# Safeguarding Public Funds

## *A Review of Spending Practices in OMRDD Rate Appeals*

NYS Commission on Quality of Care
for the Mentally Disabled

January 1995

# Safeguarding Public Funds: A Review of Spending Practices in OMRDD Rate Appeals

Clarence J. Sundram
CHAIRMAN

Elizabeth W. Stack
William P. Benjamin
COMMISSIONERS

January 1995

NYS COMMISSION ON QUALITY OF CARE
FOR THE MENTALLY DISABLED

# Executive Summary

The Mental Hygiene Law authorizes the Commission on Quality of Care for the Mentally Disabled to "review the cost effect of mental hygiene programs and procedures provided for by law with particular attention to efficiency, effectiveness and economy in the management, supervision and delivery of such programs. Such review may include...determining reasons for rising costs and possible means of controlling them..." (Section 45.07, subd. (b)).

In Chapter 50 of the Laws of 1993, the State Legislature further directed the Commission to investigate "suspected misuses of public funds by programs or facilities licensed by an office of the department of mental hygiene."

During the course of such an investigation into Community Living Alternative, Inc. (CLA) which operated a 10-bed intermediate care facility for the mentally retarded (ICF), the Commission discovered that this agency had been the beneficiary of a successful rate appeal to the Office of Mental Retardation and Developmental Disabilities (OMRDD) for additional Medicaid funds to hire more staff. Not only did CLA receive the rate increase it sought, but it was also granted a *retroactive* payment of $138,798 for the cost of additional staff which, it turned out, *the agency had never hired.* Most of this windfall payment of Medicaid funds was soon dissipated through cash payments (see *Missing Accountability: The Case of Community Living Alternative, Inc.*, June 1994[1]). The Commission undertook this study of the management of the rate appeals process by OMRDD to ascertain whether the flaws which surfaced in the CLA investigation were isolated aberrations or symptoms of more systemic problems in safeguarding public funds.

## Significance of Rate Appeals

Rate appeals play a significant role in the financing of OMRDD programs not only because of the number of provider agencies that receive additional funding through appeals, but also because rate appeals, once granted, have a long-term effect upon expenditures. As the example in Chart IV (page 9) of the report illustrates in a hypothetical situation, $100,000 in rate appeals funding granted in 1988 will account for recurring expenditures in each succeeding year as well

1 Since the conclusion of that investigation, OMRDD secured a receivership of the program and arranged for an orderly transfer of its operations to another provider. The Commission has referred evidence of suspected criminal conduct by the former operator to appropriate law enforcement agencies and is assisting them in an active criminal investigation.

as cost of living "trend factors" which together, over the next five years, will require the expenditure of $597,900. The Commission found:

- over 30% of OMRDD providers which operate ICFs and community residences (CRs) have their rates increased each year as a result of rate appeals;
- 53% of all ICF rates are affected by a prior rate appeal award which is "rolled over" into the current rate;
- 84% of the appeal files[2] for ICFs and CRs closed in 1988, 1990 and 1991 were granted in whole or in part; and,
- rate appeals account for the expenditure of significant sums of public money ($22 million in 1991 or an increase of 40% over the previous year) and, as indicated earlier, have a recurring annual impact on State finances.

# Methodology

In conducting this study, Commission staff interviewed relevant OMRDD staff involved in the processing and review of rate appeals; examined extensive documentary evidence of the rate appeal procedures and processes; and performed an in-depth analysis of a sample of rate appeal files to determine how the appeals process had been applied in specific cases.

Throughout the course of this review, Commission staff received full cooperation from OMRDD officials who provided complete access to requested records and were generous with their time in providing any explanations needed to fully understand OMRDD policies and procedures or issues which arose in specific cases.

2 An appeal file typically contains multiple appeals for several sites and/or cost categories for an individual provider. However, since the surplus/loss analysis described in the body of the report (pp. 3-5) is conducted on an agency-wide basis, all appeals are processed simultaneously in a single file.

## Findings

The Commission found that the rate appeal system is susceptible to abuse.

