PERFORMANCE AUDIT REPORT

Medicaid Personal Needs Allowance

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
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Legislative Post Audit Committee

Legislative Division of Post Audit

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OBTAINING AUDIT INFORMATION

This audit was conducted by Trudy Racine and Ellyn Rullestad, Senior Auditors, and Allan Foster and Cindy Denton, Auditors, of the Division's staff. If you need any additional information about the audit's findings, please contact Ms. Racine at the Division's offices.

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Summary of Legislative Post Audit's Findings

In Kansas, Medicaid residents of State institutions and adult care homes receive a personal needs allowance of $25 a month for their personal needs. In December 1985 there were 13,514 such individuals. The $25 is intended to cover personal needs such as clothing, hair care, snacks, and recreation, as well as other items not covered by the Medicaid program. This audit addresses concerns about whether the $25 amount is reasonable and whether it is being correctly spent for the residents' benefit.

Is the personal needs allowance of $25 per month reasonable and adequate to cover residents' needs? The adequacy of the amount appears to depend on such factors as whether the resident is able to spend the allowance, whether the resident has costly personal habits such as smoking, whether the resident has to pay for most of his or her personal needs out of the allowance, whether the resident's income is supplemented by other moneys, and whether the resident gets to keep all of his or her monthly allowance. Residents, staff members, guardians and conservators, and family members the auditors interviewed had differing opinions on whether $25 was enough. Thirty states provide more than $25 per month for residents' personal needs.

Are Medicaid residents' personal needs allowances being correctly spent for the residents' benefit? Regulations exist on both the federal and State level to protect resident funds. State regulatory agencies responsible for examining State institutions and adult care homes have observed little evidence of mishandling of these funds. However, guardians and conservators often take a large portion of a resident's personal needs allowance for fees and other services. Generally, family members acting as guardians or conservators did not charge for their services, but attorneys and bank officers often charged fees of up to 60 percent of a resident's allowance. More than half the other states either do not allow guardians and conservators to charge fees to residents or do not allow fees to come out of the personal needs allowance.

Options for ensuring that the personal needs allowance is adequate and reasonable. Several options are presented that would ensure that the personal needs allowance is reasonable and adequate. These include increasing the amount of the personal needs allowance, changing the personal needs items the State requires its institutions and programs to provide, and making a minimum of $25 per month available to each Medicaid resident.

MEDICAID PERSONAL NEEDS ALLOWANCE

The Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct an audit of the personal needs allowance for Medicaid residents of State institutions and adult care facilities. Legislative concerns have been raised about whether the $25 amount is reasonable and whether it is being correctly spent for residents' benefit. The audit addresses two primary questions:

1. **Is the personal needs allowance of $25 per month reasonable and adequate to cover residents' needs?**

2. **Are Medicaid residents' personal needs allowances being correctly spent for the residents' benefit?**

To answer these questions, the auditors reviewed State and federal statutes and regulations. They visited two State institutions and four adult care homes, where they reviewed resident accounts and interviewed staff and residents. They obtained and reviewed information about personal needs allowances for Medicaid recipients in other states. Finally, they reviewed court records of guardians and conservators, and interviewed guardians, conservators, and residents' family members by telephone. Their findings are provided in the following sections of this report, after some background information about the personal needs allowance.

Background Information About the Personal Needs Allowance

Residents of State institutions and adult care homes whose cost of care is paid by the Medicaid program must be either aged, blind, or otherwise disabled, and have limited income. In Kansas, the Department of Social and Rehabilitation Services has determined that Medicaid residents in those residential settings shall receive an allowance of $25 per month for their personal needs. In December 1985, there were 13,514 such individuals. The $25 is intended to cover the residents' personal needs such as clothing, hair care, snacks, and recreation, as well as other items (such as certain types of transportation and non-prescription drugs) not covered by the Medicaid program.

The personal needs allowance was set by Congress at $25 in 1974, as a requirement of the Supplemental Security Income program, and it has not been increased at the federal level since that time. Federal statutes permit the personal needs allowance to be used for a variety of items, but do not require it to be used for any specific purpose. During the fall of 1985, legislation raising the personal needs allowance to $35 passed the House but failed to gain Senate approval.

The way in which the personal needs allowance is provided differs, depending on the source of the resident's income. For residents whose only income is provided by the federal Supplemental Security Income program, Medicaid covers their basic cost of care, including room and board, and they receive a check from the Social Security Administration for $25 for their personal needs.

Medicaid residents who have income of more than $25 per month from other sources, such as Social Security, Veterans' Administration benefits, or private sources, are allowed to retain $25 of their monthly income before contributing the remainder toward their cost of care. Medicaid then pays the remaining cost of care.

The $25 amount is the minimum level states can allow for Medicaid residents' personal needs. States are permitted to increase their personal needs allowances above that

> **Responsibilities of People Who Handle Money for Residents**
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> Three types of people may legally handle a resident's personal funds: guardians, conservators, and representative payees appointed by the Social Security Administration. Following is a summary of the duties and responsibilities of each.
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> **A guardian** is appointed by the court to manage the property and rights of an incompetent person. Guardians are usually family members or attorneys. Employees of the institution in which a ward lives are not allowed to be appointed as guardian.
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> **A conservator** is appointed by the court to manage the financial affairs of an incompetent person who has money to manage. Conservators are usually family members, attorneys, or bank officers.
>
> **A representative payee** is appointed by the Social Security Administration to receive Social Security funds on behalf of a beneficiary who is incompetent or is mentally or physically incapable of handling his or her own funds. The payee must use the funds solely for the use and benefit of the beneficiary. Often the institution is the payee, but the payee may be a relative, friend, guardian, or conservator.

level. For Supplemental Security Income recipients, states must supplement the $25 with a separate payment from state funds. For residents with income from other sources, increasing the personal needs allowance they are allowed to retain increases the cost of their care to the Medicaid program. The federal government and the states share that increased cost about equally. Although a majority of states have increased the personal needs allowance for one or both of these groups of Medicaid clients, Kansas has not.

Residents who are able to do so may receive and manage their own funds. In some cases, facilities receive the funds as representative payees, and manage the residents' funds for them in individual accounts much like a bank. In other cases, family members or other individuals act as representative payees or conservators. (Those terms are explained in the accompanying box.) Those individuals manage the residents' personal needs allowances in a variety of ways. Some of them simply forward the entire $25 to the resident or the facility, and some of them retain control over each individual expenditure.

