PERFORMANCE AUDIT

MANAGEMENT OF DEPARTMENT OF MENTAL HEALTH CLIENTS PLACED IN NON-INSTITUTIONAL FACILITIES

From The Office Of State Auditor
Claire McCaskill

The department could more effectively manage the costs for clients to reside in non-institutional facilities; and contractors who operate these facilities need to provide registered nursing coverage.

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YELLOW SHEET

Better management of placing developmentally disabled clients in non-institutional facilities could reduce state costs

Auditors examined how efficiently state officials manage the costs of developmentally disabled clients living in non-institutional facilities. Most of the state's 5,000 clients live in either group homes or individualized supported living facilities operated by private contractors. The state also operates similar living situations for 178 clients. State and federal Medicaid guidelines require state officials to consider costs and client preference when making placement decisions, but auditors found cost is not a top factor.

Costs not always considered in client placement

Client preference is the top criteria in placing an individual in either a group home or the more expensive option of an individualized supported living facility. The cost of caring for a client in an individualized supported living facility is, on average, 39 percent more than caring for a client in a group home. Individualized living costs are also rising faster than group home costs. In addition, state officials have no standard criteria to help employees decide which setting to place a client in and no required documentation on what criteria went into a placement decision. (See page 3)

$4.8 million saved if contractor ran all facilities

Division officials could save $4.8 million if contractors took over the remaining 178 clients living in state-operated group homes or individualized facilities. Division officials said the conditions of clients living in the state-operated facilities are the same as those in state-operated facilities and indicated no difference in the needed care. Higher salaries for the employees in the state-operated homes makes up the main part of the cost difference. (See page 5)

No registered nurse on staff at many facilities

More than 66 percent of the contractors operating non-institutional facilities did not have a registered nurse on staff, which is required by state law. Auditors' analysis showed that more than 1,400 clients had high-risk medical conditions conducive to developing complications, but over two-thirds of these clients lived in contractor-operated homes without oversight from a registered nurse. (See page 10)

MANAGEMENT OF DEPARTMENT OF MENTAL HEALTH CLIENTS PLACED IN NON-INSTITUTIONAL FACILITIES

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Missouri State Auditor

Honorable Bob Holden, Governor
and
Members of the General Assembly
and
Patricia S. Garber, Interim Director, Department of Mental Health
and
Anne S. Deaton, Director, Division of Mental Retardation and Developmental Disabilities

The State Auditor's Office audited the Division of Mental Retardation and Developmental Disabilities and its regional centers. The audit focused on the division's oversight and care for over 5,000 division clients with developmental disabilities who reside in non-institutional contractor-operated facilities.

The objectives of the audit were to determine (1) the costs for clients to reside in non-institutional facilities, (2) if the division's clients residing in non-institutional facilities were receiving quality medical care, and (3) if day habilitation programs were being conducted in accordance with the division's regulations.

Audit tests showed that the division could more effectively manage the costs for clients to reside in non-institutional facilities. In addition, the division could save at least $4.8 million annually in the costs for clients to reside in non-institutional facilities by contracting out state-operated group and individualized supported living facilities. We also concluded that the division needs to require contractors to employ professional medical personnel as required by state law to ensure clients living in non-institutional contractor-operated facilities are receiving quality medical care.

Audit tests disclosed that health care professionals were not supervising the care of clients in non-institutional contractor-operated facilities, which is required by state law. The day habilitation programs we visited were being conducted in accordance with the division's regulations.

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The audit was made in accordance with applicable standards contained in *Government Auditing Standards,* issued by the Comptroller General of the United States, and included such tests of the procedures and records as were considered appropriate under the circumstances.

Claire McCaskill
State Auditor

June 15, 2001 (fieldwork completion)

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RESULTS AND RECOMMENDATIONS

1. Opportunities Exist to Reduce Costs for Clients Living in Non-Institutional Facilities

Division of Mental Retardation and Developmental Disabilities (the division) officials could better manage costs for clients living in non-institutional facilities by considering costs in client placement decisions as required. Regional center officials have relied on federal guidance that allows clients, or client guardians, free choice in selecting group homes or individualized supported living facilities while division policies place an emphasis on cost considerations. The cost of caring for a client in an individualized supported living facility is, on average, 39 percent more than caring for a client in a group home. In addition, officials have missed opportunities to reduce the overall cost of operating non-institutional facilities because they have not considered contracting out the day-to-day operations of these facilities. As a result, division officials have incurred approximately $4.8 million in additional costs that could have been avoided.

Background

Under the Medicaid home and community-based services waiver program,[1] Missouri state officials can opt to place clients with developmental disabilities in homes in their own communities, as opposed to one of the state's six habilitation centers. In the community homes, clients can possibly live alone or share a residence with up to eight other clients, rather than reside with 100 to 300 clients in an habilitation center.

Most of the division's approximately 5,000 clients that reside in group homes or individualized supported living facilities live in residential facilities that are operated and managed by private contractors. The division operates group homes and individualized supported living facilities for 178 clients. The state's current Medicaid home and community-based services waiver program requires the division to consider cost effectiveness together with the client's freedom of choice when making the decision to place a client in a group home versus an individualized supported living facility.

