with CMS requirements.

In addition, the Department's policies and procedures related to collecting information during the complaint-prioritization process align with CMS requirements, which outline that Department staff should collect comprehensive information to allow for accurate prioritization of complaints and self-reports and indicates that subsequent communications may be necessary to obtain this information. However, as discussed on page 5, the Department did not collect or document its unsuccessful attempt to obtain important information necessary to help it make priority assignments for 41 sampled complaints and self-reports our contractor reviewed.

Finally, as previously reported, we will issue a separate follow-up report on the Department's complaint-investigation and resolution process, including any applicable information from our review of the Department's complaint/self-report investigation and resolution policies, procedures, and practices.

- d. Develop and implement additional bimonthly management reports to monitor whether and how quickly its long-term care facility complaints and self-reports are being prioritized, investigated, and resolved.

Implementation in process—The Department has developed and implemented policies and procedures requiring its staff to create a monthly internal report for executive management of various long-term care facility complaints and self-report metrics. Department executive management is required to document its review and any applicable feedback monthly. Our review of monthly reports for May 2024 through July 2024 found that Department staff prepared, and executive management documented its review of these monthly reports. The reports included information on how quickly long-term care facility complaints and self-reports were being prioritized, investigated, and resolved, including clearly indicating when the Department is not complying with applicable time frames. The reports also included information on the number of complaints and self-reports closed without a required on-site investigation, the number of complaints and self-reports received, the number assigned to Immediate Jeopardy or High Priority, and the percentage of complaints and self-reports reprioritized, investigated, and closed within required time frames.

However, as previously reported, we will issue a separate follow-up report on the Department's complaint-investigation and resolution process, including reviewing whether the information related to completed investigations in its management reports is accurate and reliable.

- e. Ensure that any complaints and self-reports that are investigated during an annual survey or outside of the annual survey are initiated and investigated according to the time frames required by the assigned priority level.

Unable to determine at this time—As previously discussed (see page 1), we will issue a separate follow-up report on the Department's complaint-investigation and resolution process. In addition, as illustrated by the case examples included in this follow-up report (see pages 2 through 6), the Department did not initiate investigations for some of the complaints and self-reports we reviewed within the time frames required by the assigned priority level.

Status of 30-month follow-up report recommendations:

2. To better protect the health, safety, and welfare of long-term care residents, the Department should also address the additional deficiencies we identified as a part of our 30-month followup. Specifically, the Department should:
 - a. Use a risk-based approach to review and reassess the 543 complaints originally prioritized as High Priority and closed without an investigation, the 1,078 self-reports originally prioritized as High or Medium Priority and closed as No Action Necessary, and the 130 open complaints originally prioritized as High Priority and changed to Medium or Low Priority and ensure appropriate action is taken on the most serious complaints and self-reports.¹⁴

Implementation in process—Since our 36-month follow-up report, the Department modified and began implementing its risk-based process for reviewing the 3,666 closed or reprioritized complaints and self-reports identified in our 30- and 36-month follow-up reports. The Department modified its review process to require its staff to:

- **Step 1**—Identify the complaints and self-reports that included 1 or more high-risk allegations for re-review. According to the Department, it identified 25 allegation categories that it considers high-risk, including death, abuse, neglect, and accidents.
- **Step 2**—Review each of the identified complaints and self-reports with high-risk allegations to determine the appropriate priority assignment.
- **Step 3**—Identify all complaints/self-reports from step 2 that were prioritized as Immediate Jeopardy or High Priority.
- **Step 4**—Re-open and investigate all complaints and self-reports that it assigned as Immediate Jeopardy or High Priority.

As of August 2024, the Department was still in the process of completing its risk-based review of the 3,666 complaints and self-reports identified in our 30- and 36-month follow-up (see textbox for more information on the Department's progress reviewing the 3,666 complaints/self-reports). We will continue to assess the Department's efforts to implement this recommendation during a future followup.

