

DEPARTMENTAL AUDITS

5.

COMMUNITY SERVICES - HOMES FOR SPECIAL CARE - PHASE II

BACKGROUND

5.1 The Homes for Special Care Act provides a framework and conditions for the operation of long-term care facilities in Nova Scotia. Facilities covered by this legislation include nursing homes, homes for the aged, regional rehabilitation centres, residential care facilities, group homes, adult residential centres and developmental residences. The Province provides funding for residents in Homes for Special Care (HSCs) who qualify for assistance under various government programs. The Department of Health funds qualified residents of nursing homes and homes for the aged. The Department of Community Services funds qualified residents of each of the other types of facilities. In addition, Community Services funds residents in smaller facilities under a program called Community Based Options (CBO). CBO homes are facilities with three or fewer residents, and are not governed by the Homes for Special Care Act. However, under the authority of the Social Assistance Act, government has developed standards for their operation which are very similar to the conditions imposed on the operation of HSCs.

5.2 As of October 16, 1998 Community Services was responsible for 117 HSCs with 2,608 beds, and 440 CBO homes with 1,176 residents. As well, there are a number of supervised apartments, housing 621 residents, administered under the CBO program by 48 organizations. The facilities are owned and operated by either a municipality, a private non-profit agency or a private for-profit company. Community Services assesses and classifies residents which it has approved for care by a facility, and provides funding to facility operators on behalf of individual residents. Payments are made on the basis of per diem rates approved by the government for each individual resident. For the year ended March 31, 1998 Community Services paid \$57.2 million on behalf of residents of HSCs. As of March 31, 1998 CBO homes were under the jurisdiction of the municipalities, so payments on behalf of their residents were made by the municipalities and recovered from Community Services. In 1997-98 this amounted to \$32.8 million.

5.3 In Chapter 6 of our 1997 Annual Report, we discussed the results of an audit performed on the Departments of Community Services and Health focussing on Homes for Special Care. We also indicated that the audit was conducted in two phases. Phase I, reported last year, addressed the assessment and classification of HSC residents and applicants. It also reviewed issues pertaining to the roles and responsibilities of staff in the two departments, policies and procedures used by the departments to manage the system, the disposition of designated residences, and the role and regulation of Community Based Options homes under the responsibility of municipalities.

5.4 This chapter reports on Phase II of our audit. It addresses our review of the licensing and inspection of long-term care facilities, the process for ensuring the finances of facilities are adequately managed, and the procedures for setting per diem rates. It also discusses our review of the government's long-term planning with respect to the role, regulation and future need for long-term care facilities.

5.5 Last year, we combined the results of our audit of the two departments - Health and Community Services - into one chapter because there was a significant degree of integration and similarity within the two departments with respect to the systems examined in Phase I of our audit. This year, we are reporting Phase II of the audit in two chapters, each addressing a

different department. We found that the issues and systems addressed in Phase II were less common and integrated, and believed separate reporting would be more appropriate. This chapter addresses the findings of the audit that relate to the Department of Community Services. Chapter 11, on page 123, reports audit results relating to long-term care facilities under the jurisdiction of the Department of Health.

RESULTS IN BRIEF

5.6 The following are the principal observations from Phase II of the audit.

- Per diem rates were increased by 2% in November 1997. Previously, they had been frozen for four years for HSCs, and two years for CBO homes. During the rate freeze, increases had been granted in certain instances where costs were incurred to enhance the safety of residents. However, due to the freeze, the Department suspended its annual review of HSC budgets and financial plans.
- The staffing guidelines used in the per diem rate setting process have not been updated since the late 1980's.
- New licences for HSCs have been frozen for five years. We found that, before the freeze, an assessment of the need for additional HSC beds was not always applied in the decision to grant a new licence.
- Important certificates and other documentation required as part of the initial license application process were missing from Department files, but other evidence suggests copies of the documents filed elsewhere were reviewed by inspectors during the licensing process.
- Annual inspections of HSCs are performed before a licence is renewed, and deficiencies noted are addressed before the renewal is granted.
- Emergency plans are required as part of the licence renewal process. We found the Department ensures such plans are in place before granting a renewal.

AUDIT SCOPE

5.7 In early 1998 we completed Phase II of our audit of Homes for Special Care. Phase I of the audit was completed in September 1997, and reported in Chapter 6 of the 1997 Annual Report of the Auditor General.