- OMRDD had inadequate formal written procedures for processing appeals and in some cases proper reviews were not conducted before appeals were granted (Report pp. 8, 13).
- As in the case of CLA, agencies received appeal funds in the amount of $1.4 million for the years 1986-90 which were not spent on the purposes for which they were claimed, or were not spent at all (Report pp. 8-10).
- Nevertheless, on the advice of its Counsel, OMRDD did not recoup such funds but annualized these appeal awards by "rolling over" such sums into future years, permitting agencies to spend these funds at their discretion (Report pp. 8-10).
- These practices permitted the expenditure of millions of dollars of public funds on purposes unrelated to the reason for the initial appeal (Report pp. 8-10).
- In some cases, OMRDD negotiated settlements of large appeals with providers without holding them to the purpose of the appeal. In 1991, such settlements totaled $3.7 million for three providers. Providers were treated inconsistently in these settlements, with some being exempted from future audits and others being explicitly warned of a future audit (Report pp. 10-11).
- In two cases, appeal funds totaling almost $2 million were granted or offered to rescue agencies which had long histories of fiscal mismanagement and substandard care, without prior audit to determine the reasons why additional funds were needed and without assurance that the defective practices had been corrected (Report pp. 11-12).

The Commission found that many of these weaknesses in the OMRDD rate appeal process were facilitated by the lack of sound internal controls and procedures for handling rate appeals. Thus, the Commission found that:

- inconsistent approaches by staff to handling rate appeals were not detected or corrected by supervisors, despite multiple levels of review within OMRDD before appeals are forwarded to the State Division of the Budget (DOB) for approval (Report p. 13);

- voluminous past appeal records are filed haphazardly resulting in improper appeal awards (Report pp. 13, 15);
- providers receiving appeal awards had their deficits overstated by an estimated $1.4 million annually due to double counting of property costs in the appeal analysis, potentially subjecting this amount to double reimbursement (Report p. 13);
- despite a policy against exceeding the limits for administrative costs, the appeal methodology permits *indirectly* granting funds for excessive administrative costs, including large salary increases to some providers (Report pp. 13-14);
- despite a DOB decision in 1992 to reduce administrative costs by two percent, OMRDD exempted all providers with rollover appeals built into their administration rates (Report pp. 14-15);
- revenue from occupancy levels which exceeded levels anticipated in rate making was ignored, permitting excess revenue to be received by providers. The Commission estimated that ICF providers receiving appeal awards had their deficits overstated by a total of $474,000 annually as a result (Report pp. 15-16);
- errors in the vacancy calculations permited providers to retain funds for variable costs (e.g., food, consumable supplies, etc.) that are not incurred when beds were vacant (Report p. 16). This error affected $1.5 million in vacancy appeal awards in 1991; and,
- virtually all of the flaws and errors identified in the course of this study resulted in the payment of additional and unwarranted sums of money to the provider agencies rather than in denying payments.

# Conclusion

The findings of the Commission's review of the OMRDD rate appeals process indicate that the flaws uncovered in the CLA investigation were symptomatic of more systemic weaknesses that affect the payment of significant sums of public funds to OMRDD providers.

The Commission is concerned that irregularities in the process of reviewing and granting rate appeals, the lack of accountability for how appeal funds are actually spent, and the legal interpretations of OMRDD regulations that essentially place provider decisions to spend public funds on purposes unrelated to the appeal beyond scrutiny have combined to place a low priority on ensuring the fundamental legal objective of "efficient and economical" rates.

The recommendations contained in this report are designed to strengthen accountability for the expenditure of public funds, and to reduce unnecessary and unwarranted expenditures.

A draft report was issued to OMRDD in December 1993. A response to this draft from the Commissioner of OMRDD is attached to this report (Appendix A). Since that time, there have been extensive discussions between CQC and OMRDD staffs. OMRDD reports that it has made major modifications in the way it handles appeals, including the development of a rate appeal procedures manual. For example, by addressing the Commission's recommendations on duplicative reimbursement for provider equipment and high occupancy levels, and on the funding of vacant beds, OMRDD reports that it has eliminated some $2 million in reimbursement costs. The Commission believes that further economies can be made by revising the appeal methodology that has allowed the indirect funding of excessive administration costs. This final report contains other recommendations by the Commission to improve accountability for the expenditure of public funds, including:

- recovering unspent or misspent appeal funds in both the initial and in "rollover" years; and,
- auditing settlement awards to assure that funds are spent on the purposes for which they are granted.

This report represents the unanimous opinion of the members of the Commission.