Is the Personal Needs Allowance of $25 per Month Reasonable and Adequate to Cover Residents' Needs?

To answer this question, the auditors selected one State mental retardation hospital (Kansas Neurological Institute), one State mental health hospital (Osawatomie State Hospital), and four adult care homes. They examined patient trust records from a sample of Medicaid residents at each of these residences for a three-month period to determine how the resident funds managed by the facility were spent. The auditors had hoped that reviewing those records would enable them to generalize how residents' personal needs allowances were being spent and whether the amount was enough. However, they found that patient trust records did not present a complete picture of Medicaid residents' expenditures and needs, for three reasons. First, not all residents had a trust fund account. Some residents' funds were held by guardians, conservators, or family members, and some of them were managed by the residents themselves. Second, when residents did have trust fund accounts, those accounts were not always used to deposit the entire $25 on a monthly basis. Some accounts were only used sporadically, or for specific purchases. Third, residents can only spend the money they have. Expenditures provide no information about items residents need or want, but cannot buy because they do not have enough money.

To obtain a more complete view of residents' expenditures and needs, the auditors also interviewed residents, staff members, family members, and guardians to determine if the $25 per month allowance was adequate to meet the residents' needs. They interviewed guardians and conservators who work with Kansas Advocacy and Protective Services, a State-funded agency that administers a Statewide guardianship project. In addition, they reviewed court records of expenditures made for residents by a sample of guardians.

Based on their reviews and interviews, the auditors concluded that the $25 per month allowance is sometimes adequate to meet the residents' basic needs, and sometimes not. Most of the trust accounts and guardianship and conservatorship records showed relatively low balances. The fact that account balances were relatively low even for residents who had been institutionalized for a number of years suggests that residents are spending their personal needs allowances rather than accumulating them. Most accounts did have positive balances in them, although none were approaching the Medicaid limit of $1,600. Whether or not the allowance is adequate appears to depend on such factors as the resident's mental or physical condition and the kinds of personal needs items the resident has to pay for out of the allowance. In addition, the auditors found that not all residents in State institutions receive the complete $25 personal needs allowance -- some is paid for guardian fees, for example. Residents, family members, guardians, and staff have differing views on the adequacy of the allowance. Finally, the auditors found that 30 other states provide a personal needs allowance of more than $25 a month. These and other findings are discussed in the sections that follow.

The Adequacy of the Allowance In Meeting Resident Needs Appears to Depend on Several Factors

The auditors found that the allowance is spent for such personal needs as clothing, hair care, cigarettes, snacks, and recreational activities. For example, at Kansas Neurological Institute, clothing accounted for as much as 82 percent of the expenditures from the patient trust accounts during the three-month period examined. At Osawatomie State Hospital, on the other hand, younger residents spent much of their allowance on snacks and cigarettes at the Hospital's canteen. At the adult care homes, most residents' expenditures were for hair care at the beauty shop and cigarettes.

Based on their reviews of records for their sample of 68 residents, as well as their interviews with various individuals about those and other Medicaid residents, the auditors determined that the adequacy of the allowance in meeting resident needs appears to depend on five main factors: whether the resident is able to spend the allowance, whether the resident has costly personal habits such as smoking, whether the resident has to pay for most of his or her personal needs out of the allowance, whether the resident's income is supplemented by other moneys, and whether the resident gets to keep all of his or her monthly allowance.

Some residents are more able to spend their monthly personal needs allowance than others. The more severely incapacitated adult care home residents included in the auditors' sample did not spend much money. For example, one of the residents at an adult care home had spent no money from her patient trust account since 1983. In many cases, these residents were unable to buy things without assistance or were unable to articulate any personal needs. In some cases, the resident was bedfast and had few personal needs.

Residents of State institutions who were more severely incapacitated also spent less money. In many cases, the resident was not able to participate in activities outside the facility. Consequently, there were fewer opportunities to spend money. In addition, Osawatomie State Hospital staff indicated that some of the residents over age 65 were accumulating funds for transfer to burial accounts, another permissible use of personal needs funds.

Examples of How Residents Spent Their Personal Needs Allowance

During a typical month, a female resident of an adult care home spent between $8 and $16 on hair care. The resident also received small amounts of cash from her account. Her beginning balance was $25. At the end of three months, her balance was $9.

A male adult care home resident spent $7 to $15 per month on cigarettes. He also spent $8 for clothing and $4 for a haircut. The resident received $10 per month for his personal needs and had a negative balance in his account of $3.59.

A male resident at the Kansas Neurological Institute had no expenditures for two of the months examined. The balance in his account accumulated to $257.72. During the third month, the resident purchased about $65 worth of clothing and spent an additional $3 for miscellaneous activities.

A male resident at the Kansas Neurological Institute spent a total of $10.27 during the three-month period examined. His beginning balance was $127.35 and his ending balance was $192.08.

On the other hand, residents of both State institutions and adult care homes who were active and able to articulate their needs spent more money. They were able to participate in more activities. They were also able to express a desire for personal items such as clothing or hair care. For example, at Kansas Neurological Institute, four residents spent more than $75 each during the period examined. Most of their expenditures were for clothing. Many of the younger, active residents at Osawatomie State Hospital spent all they received. The withdrawals made by this group were generally for $5 to $15 in cash for snacks and cigarettes, although there were several larger purchases of clothing and shoes.

Some residents have costly personal needs or habits such as smoking. By and large, the guardians and residents interviewed indicated that the personal needs allowance was inadequate if a resident smoked. For residents who smoked, the $25 allowance would be largely spent on cigarettes or other smoking materials. For residents who changed clothing size or required frequent replacement of certain items, such as shoes, there was also little or no money left for other purchases once these expenditures were made.

Some residents do not have to pay for as many personal needs items as others out of their allowance. The auditors reviewed the budgets of the State mental health and retardation hospitals to determine what personal needs items these hospitals provide to residents. They also interviewed officials at the adult care homes in the sample to determine what items of personal need are available to their residents.

They found that State institutions and adult care homes provide residents with all regularly used items such as soap, shampoo, linens, toothpaste, and non-prescription drugs. Residents at State institutions also have no out-of-pocket expenses for the medical care they receive there, because those institutions have their own physicians and their own pharmacies. On the other hand, residents at adult care homes sometimes spent their personal needs allowance for certain prescription drugs that were not covered by Medicaid.