The division does not ensure the placement and care of clients is cost-effective

Costs must be considered

Officials at regional centers we visited stated cost is not considered a prominent factor in decision-making. They said the primary criterion is the client's and his/her family's preference for a group home or an individualized supported living facility. The officials also stated that they do not document the criterion and process used to place a client. As a result, these officials do not know if they placed a client in the most appropriate facility when costs are considered. Division officials stated that costs were considered because if the money were not available to support the placement, the placement plan would not be approved. However, if the

[1] The Medicaid Waiver Program affords states the flexibility to develop and implement creative alternatives to placing Medicaid-eligible individuals in hospitals, nursing facilities or intermediate care facilities for persons with developmental disabilities. The Medicaid waiver program recognizes that many individuals who are at risk of being placed in these facilities can be cared for in their homes and communities, preserving their independence and ties to family and friends at a cost no higher than that of institutional care.

regional center personnel place more emphasis on family desires than costs, the lack of funding scenario posed by division officials will not take place until the funds are close to running out.

The division does not have any standard criteria or procedures to assist regional centers in making the decisions that ensure all services are necessary and cost-effective. Federal and Missouri Medicaid waiver program regulations provide that clients and/or their guardians be given free choice in selecting whether the clients are placed in group homes or individualized supported living facilities. However, the division's guidelines specifically require that the division be a prudent purchaser in stating, "all waiver services must be cost-effective, meaning they represent the best package of services at the lowest cost to the taxpayer."

The division's 11 regional centers decide whether to place Medicaid waiver clients in either a group home or an individualized supported living facility. According to officials at three regional centers, they consider several criteria before placing a client. Criteria includes the preferences of the client and guardian and the client's:

- Likes and dislikes.
- Goals in life.
- Susceptibility to get along with various types of personalities.

The officials also stated that many clients are placed in an individualized supported living facility, because they have difficulties living with more than one roommate.[2]

Rising costs of individualized supported living facilities suggest the need to develop standard criteria for placement which considers costs

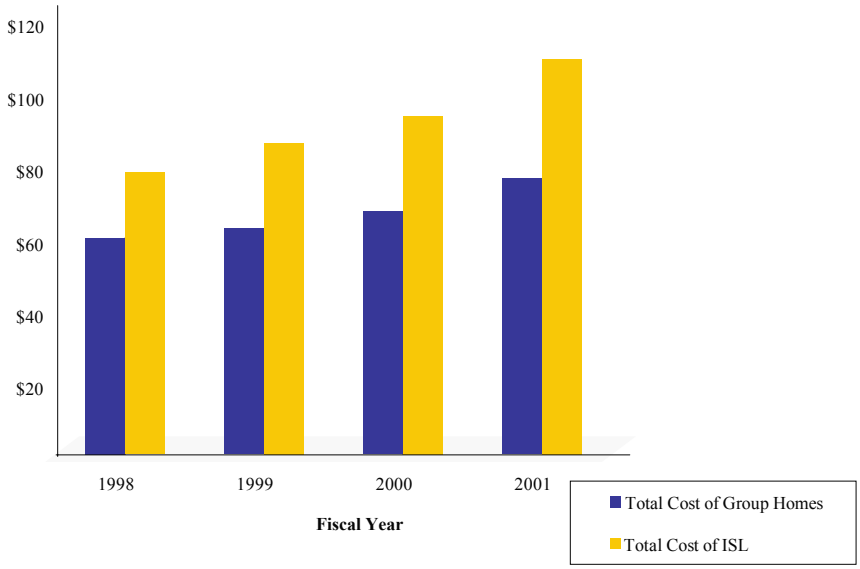
The division spent over $160 million in fiscal year 2000 for staff to care for its clients with developmental disabilities to live in non-institutional facilities. Of that amount, officials spent about $67 million for 2,500 clients to live in group homes, while the costs for another 2,500 clients to live in individualized supported living facilities were over $93 million, or $26 million (39 percent) more.

Between fiscal years 1998 and 2001, the average cost for a client residing in an individualized supported living facility increased 43 percent (from $33,200 to $44,500) while the average cost of a group home increased 34 percent (from $24,700 to $31,200).[3] Further analysis shows that the projected fiscal year 2001 costs for 273 of the clients residing in individualized supported living facilities exceeded the average of $44,500 and will exceed $75,000 each. Forty-two of these clients' costs will exceed $100,000. It should be noted, that the preceding costs do not include room and board, but only the costs for staff to care for the clients daily living needs. Chart 1.1 shows the total of these costs for group homes and individualized supported living (ISL) facilities for state fiscal years 1998 through 2001 (projected).

[2] Although we only visited 3 of the division's 11 regional centers, division officials stated the same criteria and process is basically used by all 11 regional centers, and therefore we limited the scope of our audit work to these 3 regional centers.

[3] Costs for fiscal year 2001are estimates based on actual expenditures (available at the time of our audit) for the first eight months of fiscal year 2001-July 2000 through February 2001.

Chart 1.1: Group Home Costs Compared To Individualized Supported Living (Dollars in Millions)



Source: Auditor analysis of division cost data

The division's costs to operate group homes and individualized facilities are substantially higher than contractors' costs to operate similar facilities

The division would save about $4.8 million if contractors operated group homes and individualized supported living facilities currently operated by the division. This savings is based on $3 million in excess costs to operate group homes, and $1.8 million in excess costs to operate individualized facilities. Division officials told us that the 178 clients residing in division-operated individualized supported living facilities are similar to the clients living in contractor-operated group homes and individualized facilities.

Three habilitation centers, Marshall, Nevada, and the St. Louis Development Disability Training Center, operate 16 group homes for 82 clients. Table 1.1 shows that the daily costs for the clients to reside in the 16 state-operated group homes results in about $3 million in additional costs to taxpayers.