5.8 The objectives of Phase II of our audit were to assess:

- the licensing and inspection functions for long-term care facilities, including follow-up on deficiencies and enforcement of penalties;
- the processes for reviewing HSC budgets and financial performance, and for setting per diems rates;
- the processes for monitoring facilities' compliance with legislation and government standards;

- the process for payment of claims received from facilities; and
- the government planning functions related to demand and capacity, and the process for approval of new facilities or facility expansion.

5.9 Criteria were developed to facilitate our audit. They were discussed with management at the beginning of the audit, and are outlined in Exhibit 5.1 to this chapter (page 65). Our approach to the audit consisted of interviews with management and staff of the Department, the review of various reports and system descriptions, and detailed testing of licensing and inspection practices.

PRINCIPAL FINDINGS

Licensing of Homes

5.10 *New licences* - There has been a moratorium on licences for new HSCs for the past five years. Before the moratorium, an application for a licence was evaluated against certain assessment criteria developed by the Department. A key requirement was the demonstration of the need for the home. The need for a HSC was verified by the Department through an analysis of the size and age of the population in the area to be served by the new facility. We tested the issuance of licences before the moratorium went into effect. We noted that in 20% of the files we examined, the need for the facility was questioned by Department assessors, but a licence was still issued. In 10% of the files examined, the HSC had started its operations without a licence and the Department felt it was in the best interest of the residents to grant a licence, rather than close the home. However, this was only done in cases where the homes were in complete compliance with all requirements of the Homes For Special Care Act and its regulations.

5.11 We believe that licences should not be granted unless there is clear justification of the need for a facility. Demonstration of need is important to ensure the number of HSCs within an area can be supported by the population, and thus not result in an oversupply of beds.

5.12 *Documentation* - Regulations to the Homes for Special Care Act describe certain certificates which must be obtained and submitted to the Department before a licence to operate a HSC is granted. These include certificates relating to fire safety, municipal zoning by-laws, public health inspections, and to the adequacy of electrical, plumbing and heating systems. Also, the applicant for a HSC licence must submit a financial plan for the home proposed outlining how the home intends to fund its operation and manage its expenditures.

5.13 In 95% of the files examined we noted that one or more of the required certificates were absent. Although we are concerned that the certificates are not evident in the files, there are indications that safety certification does occur, and perhaps the problem is more with file management practices rather than the licensing process. For example, the Regulations require that each HSC have an inspection by the Fire Marshal's Office each year before its licence is renewed. Our audit determined that these inspections do take place and deficiencies are corrected before a licence renewal is granted. Also, each HSC, as part of the application process, undergoes an inspection by Department staff to verify that application information is correct and that the homes have all of the required certifications.

5.14 In 80% of the files we examined financial plans were either absent or inadequate. According to Department management, the primary purpose of collecting financial plans was to provide information for the Department's annual review of per diem rates. When the rate freeze went into effect the Department no longer needed the information, and thus suspended its requirement for financial plans.

5.15 *Licences renewal* - The licence to operate a HSC is valid for a year. According to the Regulations to the Homes for Special Care Act, a home is required to have an annual inspection and any deficiencies noted must be corrected before its licence can be renewed. We observed that the inspection process is comprehensive and covers all aspects of a home's operation, including quality of resident care, record keeping, staffing schedules, dietary records and various safety-related issues. We found inspections to be appropriately documented. Inspection reports are reviewed by Department management, who make a final decision with respect to licensing.

5.16 In some instances, an inspection cannot be completed before a licence expires. In these situations, a temporary licence is issued until the inspection is finalized. A temporary licence may also be granted in cases where an inspection has uncovered problems that need to be addressed before a licence can be renewed. We tested the renewal process and noted that one licence out of our sample of twenty had expired and no inspection was done before it was renewed. In another instance, the licence expired and, although an inspection was done and the home continued to operate, a new licence had not been issued. We recommended that the Department establish procedures to ensure all homes are inspected and licensed each year.