A few residents at adult care homes the auditors visited also paid for such over-the-counter items as laxatives with their personal needs allowance. This generally occurred when the resident's physician prescribed a brand item other that the two brands the facility was required to provide. For example, one adult care home resident spent $18.80 each month for a brand of stool softener the facility did not provide, leaving her only $6.20 for all other personal expenses. State Medicaid guidelines provide that residents who spend their own funds for services defined as "medically necessary" can recoup these funds by having their cost of care reduced in later months, if they report the expenditures to their income maintenance workers. However, residents and others the auditors interviewed were apparently unaware of this policy.

The auditors also found that most institutions and adult care homes provide clothing and other items to their residents. For example, Kansas Neurological Institute spent an estimated $87,000 for clothing in fiscal year 1985. Officials there indicated that a large portion of the clothing budget was spent on disposable diapers, which the institution provides for its residents. The remaining funds were available for residents who could not pay for their clothing out of their patient trust fund. State institutions also have donated clothing available for residents. Adult care home officials interviewed by the auditors indicated that clothing is often donated to the home and available for residents' use.

Officials at Kansas Neurological Institute and Osawatomie State Hospital also told the auditors that patient benefit funds are available to meet some patient needs. These funds are not appropriated dollars but consist of donations, canteen income, and interest. With approval, these funds can be spent on items that benefit all residents. To the extent that State institutions and adult care homes make such expenditures, residents have more of their allowance to spend for other reasons.

Some residents' income is supplemented by other moneys. The income of individual residents of State institutions can be supplemented in several ways. At both Osawatomie State Hospital and Kansas Neurological Institute, a number of the more capable residents work in sheltered workshops. They are permitted to retain the first $50 of their earnings at Osawatomie and all of their earnings at the Neurological Institute. At Osawatomie, several of the residents under age 21 who are in the custody of the Department of Social and Rehabilitation Services also received clothing allowances. (Department policy is that children in the Department's custody may be provided clothing allowances of up to $200 upon initial placement and in special situations thereafter.) Some residents of both State institutions and adult care homes also received money or gifts from their families to supplement their personal needs allowance.

Some residents do not get to keep all of their monthly allowance. When a court appoints a guardian or conservator for a resident, that individual often requests a fee for providing the service. The fee is paid out of the resident's personal needs allowance, leaving the resident a correspondingly lower monthly personal needs allowance. This situation is addressed further in the second audit question.

In a related area, the auditors noted that the $25 per month allowance is not available to indigent residents of State mental health hospitals. Certain persons who reside in State mental health hospitals are ineligible for both Medicaid and Supplemental Social Security Income. In some cases, these residents receive no income from any source. There is no Statewide policy mandating consistent treatment of indigent persons at the State mental health hospitals. Rainbow Mental Health Center gives no money to indigent residents. Topeka State Hospital pays indigent adults $8 per month and indigent children $5 per month. Larned State Hospital pays both indigent adults and children $8 per month. Finally, Osawatomie State Hospital pays indigent residents $9 per month.

Guardians, Family Members, Residents and Staff Had Mixed Perceptions About the Adequacy of the Allowance

During interviews with residents, family members, guardians, and staff, the auditors found that these groups of individuals had different perceptions about the adequacy of the personal needs allowance. Guardians who were not family members generally thought that the allowance was adequate, family members usually thought the allowance was inadequate, and residents and staff had mixed opinions.

Family Members' Management of Residents' Funds

When a resident's personal needs allowance goes to a family member or other individual, the facility's records do not indicate how much the resident is receiving or what is being spent on them. When possible, the auditors obtained information about those residents by telephone.

The father of one younger male resident of a State institution is representative payee for his son's Supplemental Security Income check. He gives his son only a few dollars at a time for incidental expenses like snacks, but spends $100 or more each month for such things as tapes and batteries for a cassette tape player, clothing, shoes, transportation for weekend visits home, entertainment, telephone calls, and uncovered medical expenses.

One woman's husband who was representative payee for her Social Security check indicated he did not send her any funds on a regular basis. His wife was unable to verbalize her needs, but she did visit home on occasion. During those visits the family provided her with clothing and other personal items. He indicated that $25 a month was more than adequate to cover the things she needed and wanted.

A man's brother who was appointed his guardian and conservator sends the $25 in Supplementary Security Income he receives each month to the facility for deposit in his brother's trust fund account. In addition, he periodically spends $15 or $20 of his own funds to pay for such items as cigarettes, laxatives, cough syrup, and clothing, when the $25 is not enough.

Guardians who were not family members generally thought that the $25 allowance was adequate. The auditors interviewed nine guardians from the Kansas Advocacy and Protective Services and 13 other court-appointed guardians. The guardians from the Kansas Advocacy and Protective Services agency had between two and 10 wards each. They had frequent contact with their wards, visiting most of them at least once or twice each month. These guardians generally said that the $25 allowance was adequate unless the resident smoked, although several of them said they shopped for clothing at garage sales or second-hand shops to make the money go farther. Most of the other court-appointed guardians had few contacts with their wards. Ten of them said that the allowance was apparently adequate to meet their ward's needs, and three said it was not.

Family members who were interviewed generally thought that the $25 allowance was inadequate. Some of the residents had families who stayed in frequent contact with them. The auditors interviewed 10 of these family members. They found that eight of the 10 thought that the allowance was inadequate and only two thought it was adequate. The family members indicated that they had to purchase many things for the resident that could not be purchased out of the personal needs allowance. The most frequently mentioned item was clothing.

Residents who were interviewed had mixed ideas about the adequacy of the allowance. The auditors interviewed 26 residents. Fifteen of them indicated that they needed more money to purchase additional items of clothing or shoes. On the other hand, 11 said they were able to purchase everything they needed out of the allowance. There was a slightly greater tendency for the residents of the nursing homes to say that the allowance was inadequate. Most of the younger residents at Osawatomie State Hospital also indicated they needed more money.

Staff also had mixed opinions about the adequacy of the allowance. The auditors interviewed social workers and team leaders at the adult care homes and the State institutions about specific residents. The staff said that the allowance was inadequate for 23 of those residents, particularly those with special needs for clothing or medications, but 25 residents were generally making do with the allowance. However, the staff members expressed a concern that as prices for clothing and other personal needs items continue to increase, the allowance will be less adequate.