Department's risk-based review status as of August 2024

Step 1—Completed review of 3,666 complaints and self-reports and identified 1,976 with 1 or more High-Risk allegations.¹

Step 2—Determined priority level for 886 of 1,976 complaints and self-reports identified in step 1. The Department had not yet determined the priority level for the remaining 1,090.

Step 3—Determined that 591 of the 886 complaints and self-reports prioritized in step 2 were Immediate Jeopardy or High Priority.²

Step 4—Completed investigations of 177 of 591 complaints and self-reports identified in step 3.³ The Department had not yet investigated the remaining 414 complaints and self-reports.

¹ The Department reported that it would not re-review the priority or re-open for investigation any of the remaining 1,690 complaints and self-reports because the complaint or self-report did not include a High-Risk allegation or the associated facility had closed or changed ownership.

² The Department determined that the remaining 295 complaints/self-reports were not Immediate Jeopardy or High Priority, and thus it did not re-open them for investigation.

³ As previously discussed (see page 1), we were unable to assess the Department's investigations process because CMS had not approved our access to unredacted investigation records. Therefore, we will issue a separate follow-up report on the Department's complaint investigation and resolution process, including reviewing investigations completed as part of its risk-based review process.

Source: Auditor General staff review of Department risk-based review data.

¹⁴ Our 36-month followup reported another 1,897 High- or Medium-Priority self-reports that the Department closed without an on-site investigation and stated that the Department would also need to incorporate these self-reports into its risk-based review and assessment process.

- b. Use a risk-based approach to identify those long-term care facilities that would require additional oversight and then determine the additional actions the Department should take to help bring those facilities into compliance.

Implementation in process—As reported in our 36-month follow-up report, the Department developed procedures to identify long-term care facilities that require additional oversight. Specifically, the Department selected the facilities with the most open, uninvestigated complaints and self-reports. As of July 2024, the Department had identified 29 higher-risk facilities that required additional oversight. Further, the Department developed procedures to review noncompliance trends and identify ways to help bring those facilities into compliance. In addition, Department procedures state that it will monitor and work with these facilities until it determines that they are not 1 of the top 10 facilities with the highest number of uninvestigated complaints and self-reports for 6 months. Our review of Department documentation for 5 facilities that the Department determined required additional oversight found that it reviewed trends related to these 5 facilities' complaints/self-reports and took additional actions to help bring facilities into compliance, as applicable, such as meeting with facility administrators.¹⁵ However, these facilities had not met the Department's criteria for not requiring its additional oversight and thus had not been brought into compliance. As such, we will continue to follow up on the Department's efforts to bring facilities into compliance during a future followup.

- c. Stop using undocumented, unofficial, unwritten, or contrary protocols and requirements for processing complaints and self-reports and instead follow CMS requirements.

Implementation in process—Our 30-month and 36-month follow-up reports found that the Department was using undocumented, unofficial, unwritten, or contrary protocols and requirements for processing complaints and self-reports. Our review of Department long-term care data found that the Department has stopped some of these activities. Specifically, the Department:

- **Continued to reprioritize and assign No Action Necessary Priority to complaints but for a smaller percentage of complaints than previous followups and stopped using the Off-site Investigation Priority**—Our 30- and 36-month follow-up reports found that, inconsistent with CMS requirements, the Department reprioritized hundreds of High- and Medium-Priority complaints and/or self-reports to No Action Necessary or Off-site Investigation priorities, thus eliminating the need for an on-site investigation. For example, our 30-month follow-up report found that for the 1,438 self-reports the Department closed between October 21, 2020 and April 21, 2021, it closed 1,186 of them, or 82 percent, as No Action Necessary, which means the Department did not conduct an on-site investigation as required by CMS. Further, our 36-month follow-up report found that for the 2,119 self-reports it closed between April 22, 2021 and October 20, 2022, that required an on-site investigation, the Department closed 1,897 of them, or 90 percent, without conducting an on-site investigation even though they were initially prioritized as High or Medium Priority.