Table 1.1: Cost Comparison of Contractor and Division Fiscal Year 2001 Costs to Operate Group Homes

Habilitation Center's Group Homes (1)	Number Of Clients (2)	Contractor Average Daily Rates (3)	Division Daily Rates (4)	Contractor Annual Cost* (5)	Division Annual Cost* (6)	Potential Annual Savings (Col. 6-Col. 5)	Percent Difference
Marshall							
East Slater	5	$76	$196	$138,700	$357,700	$219,000	158
Elm Home	5	76	184	138,700	335,800	197,100	142
Euclid Home	5	76	182	138,700	332,150	193,450	139
South Benton	4	76	196	110,960	286,160	175,200	158
Star Home	4	76	195	110,960	284,700	173,740	156
Viking Home	4	76	196	110,960	286,160	175,200	158
North Brunswick	4	76	196	110,960	286,160	175,200	158
Ellsworth Home	4	76	194	110,960	283,240	172,280	155
Colby Home	4	76	196	110,960	286,160	175,200	158
Nevada							
North Ash	8	78	189	227,760	551,880	324,120	142
St. Louis							
Bancroft	4	116	194	169,360	283,240	113,880	67
Green Bough	5	116	194	211,700	354,050	142,350	67
Longfellow	5	116	194	211,700	354,050	142,350	67
Manchester	8	116	194	338,720	566,480	227,760	67
Hazelwood	5	116	194	211,700	354,050	142,350	67
Ballwin	8	116	194	338,720	566,480	227,760	67
Totals	82			$2,791,520	$5,768,460	$2,976,940	

Source: Auditor's analysis of division cost data
*The costs were projected over a 12-month period based on data available for the first 8 months. The annual cost was computed as follows: Number of clients X daily rate X 365 days.

Detailed breakdowns of the costs that comprise the daily rates for group homes shown in table 1.1 were not available. However, the primary reason for the substantial difference in the cost for state-operated group homes and individualized facilities is the state employee hourly rate and benefits package, which is about $5 per hour higher than the hourly rate for contractor employees. Staff costs account for about 85 percent of the daily cost to operate group homes and individualized facilities.

The costs for 96 clients to reside in the division-operated individualized facilities are also over $1.8 million more annually than it would cost to reside in contractor-operated individualized facilities as shown in table 1.2.

Table 1.2: Estimated Savings for Clients Residing in Division-Operated Individualized Facilities Versus Contractor Facilities

		3-Month Cost			
Habilitation Center	**Number of Clients**	**Actual Division Cost**	**Estimated Contractor Cost**	**Difference (Col. (3)-Col. (4))**	**Projected Annual Savings***
(1)	(2)	(3)	(4)	(5)	(6)
Higginsville	56	$837,298	$634,804	$202,494	$809,977
Marshall	3	38,104	27,037	11,068	44,270
Nevada	13	180,184	97,477	82,707	330,828
Southeast	10	175,768	105,315	70,453	281,812
St. Louis	14	227,264	141,285	85,980	343,918
Totals	96	$1,458,618	$1,005,917	$452,701	$1,810,805

Source: Auditor's analysis of division cost data
*These savings were computed by multiplying the 3-month cost difference times 4 to result in an annualized amount.

The division has not evaluated if the Habilitation Centers' operation of group homes and individualized facilities is still warranted**.** A division official said the primary factor in the decision to establish the Habilitation Center group homes and individualized facilities was many clients and/or their guardians had longstanding ties to the Habilitation Centers and wanted to remain under the care and auspices of the Habilitation Centers' staff. The division, however, has not performed any surveys to determine if the clients and/or their guardians would object to living in contractor-operated residences. In this instance, the clients would not be removed from their residences; only staff would change from state staff to contractor staff.

Conclusions

Federal and state laws and regulations allow clients to have the freedom of choice in selecting the type of facility they want to live in under the Medicaid waiver program. Nevertheless, this freedom of choice needs to be balanced with ensuring all Medicaid waiver services are cost-effective. The division, however, has not established standard criteria and procedures to ensure this goal is met. State-operated group homes and individualized facilities may not be cost-effective. Saving costs should be a decision factor in placing clients since the division acknowledged there is no material difference in the type of care needed for the 178 clients in state-operated facilities and the nearly 5,000 clients already in contractor-operated facilities.

Recommendations

We recommend the Director, Division of Mental Retardation and Developmental Disabilities:

1.1 Establish standard criteria and procedures to guide the decision-making process in determining whether clients should be placed in group homes or individualized supported living facilities.

1.2 Require the regional centers to document all factors that were considered in placing clients in either group homes or individualized supported living facilities, including periodic reviews by the division's Director of Audit Services to ensure the prudent expenditure of taxpayer dollars.

1.3 Develop a plan to transition the state-operated group homes and individualized supported living facilities to contract operations.

Division of Mental Retardation and Developmental Disabilities' Response:

The division agreed with the recommendations and provided implementation plans. The detailed response is located in Appendix III, page 19.

1.1 The Division agrees to develop standardized guidelines for service coordinators to use as they work with consumers, social and health related professionals, and advocates to identify the affordable living arrangement which is most appropriate to an individual's needs and represents the individual's choice. These guidelines will be distributed to service coordinators by December 2001.

1.2 The Division does document the basis for the decision about an individual's placement. What is absent is a form or checklist in a person's file that documents that all these bases have been covered and the decision regarding placement they lead to. The Division will develop such a form or modify existing forms to include this information, as well as documentation that the individual is aware of all their placement options.