In sum, Kansas residents of adult care facilities and State institutions whose cost of care is paid for by the Medicaid program use their $25 a month personal needs allowance to pay for such things as snacks, clothing, cigarettes, and certain medical expenses. The adequacy of the amount appears to depend on such factors as whether the resident is able to spend the allowance, whether the resident has costly personal habits such as smoking, whether the resident has to pay for most of his or her personal needs out of the allowance, whether the resident's income is supplemented by other moneys, and whether the resident gets to keep all of his or her monthly allowance. Residents, staff members, guardians and conservators, and family members the auditors interviewed had differing opinions on whether $25 was enough.

More Than Half of the Other States Provide More Than $25 a Month For Residents' Personal Needs

The auditors contacted officials in 49 states and the District of Columbia to determine the amount of personal needs allowance that is provided to Medicaid residents in each state. In addition, the auditors reviewed an unpublished study of the personal needs allowance that was done for a Congressional committee in the fall of 1985.

In Kansas, the personal needs allowance is $25 for all Medicaid residents in State institutions and adult care homes. Most other states provide an allowance that is more than $25 for at least some residents. However, the services provided to Medicaid residents in other states are sometimes less than the services provided in Kansas.

Thirty states provide a personal needs allowance of more than $25 per month. These states provide allowances for their Medicaid residents that range from $28 to $70 per month. Most of the allowances are between $30 and $40. Appendix A gives a complete list of the states and their allowances.

States can set their own level of personal needs allowances, but must provide a minimum of $25 per month by federal regulation. States are permitted to treat residents differently depending on their source of income. They may increase the personal needs allowance for residents with income from other sources without increasing the allowance for residents who only have Supplemental Security Income. In 60 percent of the states surveyed, the personal needs allowances for the group of Medicaid recipients not receiving Supplemental Security Income was more than $25. Only 44 percent of the states provided a state supplement to the $25 monthly federal payment to the Supplemental Security Income recipients.

Increasing the personal needs allowance for Medicaid recipients who receive Supplemental Security Income has several effects. When a state increases the allowance of the Supplemental Security Income recipients, it must administer the supplementary payments. The Social Security Administration will only distribute these residents' $25 monthly federal allowance. In addition, the amount of the supplement may be "locked in." Federal law provides that if the federal payment is increased from $25 to some other level, states must continue to pay the same supplement that was in effect at the time of the federal increase.

The services provided in Kansas compare favorably to those provided by other states. State Medicaid programs differ in the services that they provide. What is provided to residents affects the types of purchases that the Medicaid recipients have to make out of their personal needs allowance. The Congressional committee's study provided information on the types of services supplied in other states. The table on the next page compares personal needs and services provided by Kansas with those provided in other states.

Services Provided In Kansas and Other States

Service	Provided by Kansas	Percentage of Other State Providing The Service
Unlimited number of Prescriptions	Yes	75%
Laundry	Yes	70%
Hygiene Supplies	Yes	55%
Most Over-the-Counter Drugs	Yes	55%
Glasses	Yes	50%
Dental Care	Yes	40%
Podiatry Care	Yes	35%
Orthopedic Shoes	Yes	35%
Hair Cuts	No	45%
Hearing Aids	No	40%
Dentures	No	30%

The table shows that Kansas facilities provide most of the day-to-day necessities, as well as some of the more expensive and less frequently required services. However, Medicaid residents in Kansas must purchase hearing aids and dentures and pay for hair cuts out of their personal needs allowance. This reduces the money available to the residents for other, non-medical needs such as clothing. Less than half the other states provide such services.

Are Medicaid Residents' Personal Needs Allowances Being Correctly Spent For the Residents' Benefit?

To answer this question the auditors examined State and federal regulations, Department of Social and Rehabilitation Services audits, and Department of Health and Environment reviews of adult care homes. In addition, they interviewed a sample of guardians and conservators and examined all available guardian and conservator annual accountings.

Based on their reviews and interviews, the auditors determined that both State and federal regulations address the protection of resident personal funds and generally ensure that residents' money is correctly spent. However, they also found that guardians and conservators often take a large portion of a resident's personal needs allowance for fees and other services. The auditors did not find any instances of resident funds being incorrectly spent. These findings are discussed in more detail in the following sections.

Both Federal and State Regulations Address The Protection of Residents' Funds

State and federal regulations stress that residents of State institutions or adult care homes have the right to manage their own financial affairs. When they are unable or unwilling to do so, however, the regulations allow institutions, guardians, conservators, or other individuals to assume responsibility for all or part of the residents' finances. In all cases in which the residents' finances are handled by someone else, federal or State regulations address the protection of these funds.

Regulations require institutions that handle residents' personal funds to maintain a strict current accounting of the residents' finances. An institution or adult care home must have written authorization from a resident or a legal guardian to hold or manage any funds for the resident. If a facility handles any personal funds for a resident it must maintain a current individual written record of all transactions. All withdrawals must be documented with dates, amounts, name of person accepting the money, and receipts indicating the purpose of the purchase that have been signed by the resident. Quarterly statements must be provided to each resident. Institutions are not allowed to charge the resident for these services. Other regulations specify what the funds can be used for.

Recent audits and reviews have shown little evidence of mishandling of residents' personal funds by institutions or adult care homes. Several State and federal agencies monitor State institutions and adult care homes. Each monitoring agency examines the management of resident accounts by these facilities to some extent.

In 1985, the Social Security Administration examined seven of the State institutions. Part of this review consisted of an examination of patient accounts. No problems were found with the use of resident funds. In addition, no problems with patient accounts were mentioned in the most recent financial and compliance audits of the two State institutions in the auditors' sample.

Adult care homes' management of resident funds is monitored by the Departments of Social and Rehabilitation Services and Health and Environment. The auditors examined the most recent Social and Rehabilitation Services' audit of each of the four homes in their sample and found that no problems were reported. They also examined a sample of 42 Department of Health and Environment adult care home reviews. This sample represents 10 percent of the adult care homes in the State. These reviews disclosed problems in approximately one-fourth of the homes. Ten homes had relatively minor problems, and more serious problems were noted in three other homes. All the deficiencies noted at the 13 homes pertained to problems with compliance with regulations governing patient accounts. For example, one home did not have a letter signed by one of the resident's giving the home permission to handle his funds on file. None indicated any problems with improper use of patient funds. The 10 homes with minor problems have specified the steps taken to eliminate the problems. As of the date this report was written, one of the homes with more serious problems was in the process of being decertified, one was being downgraded to a boardinghouse, and the other was given more time to correct its problems.