5.17 *Sale of a facility* - When a HSC is sold, the new owners are required to apply for a licence to operate it. During our testing, we found one such instance where documentation in the file indicated there was an oversupply of beds in the area and the licence was not justified based on need. Management informed us that legal advice obtained at the time indicated it would be unable to refuse a licence to the new owners. It appears that there is a lack of legislation or regulation with respect to the government's authority to deny licence transfers in such instances, and this makes it difficult for government to consider the continuing need for the facility in its licensing decision.

5.18 *Unlicensed homes* - The Department uses a variety of means to ensure that no unlicensed homes are operating in the Province. The Department relies on information from other licensed facilities, perusal of obituaries and other articles in the newspapers, and the diligence of case workers in the field.

Financial Analysis

5.19 The Department of Community Services provides funding to HSCs and to municipalities for CBO homes based on the number of publicly funded residents under their care. Payments are determined in relation to the cost of caring for a resident for a day, and thus are called "per diems." The last change in per diems by the Department was a 2% increase in November 1997. Previously, as part of government's cost control measures, per diems had been frozen for four years for HSCs and two years for CBO homes. However, during the freeze, some per diem increases had been awarded in instances where the home was required to address fire and safety hazards. In such cases, HSCs were required to submit a budget to the Department to support the special need.

5.20 Since the freeze on per diems went into effect, the Department's analysis of the annual budgets of HSCs has been suspended. Management explained to us that the only reason they reviewed the budgets was to use the information in making decisions on changes to per diems. The Department does receive and review annual financial statements from private non-profit organizations operating homes. However, it does not receive statements from private for-profit organizations, unless these organizations are applying for a special rate review.

5.21 The Province funds 100% of the per diems for publicly supported residents in CBO homes. At the time of our audit, CBO per diems were based upon assessed level of care and the same rate schedule used for HSCs. Any review and analysis of the budgets of CBOs would be the responsibility of the municipality.

5.22 Before the rate freeze came into effect, the review of staffing requirements of a HSC was part of the Department's rate setting process. The Department used guidelines which were established for each type of HSC. We noted that these guidelines have not changed since the late 1980's. We recommended that the Department review the staffing guidelines to ensure they are still appropriate for the manner in which HSCs are operated today.

Compliance with Legislation and Standards

5.23 *Complaints* - The Department will receive complaints about the condition or operation of homes from residents or their family and friends. We examined the files for twenty homes to assess the adequacy of the system used for handling complaints. In our sample of twenty, there were nine homes where complaints had been documented. In six of the cases, the investigation and disposition of the complaint was adequate and timely. In the other three cases, the investigation was adequate and timely, but either documentation was not complete or the final disposition of the complaint was not documented.

5.24 *Emergency plans* - Emergency plans are an integral component of the safety of residents of HSCs. Regulations require that every HSC have one and that they be updated every three years and resubmitted to the Department. The plans should outline procedures for emergency evacuation, relocation and isolation, and should be prepared in cooperation with the Emergency Measures Organization and approved by the Fire Marshal's Office. We found that these plans are regularly reviewed by the inspectors as part of the licensing process, and that having an up-to-date plan is a condition of licence renewal. We tested a sample of HSC files to determine if emergency plans were present. Half of the files contained up-to-date plans and a quarter of the files did not contain a plan but the inspection report indicated one had been reviewed by the inspector. In the remaining quarter of the files, it was indicated that the plan was being updated or updating was a condition of issuing a future licence.

5.25 *Enforcement* - The Act contains a provision whereby contravention of the Act, its regulations or specific licensing provisions is punishable by a summary conviction and fine of not more than \$100 for each day the home is in a state of non-compliance. Department management told us that it rarely needs to resort to the courts to convince homes to comply.

Department's Planning for HSCs and CBOs

5.26 *Strategic planning* - The Department has begun a planning process to address the future requirements for HSC and CBO beds in Nova Scotia. The Department is a member of a steering committee also comprised of representatives from the Department of Health, Nova Scotia Association of Health Organizations, and Associated Homes for Special Care. The committee's mandate includes developing a common vision among all stakeholders with respect to the long-term care needs of residents in long-term care facilities. The committee will also address various operational issues relating to labour relations, staffing standards and human resources. Management has informed us that the results of the strategic planning process will form part of the revisions the Department will propose for the Social Assistance Act and the Homes for Special Care Act.