1.3 The Division will conduct a review of state operated homes to evaluate residential costs and to ensure that the cost is commensurate with the support needs of the consumers. This review will be completed by April 2002 and the results will be shared with the Auditor's Office.

State Auditor Comments

The division's response is followed by additional comments from state auditors specific to recommendations 1.3.

We are encouraged that the division is reviewing clients in state-operated homes, but the survey results could be skewed. Throughout this audit, division officials have maintained a position that client and guardian choice are first and foremost in their decision-making on placement. But questioning clients about changing providers may suggest to the clients that they have to move. We recommended turning over state-operated facilities to contract employees to make them less

costly. This change would not force clients to move. In addition, contractors would have to comply with their agreement, including maintaining staffing levels to meet clients' needs.

2. The Division Is Not Ensuring Its Clients Receive Adequate Healthcare in Accordance with State Laws and Regulations

Over two-thirds of the contractors operating non-institutional facilities for the state did not have a registered nurse on staff to supervise nursing tasks in accordance with state law. The division's standard contract with providers that operate group homes and individualized facilities does not require that contractors employ a registered nurse. In December 2000, division staff conducted a health inventory for clients residing in contractor-operated facilities that showed many had medical conditions, such as frequent uncontrolled seizures, which identified them as a potential risk for health problems. Nursing tasks required for the treatment of several of these medical conditions, including the administration of medications, are to be performed under the periodic oversight of a registered professional nurse. Section 335.016, Missouri Revised Statutes (RSMo) 2000 requires registered nurse coverage.

Missouri statute and regulations require supervision and direction by registered nurses

Section 335.016, RSMo 2000, (the Nursing Practice Act), states:

> "Nursing tasks such as assessment, nursing diagnosis, nursing care, and counsel of persons who are ill, injured or experiencing alteration in normal health processes; including the administration of medications and treatments prescribed by a person licensed by a state regulatory board, require the proper supervision and direction of a registered professional nurse."[4]

Missouri regulations, 4 CSR 200-5.010, which implements the Nursing Practice Act, define proper supervision as:

> "The general overseeing and the authorizing to direct in any given situation. This includes orientation, initial and ongoing direction, procedural guidance and periodic inspection and evaluations."

The majority of the division's clients residing in contractor-operated facilities are taking at least one prescribed medication, which under state regulations can be administered by certified level I medication aides. The Nursing Practice Act prescribes that a registered nurse must periodically inspect and evaluate the aides' administration of medications.

Division officials stated that Section 335.016, RSMo 2000 does not apply to the clients referred to in this report. However, our discussions with the Assistant Director for Discipline and Practice, Missouri State Board of Nursing indicated that these patients are required to have registered nurse oversight.

[4] The Nursing Practice Act became effective January 21, 1976.

Division's health inventories showed numerous clients with significant health care problems lack adequate professional nursing care

The health inventories the division conducted in December 2000 identified clients who had 1 or more of 25 health care conditions, including: (1) frequent falls and injuries, (2) frequent uncontrolled seizures, (3) use of 2 or more psychotropic and/or anti-convulsing medications, (4) tube feeding, and (5) severe and chronic pain. The purpose of the health inventories was to identify clients who were at risk of developing medical complications so appropriate actions could be taken. Based on the type of health care condition clients had, they were placed in four different categories reflecting the degree of health problems. Our analysis of the division's December 2000 health inventories showed over 1,400 clients were categorized at the highest levels of risk. This did not mean that the clients were actually at risk, only that they had conditions conducive to developing complications. There were 986 of the 1,400 clients who lived in contractor-operated facilities that were not provided oversight by a professional registered nurse (RN).

Most clients do not have proper nursing coverage

Division's health inventories showed most contractors do not use registered nurses to periodically supervise and evaluate clients' health care needs

The divisions' December 2000 health inventories also identified if the clients living in contractor-operated facilities had professional nursing care available to them. Our analysis of the assessments, which were completed by regional center staff, showed a substantial difference among the 11 regional centers in the percent of contractors with or without registered nurses on their staff. For example, the Poplar Bluff Regional Center reported all 22 providers, or 100 percent of all contractors had a registered nurse on their staff; whereas the Springfield Regional Center reported only 1 of 12 contractors (8 percent) had a registered nurse on their staff. Overall, table 2.1 shows that 215 of 312 contractors (69 percent) were most likely not in compliance with the Nursing Practice Act, because they did not have a registered nurse on staff.

Most contractors violated the law

Table 2.1: Contractors without Registered Nurses On Staff

Regional Center	Number of Contractors	Contractors with No RN	Percent of Contractors with No RN
Albany	17	15	88
Central Missouri	46	37	80
Hannibal	29	18	62
Joplin	21	17	81
Kansas City	68	54	79
Kirksville	21	13	62
Poplar Bluff	22	0	0
Rolla	32	23	72
Sikeston	17	15	88
Springfield	12	11	92
St. Louis	27	12	44
Totals	312	215	69

Source: Auditor analysis of division's risk assessments

Audit tests showed many providers were not in compliance with state statutes and regulations

Audit tests at 21 contractor-operated facilities showed only 3 contractors had a registered nurse on staff to periodically supervise level I medication aides. Contractors, which had a registered nurse on staff, said the nurse's responsibilities typically included delegation and supervision of the direct care staffs' nursing tasks and reviewing medication records. One of the three contractors that we visited employed a registered nurse for 2 hours monthly, and the nurse's contractual duties included: (1) review physician's orders and make sure orders are properly documented, (2) review medication administration records and compare to doctors orders, (3) take blood pressure, pulse and respiration and weigh consumers monthly, and (4) conduct inspection of medication cabinets on a monthly basis and document and destroy medications as necessary and if required by rule and/or law.