Individuals who are appointed as guardians or conservators must annually account for residents' finances, but these accountings do not appear to be examined closely. State law requires an annual accounting to the district court detailing the finances of the ward. This accounting must show the beginning and ending account balances, show all funds received and disbursed, and list all accounts belonging to the ward. There is no requirement for these accountings to be audited. However, a State law enacted in 1983 requires all accountings to be examined by the district court every three years. A probate court judge in one county told the auditors that each annual accounting submitted in that county is examined, but that those examinations are only cursory because of time constraints.

Each county visited by the auditors had different procedures for monitoring these accountings. For instance, one county appeared to have a good system of ensuring that accountings were submitted on a timely basis as required, but in another county no such system was in place. Many of the files examined by the auditors did not contain current accountings or had accountings that covered several years.

Examples of Fees Charged By Guardians and Conservators

A resident of a nursing home has a yearly income of $300. In 1985 her conservator charged a fee of $96 for conservator fees, $50 for preparing the annual accounting to the court, and $30 for a bond fee. He also paid $22 in service charges to a bank. The resident received $90 to spend and the conservator deposited the remaining $12 in her bank account.

One attorney was guardian and conservator for four residents in the auditors' sample. This attorney charges $5 a month for his services. He is also usually awarded $50 by the court for preparing the annual accounting, but did not take this portion of his fee in any of the cases examined by the auditors.

A resident of a State institution has an income of $300 a year. His guardian and conservator is a family member. The guardian charges no fee and sends the resident $25 a month for clothes, activities, and treats.

A resident of an adult care home has a conservator that charges $30 a year to pay a surety bond premium. Other expenditures by the conservator were small expenditures for medical items and insurance premiums for the resident. The rest of the resident's personal needs allowance went to the home for the resident to use.

A resident of an adult care home has an income of approximately $400 a month from Social Security. The resident receives $10 a month of his personal needs allowance, the conservator takes $17.50 for conservator fees and bond premiums, and the rest goes to the home to pay for the resident's care. Since the charges for the conservator fees exceed the amount of the personal needs allowance the balance comes out of the resident's savings account.

From the auditors' examinations, it appears that there is relatively little potential for abuse of resident funds handled by institutions or adult care homes. However, some potential for abuse does exist for those residents whose finances are handled by a guardian or conservator. Although the auditors did not see any apparent abuse of funds by guardians or conservators, there is little to prevent it. The only regulations protecting these funds are the regulations requiring the annual accounting and their examination every three years. There are no regulations requiring any detailed examination of these accounts.

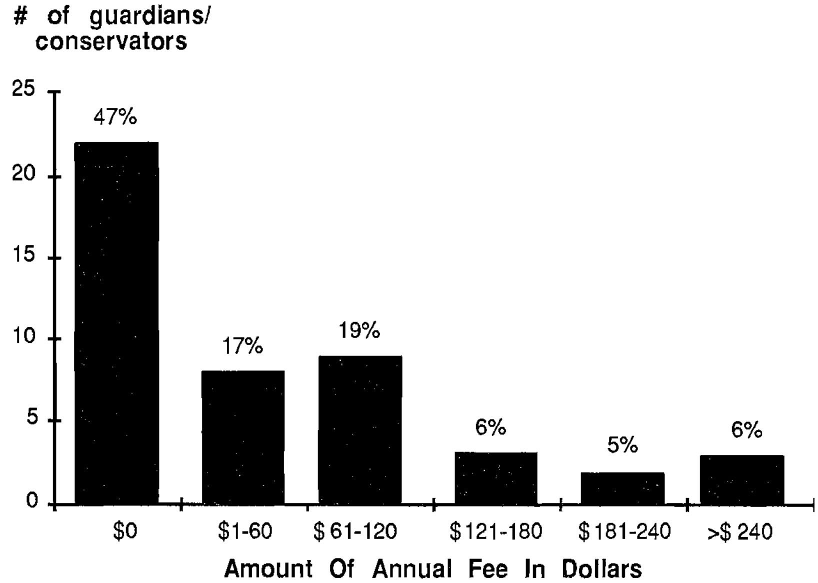
Guardian and Conservator Fees Often Take a Large Percentage Of a Resident's Personal Funds

The auditors examined the fees charged by 49 guardians or conservators. They found that the annual fees charged for these services ranged from 0 to $468, and depended a great deal on the type of person chosen to provide the services. Attorneys and bankers serving as guardians or conservators normally charged a fee for their services. The size of their fee was often a large portion of a resident's personal needs allowance. Relatives or friends generally did not charge a fee.

The chart on the following page shows the distribution of guardian fees (excluding surety bond charges) of 47 guardians and conservators serving 47 residents examined by the auditors. Two guardians who were referred for appointment by Kansas Advocacy and Protective Services were eliminated from the sample in developing this table because their fees are paid by the State.

Attorneys and bank officers serving as guardians or conservators commonly charge fees of up to 60 percent of a resident's personal needs allowance. The fees shown in the following table are almost all charged by these types of guardians or conservators. For the most part, they charged from $5 to $15 a month for their services, although some obviously charged much more. The highest fee averaged $39 a month, which is $14 more than the allowance. A few of the individuals who charged a fee were private individuals appointed as guardians and conservators for Social and Rehabilitation Services clients before the Kansas Advocacy and Protective Services guardianship project was established. These individuals charged a fee of either $3 or $8 a month.

Fees Charged By Guardians and Conservators In the Auditors' Sample



Most guardians and conservators in the auditors' sample charged a fee. For the most part, these individuals were attorneys or bank officers. Most of those not charging fees were family members or friends.

Of those guardians or conservators who charged a fee, the median was $96 a year, or 32 percent of the personal needs allowance. A resident paying the median amount has $17 a month left over to spend on clothes and personal needs. Many residents have less than this to spend. Over 20 percent of the residents with guardians or conservators in the table above receive $15 or less a month.

