

OVERVIEW

Study To Determine the Appropriate State Agency To Oversee the Regulation of Adult Residential Care Homes and Adult Foster Homes

Report No. 02-22, December 2002

Summary

Adult residential care homes and adult foster homes are important options for people who are unable to care for themselves and require living assistance. The State is responsible for ensuring that these individuals are provided adequate care in a safe environment. Adult residential care homes are licensed by the Department of Health to provide 24-hour living accommodations to elderly or disabled adults for a fee. Similarly, adult foster homes regulated by the Department of Human Services provide 24-hour living accommodations for a fee to the elderly, chronically ill, disabled, developmentally disabled, and mentally retarded. “Regular” adult residential care homes provide minimal living assistance. Adult foster homes provide a higher nursing level of care that may include intravenous injections, tube feeding, and oxygen administration. “Expanded” adult residential care homes may also provide such higher care as well to a limited population.

During the 2002 Regular Session, the Legislature identified potential inefficiency regarding the Department of Health’s regulation of adult residential care homes and the Department of Human Services’ responsibility for making payments for Medicaid clients who live in those homes. The Legislature also noted that the Department of Human Services—not the Department of Health—regulates adult foster homes and concluded that perhaps a single government agency should oversee all aspects of adult residential care homes and adult foster homes.

We considered several regulatory options but found that maintaining the current regulatory scheme for adult residential care homes and adult foster homes is the most appropriate alternative. Transferring adult residential care home and adult foster home regulation to either the Department of Human Services or the Department of Health would raise a number of regulatory issues and concerns that would need to be addressed. For example, if adult foster home regulation were transferred to the Department of Health under the premise that it does not fit within the Department of Human Services’ mission, then the appropriateness of DHS’ other regulatory responsibilities would be placed in question.

We also found that overlap between the Department of Human Services and the Department of Health would continue even if regulation were consolidated under the Department of Health. As the single state agency designated to administer the federal Medicaid program, the Department of Human Services would continue to have some oversight responsibility for its Medicaid clients in both types of homes. The department would also continue to monitor the services provided to its clients, make visits to all homes the clients are placed in, and administer Medicaid payments to these clients. Consolidating regulatory responsibility would allow



care home operators who also become adult foster home operators to charge the higher of both the medical services and room and board rates—\$2,380 per month instead of \$1,730 per client.

Furthermore, we found that adult foster home regulation by the Department of Human Services via case management agencies is inappropriate and poses a potential conflict of interest. The conflict of interest arises because the case management agencies are given the authority to both certify adult foster homes and expanded adult residential care homes and then place their clients in those homes. This conflict is exacerbated by the requirement some case management agencies impose upon adult foster homes and expanded adult residential care homes to enter into exclusive agreements with them in order to receive client placements. This type of agreement does not guarantee that potential clients of adult foster homes and expanded adult residential care homes will be equitably distributed between the two.

Finally, we found that the oversight mechanisms for the Department of Human Services' regulatory system are weak. The administrative rules do not require the department to make monthly or annual inspections of case management agencies or the homes that subcontract with the agencies. In addition, while the case management agencies are required to approve the monthly invoices of their subcontractors before payment is made, the administrative rules do not require subcontractors to certify that their case management agencies are in fact providing monthly services to the clients placed in the homes or to the homes themselves.

Recommendations and Responses

We recommended that the Departments of Health and Human Services continue to regulate adult residential care homes and adult foster homes, respectively. We also recommended the Department of Human Services manage its regulatory functions more appropriately by reevaluating the use of case management agencies to certify adult foster homes and ensuring case management agencies are adequately monitored.

The Department of Health had no comments regarding the overall recommendations of our report but offered technical points of clarification. The Department of Human Services did not disagree with our findings but defended its use of case management agencies to certify adult foster homes and the agencies' practice of requiring exclusivity provisions in their contracts with adult foster homes.

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