Registered nurse coverage at the contractor-operated facilities did not exist because:

- Regional center staff had not informed contractors to have a registered nurse on staff to periodically supervise nursing tasks.

- Division staff did not include the requirement for registered nurses in contracts.

A level I medication aide only needs 16 hours of training and evidence of passing a written examination to be certified. This certification has to be updated every 2 years. The level I medication aide training only includes the administration of medications and does not cover other nursing acts, such as the administration of tube feeding. Seven contractors we visited had one or more clients that required tube feeding. However, only two of the seven providers with

clients that required tube feedings had a registered nurse supervise the direct care staff's administration of the tube feedings. The Missouri State Board of Nursing issued a Position Statement in November 1992 that states, "Unlicensed health care personnel who perform specific nursing tasks without benefit of instructions, delegation, and supervision by licensed nurses may be engaged in the practice of nursing without a license. Such actions by unlicensed health care personnel are a violation of the Missouri Nursing Practice Act Section 335.066(10), RSMo 2000."

Fourteen of the 21 contractors we visited had 1 or more direct care staff that did not have state required level I medication aide certificates to administer medications. The contractors stated that these staffs were not allowed to administer medications. However, without periodic reviews of the medication records to determine whether uncertified staffs are not passing medications, the division lacks adequate controls to prevent these unqualified staff from administering medications.

Staff was not certified to give medications

Conclusions

About 1,400 of the division's clients living in contractor-operated facilities have health conditions that the division has categorized as a high level of health risk. The division, however, has not assured that these clients and all other clients have professional nursing care, which is required by law. Without professional nursing supervision, the division has little assurance that contractor unlicensed health care personnel are performing at an adequate level while completing nursing care tasks for their clients.

Recommendations

We recommend the Director, Division of Mental Retardation and Developmental Disabilities:

2.1 Revise contracts with providers who operate group homes and individualized supported living facilities to require the providers to employ a professional registered nurse as needed.

2.2 Provide written notification to all providers that the Nursing Practice Act requires all nursing acts, including the administrations of medications to be periodically supervised and evaluated by a professional registered nurse.

2.3 Require periodic reviews to ensure (1) that contractors are employing registered nurses as required by state law and regulations, and (2) that only contractors' staff, which are certified Level I medication aides, are administering medications to clients.

Division of Mental Retardation and Developmental Disabilities' Response:

The division agreed with the recommendations and provided implementation plans. The detailed response is located in Appendix III, page 19.

2.1 The Division agrees providers who's personnel carry out nursing acts including medication administration should employ registered nurses as needed to delegate and

supervise medication administration. The Division has requested in its FY '03 budget funding to revise provider contracts as recommended. In the absence of funding, the Division will continue to:

- *monitor and evaluate medication administration through the Certification Survey process.*
- *require staff who administer medications to complete a standardized, initial and two-year update medication administration training program.*
- *periodically conduct Health Inventory Screenings and Health Care Reviews to monitor the health care supports and services provided to individuals in group homes and individualized supported living facilities.*

2.2 *The Division agrees that it should inform providers about the Nursing Practice Act and the importance of periodic supervision and evaluation of nursing tasks including medication administration staff by registered nurses.*

2.3 *Included in the Division's FY '03 budget request is an objective that addresses quality assurance monitoring of, and providing technical assistance to, nurse consultants employed by contract providers. The Division has identified these monitoring and technical assistance activities as performance expectations of the regional center quality assurance nurses that were funded in the FY '02 budget. In addition, periodic reviews through the Certification Survey Process have been and will continue to be, conducted to ensure that trained, certified staff administer medications to consumers. This includes not only medication aides certified by the Division of Aging (Level 1 Medication Aides) but also Medication Aides certified by the Division of Mental Retardation and Developmental Disabilities.*

APPENDIX I

OBJECTIVES, SCOPE AND METHODOLOGY

Objectives

The objectives of this audit were to determine (1) the statewide costs for clients to reside in group homes and individual supported living facilities, (2) if Department of Mental Health clients residing in contractor operated facilities are receiving quality medical care, and (3) if contractors' day habilitation programs were being conducted in accordance with Division regulations.

Scope and Methodology

We included the following steps in our audit:

- Reviewed state laws and regulations that governs nursing practices and the use of unlicensed health care personnel to perform nursing tasks, such as the administration of medication.

- Reviewed the division's written policies and procedures for placing clients in group homes and individualized supported living facilities.

- Interviewed officials from the division's central office and three regional centers, Albany, Central Missouri (Columbia), and Kansas City, to determine their policies and criteria for placing clients in group homes and individualized supported living facilities. Division officials stated the criteria and procedures followed by these three regional centers are representative of the criteria and procedures used by the other eight regional centers, and agreed we could limit the scope of our audit work to these three regional centers.

- Interviewed contractor staff who operate group homes, individualized supported living facilities and day habilitation programs.

- Obtained and reviewed over 3,800 client health risk assessment reports prepared by the division's 11 regional centers in late 2000. We analyzed these reports to (1) identify the number of clients who were at risk of developing serious medical complications, and (2) the number of providers who did not have a registered nurse on staff.