Family members or friends acting as guardians or conservators seldom charged fees for their services. Generally, the only charges observed by the auditors from these individuals were for annual premiums on the surety bonds required by the district court. This charge usually amounted to approximately $30 per year. The 47 percent of the guardians and conservators in the table above that did not charge a fee were almost all family members or friends.

Kansas Advocacy and Protective Services guardians are paid for their services by the State. Individuals who are already Medicaid recipients before they need guardians or conservators are referred to social workers in area offices of the Department of Social and Rehabilitation Services. Those social workers assess the resident's ability to manage his or her own affairs and, if necessary, refer the individual to Kansas Advocacy and Protective Services, an agency funded by State funds through the Department of Social and Rehabilitation Services. Kansas Advocacy and Protective Services administers a Statewide guard- ianship project. This agency locates an individual who is willing to serve as a guardian and conservator for that client, and Social and Rehabilitation Services' attorneys file the guardianship petition to secure appointment of that individual. Guardians appointed in this manner are placed under contract with Kansas

Management of Residents' Funds by Guardians and Conservators

One individual the auditors interviewed currently has 21 wards. She has been guardian and conservator for some of them since before the Supplemental Security Income program went into effect in 1972, and has had as many as 42 wards. She received most of them by referral through the Department of Social and Rehabilitation Services. She charges no fee to any of her wards. For most of them, she receives $25 from Supplemental Security Income and sends the entire amount to the facility for deposit in the resident's trust fund account. She indicated most of her wards don't have family, so what they cannot purchase out of the $25 they do without. Most of them are now quite elderly and generally so limited they have few demands and do not know they are going without things.

A guardian and conservator was appointed for one adult care home resident in 1981. In January 1983 the district court file showed the conservator was not paying the adult care home on a timely basis despite the fact that he was receiving both the resident's Veterans Administration and Social Security Benefits. The Veterans' Administration began sending its benefit checks to the adult care home instead of the conservator, and the district court judge warned the conservator to make payments promptly or he would be replaced. In April 1984, other bills were not being paid on time, and the Regional Long Term Care Ombudsman became involved. The original conservator was replaced in May 1984, at which time he submitted an accounting and was granted a fee of $150 for his services. However, he did not turn the resident's records and property over to the new conservator until September 1984, when he was subpoenaed to appear before the court and do so.

Advocacy and Protective Services, and receive a monthly fee of $20. Residents with these guardians are able to have full use of their $25 personal needs allowance. These guardians do not appear in the table above because there is no charge to the resident.

More than half the states do not allow guardian and conservator fees to come out of the personal needs allowance. When the auditors contacted the other states about personal needs allowances, they found that 28 states and the District of Columbia do not allow guardian and conservator fees to come out of the allowance. From the interviews, the auditors found the following:

•Twenty-two states and the District of Columbia do not allow guardians or conservators to charge Medicaid residents for services. Three of these states have state employees or volunteers act as guardians and conservators for residents.

•Six other states use alternative methods of selecting or regulating guardians or conservators to ensure that residents receive their entire personal needs allowance each month. Five of these states require that fees come out of the health care portion of the Medicaid income, and one state requires counties to pay the fees.

In addition, Iowa and Nebraska both allow guardians and conservators to charge fees, but they limit the fees to $5 per month. In this way all residents are assured of receiving an allowance of at least $20 per month.

Options For Ensuring That the Personal Needs Allowance Is Adequate and Reasonable

In sum, the auditors found that the $25 per month personal needs allowance is most often adequate when the resident is severely incapacitated, has no unusually costly personal habits, or has many of his or her clothing needs provided by the institution or adult care home. On the other hand, the allowance is less adequate for active residents who are able to participate in many activities and express their desire for items of personal need, or for those who smoke or have uncovered medical expenses.

The auditors also found that 30 states have personal needs allowances that are greater than $25 per month. Although Kansas provides only $25 per month, the State provides more services to its Medicaid recipients than most other states. Finally, some residents do not have access to the $25 per month allowance, and must rely on a lower monthly allowance to pay for their personal needs. Guardians and conservators often take a large portion of a resident's personal needs allowance. Many states have found alternative methods of regulating guardians and conservators to ensure that residents receive their entire personal needs allowance.

Based on the auditors' review and interviews with residents and other individuals, it appears that the personal needs allowance is adequate for some residents and inadequate for others. The State might consider several options to ensure that the personal needs allowance is reasonable and adequate. These include increasing the amount of the personal needs allowance, changing the personal needs items the State requires its institutions and programs to provide, and making a minimum of $25 per month available to each Medicaid resident.

The Personal Needs Allowance Could Be Increased

The adequacy and reasonableness of Kansas' $25 personal needs allowance has been discussed for a number of years. In June 1985, a federal on-site review of the representative payee programs in seven Kansas institutions administered by the Department of Social and Rehabilitation Services included a recommendation that individual institutions be granted authority to increase the personal needs allocation on a case-by-case basis for beneficiaries who could benefit from additional expenditures or who have some unusual need. The recommendation would not increase the personal needs allowance for recipients of Supplemental Security Income, and the report did not recommend an across-the-board increase in the $25 allocation.

Thirty states provide a personal needs allowance of more than $25 per month. None of those states have done a study to determine the adequacy of its personal needs allowance before increasing it. The auditors found only one such study, completed by the Ohio Nursing Home Ombudsman Program in September 1984. That study concluded that $25 was not an adequate amount for Ohio adult care home residents. It indicatedthat $45 would be a more adequate amount for most residents, and that even non-oriented residents required about $40 per month. Other articles the auditors reviewed noted that inflation has decreased the value of the $25. If increases in the consumer price index were applied to the $25 since its inception in 1974, it would have risen to almost $61. Finally, one article noted that in states that have not increased the personal needs allowance, every cost-of-living increase in Social Security and other benefits has by-passed the residents. Instead, those increases have gone to pay a higher portion of the residents' cost of care, thereby decreasing the cost of care to the State. For instance, Social Security benefits more than doubled between 1974 and 1986 because of cost-of-living increases. If the personal needs allowance had risen proportionately, a resident would receive about $60 a month now.