During this followup, our review of Department data for 7,694 complaints and self-reports received from October 1, 2022 through September 30, 2023, found the Department did not prioritize or reprioritize any complaints and self-reports to Off-site Investigation. Additionally, the Department reprioritized fewer complaints/self-reports and assigned No Action Necessary Priority to a smaller number of complaints/self-reports than during our previous followups. Specifically, of the 7,694 complaints and self-reports received from October 1, 2022 through September 30, 2023, the Department did not prioritize or reprioritize any complaints and self-reports to Off-site Investigation. Additionally, the Department changed the priority for 206, or 2.7 percent, of these complaints and self-reports and prioritized or reprioritized 403, or 5.2 percent, of the complaints and self-reports to No Action Necessary, a significant decrease from our previous followups. However, Department data did not indicate why the Department took these actions. As a result, we will further assess the Department's efforts to implement this recommendation, including reviewing the appropriateness of its reprioritization of complaints/self-reports and use of the No Action Necessary priority, during our work to assess the Department's long-term care facility-investigation and resolution process, which will be included in a separate report.

¹⁵ We randomly selected 5 of the 23 facilities that the Department determined needed additional oversight between August 2022 and December 2023. The Department added 6 facilities to its list of facilities that need additional oversight between December 2023 and July 2024.

- **Assigned Medium Priority to a lower percentage of complaints and self-reports**—As reported in our 30-month follow-up report, in the last half of calendar year 2020, the Department prioritized the majority, or 95 percent, of complaints and self-reports as Medium Priority compared to only 51 percent in the last half of calendar year 2019, despite no changes in prioritization requirements. Similarly, our 36-month follow-up report found that the Department continued to prioritize a high percentage, or 95 percent, of complaints and self-reports as Medium Priority from April 2021 through October 2022.

During this followup, our review of the Department's complaint and self-report data from October 1, 2022 through September 30, 2023, found that the Department assigned a Medium Priority to a smaller percentage of complaints and self-reports than previously reported. Specifically, the Department prioritized 70 percent of its complaints and self-reports as Medium Priority for this 1-year period.

However, as reported on pages 4 and 5 the Department continues to inaccurately assign some Immediate Jeopardy and High-Priority complaints and self-reports to a lower priority, such as Medium Priority, inconsistent with CMS requirements.

As previously discussed, we will issue a separate follow-up report on the Department's complaint-investigation and resolution process, including whether the Department is following CMS requirements applicable to the investigation and resolution process.

- d. Ensure Department long-term care facility staff and management are trained on CMS requirements and monitored to ensure they comply with the requirements.

Implementation in process—In October 2023, the Department updated its training program for new staff members to include CMS-required trainings, Department-required trainings, and on-site experience for complaint handling. In addition, from April 2023 to January 2024, CMS representatives provided 5 trainings to all Department long-term care staff members that included information related to complaint handling.

However, as reported on pages 6 and 7, the Department lacks a comprehensive process to monitor its staff's complaint and self-report prioritization for accuracy and consistency with CMS requirements. Specifically, Department policies and procedures require its staff to inform their supervisor when they prioritize Immediate Jeopardy or High-Priority complaints and self-reports or any complex or challenging complaints. However, Department supervisors are not required to review complaint prioritizations for accuracy other than those that Department staff bring to their attention. For example, the Department lacks a process for selecting and reviewing complaints and self-reports its staff have assigned a Medium Priority, despite our 3 followups consistently identifying that Department staff inaccurately used Medium Priority for some Immediate Jeopardy and High-Priority complaints and self-reports, inconsistent with CMS requirements. Implementing such a process could be instrumental in helping the Department identify and correct the prioritization issues we have consistently identified during our 3 followups.

In addition, as previously discussed, we will issue a separate follow-up report on the Department's complaint-investigation and resolution process, including reporting on whether the Department is monitoring Department's staff compliance with applicable CMS requirements related to complaint investigations and resolutions.