- Obtained and reviewed the division's cost data to operate group homes and individualized supported living facilities for state fiscal years 1998 through 2001 (as of February 28, 2001). We analyzed the data to determine (1) the average cost per client to live in group homes versus individualized supported living facilities, (2) the costs for the division's six habilitation centers to operate group homes and individualized supported living facilities versus contractors' costs to operate the same type of facilities.

- Visited 21 contractors who operated either group homes or individualized supported living facilities within the Albany, Central Missouri, and Kansas City regional centers' jurisdiction. We interviewed contractor staff and reviewed documentation to determine (1) the extent the

contractors employed registered nurses to periodically supervise and evaluate nursing tasks performed by unlicensed personnel, and (2) if their staff who were administering medications were currently certified level I medication aides.

- Visited six contractor-operated day habilitation programs that were within the Albany, Central Missouri, and Kansas City regional centers' jurisdiction. We observed if clients were provided the opportunities to participate in structured habilitation activities, such as arts and crafts, and if the instructor/client ratio was within the division's standards for day habilitation programs. We interviewed contractor staff and reviewed documentation to determine (1) if attendance for each client was tracked and (2) if each client's progress towards meeting his/her personal goals was being recorded.

APPENDIX II

BACKGROUND

The Division of Mental Retardation and Developmental Disabilities of the Department of Mental Health was created by the omnibus reorganization act of 1974. It is responsible for insuring that mental retardation and developmental disabilities prevention, evaluation, care, habilitation and rehabilitation services are accessible, wherever possible. The division is also responsible for supervising residential facilities, day programs, and other specialized services operated by the division, and oversight of contractor-operated facilities, programs, and services funded or licensed by the division. Its goals are to improve the lives of persons with developmental disabilities through programs and services to enable those persons to live independently and productively. In 1988, the division began participation in the Medicaid home and community-based waiver program, designed to help expand needed services throughout the state.

An estimated 27,500 Missourians with developmental disabilities such as mental retardation, cerebral palsy, and autism receive services from the division each year. About 5,000 of these Medicaid waiver clients live in contractor-operated residential facilities. The division operates 17 facilities that provide or purchase specialized services. Eleven of these facilities are regional centers, which are the primary points for clients to obtain services from the division and they provide assessment and case management services, which include coordination of each client's individualized habilitation plan. The other six facilities are division-operated habilitation centers, which provide residential care and habilitation services for people with more severe disabilities.

Medicaid Home and Community-based Waiver Program

The Federal government, under section 1915 (c) of the Social Security Act (the Act), gave the states the opportunity to request waivers of certain Federal requirements in order to develop Medicaid-financed community-based treatment alternatives. The three requirements that may be waived deal with statewide services, comparability of services and community income and resource rules for the medically needy. Medicaid home and community-based service waivers afford states the flexibility to develop and implement creative alternatives to placing Medicaid-eligible individuals in hospitals, nursing facilities or intermediate care facilities for persons with developmental disabilities. The Medicaid waiver program recognizes that many individuals who are at risk of being placed in these facilities can be cared for in their homes and communities, preserving their independence and ties to family and friends at a cost no higher than that of institutional care.

To permit individuals with developmental disabilities to live in their own homes, apartments, family homes, or rental units, the Social Security Act authorizes states to provide such services as: (1) personal assistance, (2) training and habilitation, (3) 24-hour emergency assistance, and, (4) adaptive equipment. The law further permits day treatment or other partial hospitalization services, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness. Room and board is excluded from coverage except for certain limited circumstances. States have the flexibility to design each waiver program and select the mix of waiver services that best meets the needs of the population they wish to serve. Medicaid waivers service may be provided statewide or may be limited to specific geographic subdivisions.

APPENDIX II

In 1988, Missouri began participating in Medicaid's Home and Community-base Waiver program. The division provides day-to-day administration of the waiver program. The waiver program is open to Missouri residents with developmental disabilities, who are Medicaid eligible and would require placement in one of the state's six habilitation centers, which houses up to 300 individuals. The waiver program, however, allows many individuals to live in either group homes with up to eight other individuals, or in individualized supported living facilities with up to two other individuals. Table II.1 shows the number individuals living in group homes, individualized facilities or one of the state's six habilitation centers and their respective costs for fiscal years 1998 to 2000:

Table II.1: Total Cost for Individuals Living in Various Facilities

Fiscal Year	Number in Group Homes	Group Home Cost	Number in Individualized Facilities	Individualized Facility Cost	Number in Habilitation Centers	Habilitation Center Cost
1998	2416	$59,625,048	2,342	$77,696,773	1,426	$100,211,283
1999	2420	62,281,387	2,446	85,938,024	1,389	101,099,367
2000	2474	67,041,453	2,500	93,402,450	1,334	99,798,131

Source: Division data from federal annual report

BOB HOLDEN
GOVERNOR

PATRICIA S. GRABER
INTERIM DIRECTOR

APPENDIX III

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September 17, 2001

Claire C. McCaskill
State Auditor
224 State Capitol
Jefferson City, MO 65101

Dear Ms. McCaskill

This letter and the enclosed documents represent the revised response from the Division of Mental Retardation and Developmental Disabilities to the recent state audit performed at three of the Division's eleven regional centers and 21 contractor-operated facilities by your staff. This response addresses each of the audit recommendations, the division's response and a rationale for each response. My understanding is that this response will be included as an appendix to the final report, which will be made public by your office.

The Division will exercise due diligence in implementing the corrective plans identified in each response. The Division will keep your office informed on progress until the corrective plans are completed.