If Kansas were to increase the personal needs allowance, considerable costs would be involved. For Medicaid residents who receive Supplemental Security Income, the personal needs allowance of $25 per month is paid directly by the federal government. But, any increase in the allowance for residents receiving Supplemental Security Income would have to be picked up entirely by the State. For Medicaid residents who have other income, the personal needs allowance is also $25 per month. Any increase in the allowance for these residents would be borne 50 percent by the State and 50 percent by the federal government through increased costs for the Medicaid program.

The Department of Social and Rehabilitation Services provided the auditors with the following information about Medicaid residents in State institutions and adult care homes.

Medicaid Residents in State Institutions and Adult Care Homes

Supplemental Security Income:	
adult care home residents	2,356
State institution residents	580
Subtotal	**2,936**
Non-Supplemental Security Income:	
adult care home residents	9,783
State institution residents	795
Subtotal	**10,578**

Using these numbers of Medicaid residents, the auditors calculated the total cost to the State of increasing the personal needs allowance. The State would pay the full amount of the increase for those residents receiving Supplemental Security Income, and would pay 50 percent of the increase for those residents who have other income. The following table indicates the annual cost to the State for increases of various levels.

Cost to State of Increasing the Personal Needs Allowance For Medicaid Residents of State Institutions and Adult Care Homes

Monthly Increase	Annual Cost to State
$ 5	$ 493,500
10	987,000
15	1,480,500
20	1,974,000
25	2,467,500

Other people in the State also receive a personal needs allowance but are not Medicaid residents of State institutions or adult care homes. One group includes clients of the Alternate Care Services Program. This program provides congregate living, adult family homes, and non-medical attendants to mentally ill and mentally retarded clients who do not need to be institutionalized but who are unable to live independently. According to the Department of Social and Rehabilitation Services, there were 241 of these residents as of November 1985. These residents are able to protect $25 of their income just as the residents of State institutions and long-term care facilities are. Any increase in this supplement would be borne entirely by the State.

There are also the indigent residents of the State mental health hospitals who receive a monthly supplement of $5 - $9 for their personal needs. To raise these monthly supplements to $25 would cost the State about $51,000 per year. If these residents also receive any increase that is provided in the personal needs allowance, there would be an additional cost that would be borne entirely by the State.

As the table on the following page indicates, increasing the monthly personal needs allowance for these other residents of State facilities would have a financial impact on the State as well.

Cost to State of Increasing Personal Needs Allowance For Residents of the Alternate Care Services Program and Indigent Mental Health Hospital Residents

Monthly Increase	Annual Cost to State
$ 5	$ 80,244
10	109,224
15	138,204
20	167,184
25	196,164

Changes Could Be Made in the Items Residents Must Pay For

Another way to address the adequacy of the personal needs allowance is to change the personal needs items that are provided to residents of State institutions and adult care facilities. For example, in Kansas the Medicaid program does not require that adult care homes provide hair cuts for their residents. Similarly, the Medicaid program does not generally pay for dentures or hearing aids. In addition, residents sometimes need to pay for prescriptions and over-the-counter drugs that are not covered by the Medicaid program. If Kansas were to change its Medicaid program to require adult care homes to provide hair cuts for their residents, or to cover such items as dentures and hearing aids, there would be a greater cost to the Medicaid program. However, residents would have more money available to purchase other personal needs items.

Additional services could be provided to Medicaid residents of State institutions and adult care homes without affecting the entire Medicaid program. Federal regulations allow institutionalized Medicaid residents to withhold, in addition to the $25 personal needs allowance, expenditures for medical expenses incurred due to incomplete Medicaid coverage. For example, if an adult care home resident with income needs dentures, which are not covered by the State's Medicaid program, that resident can retain enough of his income to pay for the dentures plus the $25 personal needs allowance before contributing the rest of his income towards his cost of care. About 18 states actively apply this regulation. Three other states are beginning to implement it or apply it in a limited fashion. Twenty-nine states, including Kansas, have not adopted the regulation. If Kansas were to adopt this regulation, there would be an increased cost to the Medicaid program, but the residents would be able to retain more of their personal needs funds for non-medical expenses.

In a related area, residents and others the auditors interviewed were apparently unaware of State Medicaid provisions that permit them to recoup personal needs funds they have spent for certain medical services. If the Department were to remind residents of this provision, they might make additional use of it. There would be an increase in the cost to the Medicaid program, but residents would have a corresponding amount of additional funds to use for other personal needs.

Steps Could Be Taken to Ensure That Each Resident Receives a Full $25 Per Month Allowance

Currently, two groups of residents receive less than $25 per month for their personal needs. One group comprises the approximately 240 indigent residents of State mental health hospitals who are ineligible for Medicaid and who receive no income. As noted earlier, if the allowance for these indigent residents were increased to $25 per month, the total cost to the State would be just over $51,000 per year.

The second group includes those residents who are charged a fee by their court-appointed guardians. This means those residents have less than $25 a month for their personal needs, while other Medicaid residents whose guardians and conservators are provided through Kansas Advocacy and Protective Services pay no fee and have the full use of their personal needs allowance. Several alternatives exist that would allow these residents to keep their full $25 per month allowance:

-- petition the court to appoint new guardians and conservators from the Kansas Advocacy and Protective Services program for all Medicaid residents of State facilities or adult care homes who are currently being charged a fee

-- prohibit guardians and conservators from charging a fee for services to Medicaid residents as 23 other states do

-- require the State or county to pay guardian and conservator fees for Medicaid residents as one other state does

A related alternative is to place a cap on the fee that guardians and conservators can charge Medicaid recipients. At least two other states, Iowa and Nebraska, have a 'cap' of $5 per month on guardian and conservator fees.

All of the alternatives except prohibiting fees would have a financial impact on the State. The exact amount could not be estimated because the number of court-appointed guardians and conservators charging fees to Medicaid residents is unknown. All but the first alternative would require statutory changes.

Recommendations

1. The Department of Social and Rehabilitation Services should review the available alternatives for ensuring that Medicaid residents who have guardians and conservators retain the full use of their personal needs allowance, and determine what actions to take. Alternatives presented in this report include prohibiting or limiting fees and changing the way guardians and conservators are provided or paid. If statutory changes are required to preserve those residents' funds, the Department should propose appropriate changes to the Legislature. Necessary actions may also take the form of changes in policy or administrative regulations. Whatever decisions are made, the Department should report its actions to the Legislature.