5.27 *Approval of additional capacity* - There has been a moratorium for five years on construction and renovation of HSCs with respect to publicly-funded beds. Before a HSC can be constructed or renovated, approval must be obtained from the Department. The approval process includes an assessment of the need for additional capacity in the area. As well, details of the construction or renovation must accompany the request. The Fire Marshal's Office reviews and approves plans for major renovations and construction. A follow-up review is conducted to ensure approved plans are followed. Minor renovations are approved by the Department after a

review to ensure they do not affect the safety and comfort of the residents. Our testing of renovations indicates that proper approvals were obtained.

CONCLUDING REMARKS

5.28 In our opinion, the licensing and inspection of homes for special care by the Department of Community Services is generally adequate and in compliance with the Act and regulations. However, file documentation was weak and it was difficult to determine the extent of some licensing procedures. We also noted that there are a number of factors that go into the determination of whether a new licence or a licence transfer should be granted, and the need for additional beds has not always been made the highest priority.

5.29 We also found that there is little review of the financial planning and performance of homes by the Department. Management does not see its role as one of ensuring the future viability of homes for special care. Accordingly, any review of financial planning by the Department is for the purpose of approving increases in per diems. With the imposition of the rate freeze in 1993, such reviews have been restricted to situations where a home has applied for a special rate review for purposes of rectifying safety concerns in the home.

*Exhibit 5.1***AUDIT CRITERIA**

Criteria are defined as reasonable and attainable standards of performance and control against which the adequacy of systems and practices can be assessed. They relate to the audit objectives developed for an assignment, and are used to design the detailed audit tests and procedures.

The following criteria were used in the performance of Phase II of our audit of Homes for Special Care.

- Licences should only be issued to homes which have met the requirements detailed in the Act and regulations.
- Licences should be renewed in accordance with the Act and regulations, and the renewal should result from an inspection process.
- The inspection process should consider the scope of the Act and regulations, and should result in a report noting the outcome of the inspection. The report should be distributed appropriately. The inspection process should include follow-up to ensure deficiencies have been addressed.
- There should be an annual review, following established guidelines, of the budgets and audited financial statements of homes as part of the process for setting per diem rates.
- There should be controls to ensure that funds are expended by homes in accordance with related guidelines and with due regard for economy and efficiency.
- There should be controls to ensure that per diem rates charged by homes do not exceed the rates determined by the Department, and claims from homes should be based on approved rates and only be paid if they relate to residents who have been approved for funding by the Department.

DEPARTMENT OF COMMUNITY SERVICES' RESPONSE

The scope of Phase Two of this audit incorporates two distinct components of service delivery - one component "Homes for Special Care" which are facilities licensed to operate under the auspices of the Homes for Special Care Act and the "Community Based Options" program - a large group of three and fewer care settings funded and overseen prior to April 1, 1998 by the respective municipalities throughout the Province.

There has been a moratorium in place within the licensed sector for a period of five years which has included any new development or expansion.

In addition, there was a rapid growth of the Community-Based Options program in the early 1990's. The need to provide appropriate administrative and standards infrastructure became critical, particularly in anticipation of the province assuming responsibility for this program. A moratorium was placed on new development within this system in June, 1995.

With the moratoria in place, the Department of Community Services with its partners has been concentrating efforts on a more strategic approach with regard to managing this large and diverse sector. The Department, along with representatives of the Department of Health and the long term care sector, have been meeting to collaborate on the planning required to address redesigning the system along with all the component parts associated with the redesign; namely, vision, documentation, staffing standards, assessment tools, budget management, licensing, etc. Further, the two Departments have been engaged in a process to research bed utilization requirements across the Province; thereby targeting any new bed development in areas of greatest identified need.

Further, in preparation for major redesign activities, the Department of Community Services has developed an inventory of all Community Based Options, developed and issued on November 26, 1996, "Interim Standards - Community Based Options", has moved to a regionalised delivery model to ensure services are located close to the operator, has provided financial officer positions to each region to assist with budget management of all programs and is working on a new rate setting process which consists of standards for documentation and decision making.

As can be seen, the Department of Community Services is acutely aware of the need to provide process improvements and standards which will be consistency applied throughout the Province. The work outlined above, along with helpful recommendations stemming from the Auditor General's Report, coupled with the sector-wide strategic planning underway will assist to achieve the joint outcomes of improved and fiscally accountable service delivery.