We very much appreciate the cooperation received from William Miller, Kirk Boyer and John Mollett as we have moved through this process. Please contact me at 573-751-8676 if any additional information would be helpful.

Sincerely,

Anne S. Deaton

Anne S. Deaton, Ed.D., Division Director
Mental Retardation and Developmental Disabilities

ASD:de

c: Pat Graber

Revised Division's Response to the Performance Audit Conducted by the State Auditor's Office

Audit Recommendations:

1.1 Establish standard criteria and procedures to guide the decision making process in determining whether clients should be placed in group homes or individualized supported living facilities.

Division's Response: The Division agrees to develop standardized guidelines for service coordinators to use as they work with consumers, social and health related professionals, and advocates to identify the affordable living arrangement which is most appropriate to an individual's needs and represents the individual's choice. These guidelines will be distributed to service coordinators by December 2001.

Rationale: Guidelines, understandably, will operate within a dynamic environment. The decision to live in an ISL or group home is subject to the availability of financial resources at the Regional Center and the housing options in a particular community. Other factors that influence placement include individual choice, the goodness of "fit" between a person's level of health care or behavioral needs and those of persons currently residing at the group home or ISL that actually has an opening.

Cost Explanation: Most group home rates were established by the Division's rate review process years ago. The Division has requested new budget decision items in previous years for group home operators to receive COLAs (cost of living adjustments) to keep pace with the rising costs of doing business. The COLAs have not always been funded by the General Assembly. The ISLs have been developed in recent years and are based on current costs of doing business. In part then, the disparity of these rates is a result of the group home rates not able to keep pace with current costs. The Division is in the process of developing new group homes and the rate is not significantly different than the ISL rates.

1.2 Require the regional centers to document all factors that were considered in placing clients in either group homes or individualized supported living.

Division's Response: The Division does document the basis for the decision about an individual's placement. What is absent is a form or checklist in a person's file that documents that all these bases have been covered and the decision regarding placement they lead to. The Division will develop such a form or modify existing forms to include this information, as well as documentation that the individual is aware of all their placement options.

Rationale: Key factors in the decision making process that are documented for each individual are listed below. Additionally, service coordinators and planning teams' efforts are grounded in the philosophy of empowering individuals and families and serving people in the most integrated setting of their choice.

- The Missouri Critical Adaptive Behavior Inventory (MOCABI) is completed for each person being considered to participate in the Medicaid Waiver. This instrument determines areas of support (activities of daily living) in which the individual requires assistance.
- There is also an Intermediate Care Facility/Mental Retardation (ICF/MR) level of care form that must be completed before anyone enters the Medicaid Waiver System. This document is reviewed annually thereafter to determine ongoing eligibility for Waiver services. This form documents that the person has been determined to have mental retardation or another developmental disability. It further establishes that a person requires the level of care that is provided by an ICF/MR and without Waiver services the person is at risk for entering an ICF/MR. Information is collected from various means (observation, interviews and medical records).
- The person's support needs are also documented in the Person Centered Plan. The regional center service coordinator facilitates the Person Centered Plan meeting that includes the person, family members, friends, other professionals and service providers. This plan specifies all the services and supports that are needed by the person and who is designated to provide those supports. It is this planning process that determines if a person needs residential services and the type of residential services (group home or ISL) that would meet the person's needs. The Person Centered Plan is rewritten annually and drives the expenditures of all state and federal funds.

1.3 Develop a plan to transition the state operated group homes and individualized supporting living facilities to contract operations.

Division's Response: The Division will conduct a review of state operated homes to evaluate residential costs and to ensure that the cost is commensurate with the support needs of the consumers. This review will be completed by April 2002 and the results will be shared with the Auditor's Office.

Rationale: Much of the variance between the cost of state operated homes and that of contracted group homes and ISLs is linked to the complex care needs of individuals in state operated facilities and to the generally lower salaries and lack of benefits paid to contracted direct service workers. Low wages and lack of benefits are the very factors which contribute to significant recruitment and retention problems in this service sector creating a high turnover rate that can negatively affect quality of care. It is fear of this turnover rate among contracted providers that kept many parents of individuals whose children at one time resided in state institutions from placing their children in contracted group homes and ISLs.

The Division has already begun a statewide survey of parents and guardians to determine their current interest in privatized ISLs or group homes. Preliminary data from parents of individuals served by Northwest Community Services suggests that state operated homes are the explicit choice of parents and guardians.

PARENT/GUARDIAN SURVEY – NORTHWEST COMMUNITY SERVICES

In response to question #1 – **How do you feel about the services you (or your son/daughter/ward) receive?**

39% were very satisfied with the services received
54% were satisfied

8% were neither satisfied nor dissatisfied
0% were dissatisfied

In response to question #2 – **How do you feel about the Northwest Community Services as the provider of residential supports you receive?**

54% were very satisfied with the services received
41% were satisfied
4% were neither satisfied nor dissatisfied
2% were dissatisfied

In response to question #3 – **Have you ever had any interest in receiving these supports from a provider other than Northwest Community Services?**

100 % of the respondents indicated they had never been interested in receiving residential supports from a provider other than Northwest Community Services.

The response to question #4 was moot because of the response to question #3. Question #4 was: **If yes, who would you consider to provide these supports?**

The remainder of families, guardians, and consumers throughout the state will be surveyed and the results shared with the Auditor's Office by December 2001.

At the present time, there are 181 people who live in state operated homes in the community. One hundred sixty-five of these individuals transferred from habilitation centers to the community and 16 people were referred from another source. Thus, 91% of these individuals went from a more costly residential placement to a less expensive alternative in the community.