2. The Department of Social and Rehabilitation Services should review the policies of each of the mental health institutions on the provision of personal needs funds to indigent residents. As a part of that review, the Department should determine whether a uniform policy is needed, and whether those residents should receive as much money as Medicaid residents. If the Department determines that a policy should be implemented in this area that will require additional funds, it should request those additional funds in its fiscal year 1988 budget.

3. The Department of Social and Rehabilitation Services should review the alternatives for increasing the items covered by State institutions and programs, in order to decrease the types of expenditures Medicaid residents must make from their personal needs allowances. If the Department determines that additional steps should be taken in this area, it should take the necessary actions to institute those changes.

4. The Department of Social and Rehabilitation Services should notify Medicaid residents and others who handle their funds of procedures that enable them to have their future cost of care reduced to compensate for personal needs funds they spend on certain medical services.

APPENDIX A

Personal Needs Allowances in Kansas and Other States

State	Medicaid Recipient	Supplemental Security Income Recipient
Alabama	$ 25	$ 25
Alaska	70	70
Arizona	47	47
Arkansas	25	25
California	35	35
Colorado	29	29
Connecticut	35	35
Delaware	30	25
District of Columbia	40	40
Florida	30	30
Georgia	25	25
Hawaii	25	25
Idaho	25	25
Illinois	25	25
Indiana	29	29
Iowa	25	25
Kansas	25	25
Kentucky	25	25
Louisiana	35	35
Maine	55	35
Maryland	30	25
Massachusetts	55	30
Michigan	28	25
Minnesota	40	40
Mississippi	25	25
Missouri	25	25
Montana	40	40
Nebraska	30	30
Nevada	35	35
New Hampshire	30	30
New Jersey	35	35
New Mexico	30	30
New York	40	40
North Carolina	25	25
North Dakota	45	45
Ohio	25	25
Oklahoma	55	55
Oregon	25	25
Pennsylvania	25	25
Rhode Island	30	30
South Carolina	25	25
South Dakota	25	25
Tennessee	25	25
Texas	25	25
Utah	25	25
Vermont	25	25
Virginia	30	25
Washington	36	36
West Virginia	25	25
Wisconsin	40	40
Wyoming	30	25
Average	$32.24	$30.90

APPENDIX B

Agency Responses

STATE OF KANSAS
JOHN CARLIN, GOVERNOR

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

MENTAL HEALTH AND RETARDATION SERVICES

ROBERT C. HARDER, SECRETARY

STATE OFFICE BUILDING
TOPEKA, KANSAS 66612
(913) 296-3774
KANS-A-N 561-3774

February 10, 1986

Mr. Meredith C. Williams
Legislative Post Auditor
301 Mills Building
Topeka, Kansas

Dear Mr. Williams:

Thank you for providing this office the draft of the audit of the personal needs allowance for Medicaid residents of state institutions and adult care facilities. We appreciate the opportunity to respond to the audit recommendations. The responses are as follows:

Recommendation #1

The Department of Social and Rehabilitation Services should review the available alternatives for ensuring that Medicaid residents who have guardians and conservators retain the full use of their personal needs allowance, and determine what actions to take. Alternatives presented in this report include prohibiting or limiting fees and changing the way guardians and conservators are provided or paid. If statutory changes are required to preserve those residents' funds, the Department should propose appropriate changes to the Legislature. Necessary actions may also take the form of changes in policy or administrative regulations. Whatever decisions are made, the Department should report its actions to the Legislature.

Response

The Department agrees that it should review the alternatives which are available to ensure that Medicaid residents having guardians and conservators retain the full use of their personal needs allowance. If the review that is conducted demonstrates the need for statutory changes to resolve this matter, such changes will be proposed to the Legislature. Any other actions which are determined to be necessary will be reported to the Legislature.

Recommendation #2

The Department of Social and Rehabilitation Services should review the policies of each of the mental health institutions on the provision of personal needs funds to indigent residents. As a part of that review, the Department should determine whether a uniform policy is needed, and whether those residents should receive as much money as Medicaid residents. If the Department determines that a policy should be implemented in this area that will require additional funds, it should request those additional funds in its fiscal year 1988 budget.

Response

The Department agrees that the provision of personal funds to indigent residents should be reviewed. This study will be conducted. If the study indicates that a uniform policy is required, such a policy will be implemented. If additional funds are required to implement the policy, the funds will be requested in the department's FY 1988 budget.

Recommendation #3

The Department of Social and Rehabilitation Services should review the alternatives for increasing the items covered by State institutions and programs, in order to decrease the types of expenditures Medicaid residents must make from their personal needs allowances. If the Department determines that additional steps should be taken in this area, it should take the necessary actions to institute those changes.

Response

The Department agrees that, as the Division of Post Audit found, Kansas compares the favorably to other states regarding the services provided by the Medicaid program. Acknowledging that approximately 30%-40% of other states provide additional and more extensive services than Kansas, the provision of additional services will be investigated. Any actions taken as the result of this investigation will be reported to the Division of Post Audit.

Recommendation #4

The Department of Social and Rehabilitation Services should notify Medicaid residents and others who handle their funds of procedures that enable them to have their future cost of care reduced to compensate for personal needs funds they spend on certain medical services.

Response

The Department concurs that it should notify Medicaid residents and others as indicated. Such persons will be notified of the procedures that allow for reductions in cost of care to compensate for personal needs funds spent on certain medical services.

Sincerely Yours,

Robert C. Harder
Secretary

RCH:JM:pam

cc: Anita Favors
Gerald T. Hannah

State of Kansas . . . John Carlin, Governor

DEPARTMENT OF HEALTH AND ENVIRONMENT

Barbara J. Sabol, Secretary

Forbes Field
Topeka, Kansas 66620
913-862-9360

February 5, 1986

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FEB 6
LEGISLATIVE POST AUDIT

Meredith Williams, Legislative Post Auditor
Legislative Division of Post Audit
Mills Building, Suite 301
109 West 9th Street
Topeka, Kansas 66612-1285

Dear Mr. Williams:

Thank you for the opportunity to review the preliminary draft of your report, Reviewing the Personal Needs Allowance for Medicaid Residents of State Institutions and Adult Care Facilities. The department has no comments, corrections, or clarifications to offer on the draft report.

Sincerely,

Barbara J. Sabol

Barbara J. Sabol
Secretary

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