Audit Recommendations:

2.1 Revise contracts with providers who operate group homes and individualized supported living facilities to require the providers to employ a professional registered nurse as needed.

Division's Response: The Division agrees providers who's personnel carry out nursing acts including medication administration should employ registered nurses as needed to delegate and supervise medication administration. The Division has requested in its FY '03 budget funding to revise provider contracts as recommended. In the absence of funding, the Division will continue to:

- monitor and evaluate medication administration through the Certification Survey process.
- require staff who administer medications to complete a standardized, initial and two-year update medication administration training program.
- periodically conduct Health Inventory Screenings and Heath Care Reviews to monitor the health care supports and services provided to individuals in group homes and individualized supported living facilities.

2.2 *Provide written notification to all providers that the Nursing Practice Act requires all nursing acts, including the administrations of medications to be periodically supervised and evaluated by a professional registered nurse.*

Division's Response: The Division agrees that it should inform providers about the Nursing Practice Act and the importance of periodic supervision and evaluation of nursing tasks including medication administration staff by registered nurses.

2.3 *Require periodic reviews to ensure (1) that contractors are employing registered nurse as required by state law and regulations, and (2) that only contractors' staff, which are certified Level 1 medication aides, are administering medications to clients.*

Division's Response: Included in the Division's FY 03 budget request is an objective that addresses quality assurance monitoring of, and providing technical assistance to, nurse consultants employed by contract providers. The Division has identified these monitoring and technical assistance activities as performance expectations of the regional center quality assurance nurses that were funded in the FY 02 budget. In addition, periodic reviews through the Certification Survey Process have been and will continue to be, conducted to ensure that trained, certified staff administer medications to consumers. This includes not only medication aides certified by the Division of Aging (Level I Medication Aides) but also Medication Aides certified by the Division of Mental Retardation and Developmental Disabilities.

Division's Rationale for Responses to Audit Recommendations 2.1, 2.2, & 2.3:

Based on Department and Division regulations and independent department survey of providers, consumers receive needed medical supports in the same manner that other citizens do. Survey results also indicate that consumers are supported in safely managing medications and by staff trained in medication administration.

All individuals receiving residential services and supports through the Division are required to receive medical services in the communities in which they live. All individuals in community placement have primary care physicians and specialists, as needed, who write orders for all medications and treatments that are to be administered. The Division assures that this occurs through regular service coordinator visits and the Department Certification Survey Process. Certification surveys for 111 agencies conducted by the Department's Office of Quality Management to date indicate providers are compliant with the following Certification Principles:

- Principle 4.1.01. Individuals have a primary health care provider to meet health care needs (93%)
- Principle 4.1.02. Individuals obtain medical care at intervals recommended for other persons of similar health status. (98%)
- Principle 4.1.11. Individuals take medications as prescribed; (93%)
- Principle 4.1.12. Individuals are supported in safely managing their medications (98%)
- Principle 4.1.13. Individuals' medications are regularly evaluated to determine their continued effectiveness; (98%)
- Principle 4.1.14.Individuals who take medications are supported by people who are knowledgeable about accepted standards of practice in medication management. (95%)

The Division agrees with the result finding that persons who administer medications (unlicensed assistive personnel) to consumers should have the benefit of instruction, supervision and dele-

gation of tasks by a registered nurse. However, the Division has interpreted the Nursing Practice Act, Section [335.081(2)] Exempted Practices and Practitioners* to exempt trained medication aides who provide Medicaid long-term-care services and supports to individuals who are eligible for ICF/MR services by way of operating a Medicaid home and community-based services waiver program. Therefore, the Division has not required in contract that all providers employ registered nurse consultants as needed.

The Division recognizes and supports the State Board of Nursing position paper on utilization of unlicensed assistive personnel and understands the importance of nursing direction and oversight. In this regard, since 1998 the Division has initiated the following:

Established a Medication Administration Task Force in 1998, composed of providers and department staff, to develop a quality assurance medication administration proposal. The proposal included a recommendation that contract providers hire registered nurse consultants to instruct, delegate and supervise staff who perform nursing tasks. It also included recommendations for the division to hire regional center quality assurance nurses and to standardize medication administration training and certification of medication aides. All the recommendations were proactive initiatives to ensure that the individuals we support receive adequate healthcare. These QA initiatives were in addition to the Division requirement that people living in group homes and individualized supported living settings receive medical services in the community in which they live.

Submitted a budget decision item for FY' 02 and received funding for 13 regional center quality assurance nurses.

Implemented August 31, 2001, 9CSR 45-3.070 Certification of Medication Aides Serving Persons with Developmental Disabilities. The rule standardizes training and certification of medication aides

Submitted a budget decision item for FY 03 to fund registered nurse consultants in contract provider group homes and individualized supported living facilities.

- Discussed with the Assistant Director for Discipline and Practice, Missouri State Board of Nursing and the President of the Board of Nursing delegation of nursing tasks to unlicensed assistive personnel and the Division's interpretation of the Nursing Practice Act, Section 335.081 (2) Exempted Practice and Practitioners.

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* "So long as the person involved does not represent or hold himself or herself out as a nurse licensed to practice in this state, no provision of sections 335.011 to 335.096 (the nurse practice act) shall be construed as prohibiting." The services rendered by technicians, nurses' aides or their equivalent trained and employed in public or private hospitals and licensed long-term care facilities except the services rendered in licensed long-term care facilities shall be limited to administering medication, excluding injectables other than insulin.