Clarence J. Sundram
Chairman

William P. Benjamin
Commissioner

Elizabeth W. Stack
Commissioner

# Table of Contents

**The OMRDD Reimbursement System ..... 1**
Rate Setting ..... 1
Rate Appeals ..... 3

**System Not Operating As Designed ..... 7**

**System Is Susceptible to Abuse ..... 8**
Rollover Appeals ..... 8
Negotiated Settlements ..... 10
Rate Appeals Finance Mismanagement ..... 11

**Internal Problems in Processing Appeals ..... 13**
Double Reimbursement of Property Costs ..... 13
Payment of Administration Costs
in Excess of Screens ..... 13
Reduction in Administration Screen Overridden ..... 14
Haphazard Files and Errors
Result in Appeal Overpayments ..... 15
Revenue from High Occupancy Levels Ignored ..... 15
Flawed Vacancy Calculation ..... 16
Reimbursement of Non-Allowable Costs ..... 17

**Conclusion ..... 18**

**Recommendations ..... 19**

**Appendices ..... 21**
Appendix A: OMRDD Response to Draft Report ..... 21
Appendix B: January 20, 1993 Memorandum ..... 25
Appendix C: January 26, 1993 Memorandum ..... 29
Appendix D: June 14, 1991 Memorandum ..... 33
Appendix E: June 13, 1991 Memorandum ..... 37

# Staff Acknowledgments

## Fiscal Staff

Walter E. Saurack, M.S., Director

Richard M. Cicero, C.M.A., C.P.A., M.S.

Robert F. Myers, C.P.A.

Elizabeth A. McKernan

Michael V. McCarry, M.P.A.

James X. Tunney, C.I.A., C.P.A., M.B.A., M.S.

## Publications Staff

Marcus A. Gigliotti

Carole A. Greene

# The OMRDD Reimbursement System

## Rate Setting

To understand the intricacies of the appeal process, it is useful to first understand how providers are reimbursed through OMRDD's rate system. Under federal statute, 42 U.S.C. §1396a (a)(13)(A), states are required to ensure that medical assistance payments (i.e., Medicaid) for ICF services are "reasonable and adequate to meet costs which must be incurred by efficiently and economically operated facilities" which comply with federal and State laws, regulations and standards. In so doing, states are given wide latitude to develop methods, standards and criteria to compensate providers for reasonable and necessary services. Consequently, there is no requirement that payment rates reimburse a provider for every cost.[3]

To meet this federal standard, OMRDD has developed a "prospective" rate methodology; i.e., rates are established and fixed in advance based on cost data of a selected prior year. Per diem rates are established for every ICF and CR site by determining a program's total allowable actual costs for a "base year" (currently 1986/87) and then dividing it by the number of client days of care expected.[4]

$$\textbf{Per Diem Rate} = \frac{\textbf{Base Year Allowable Costs}^{5}}{\textbf{Expected Number of Client Days}^{6}}$$

Initially, the rate setting methodology was designed to update the base year every two years. The rationale to do so was to reimburse only the necessary costs of maintaining acceptable care and to moderate increases in those costs due to efficiencies in the programs. Should actual costs in a rate year fall below the rate, an "efficient" provider would accumulate a surplus of funds it could keep. Thus,

3 In 1980, by enacting the "Boren Amendment" to the Medicaid statute, Congress intended states to abandon Medicaid reimbursement schemes that paid providers actual costs despite obvious disparities in efficiencies and economies, in favor of giving states the flexibility to develop reimbursement methods that encouraged efficiency and cost containment (Pub.L. 96-499, §962(a), amending 42 U.S.C. §1396a (a)(13)(A)).

4 Pursuant to the OMRDD Commissioner's general authority to set rates/fees (NY Mental Hygiene Law, § 41.36), the ICF reimbursement approach has been used for community residences as well. However, effective March 1, 1993, a new rate system for CRs was adopted. Under this system CR rates are no longer appealable, although appeals under the prior method would be considered if they were filed by February 28, 1994.

5 Base year allowable costs are the actual costs recorded on the provider's 1986/87 cost report subject to "screen" limits which generally allowed costs at five percent above the group median for each spending category.

6 Expected number of client days is an estimate of each provider's occupancy level. Estimates of occupancy levels range from 99 to 100 percent of full capacity.

to encourage efficiency, there would be a financial incentive for providers to incur costs below the prospective rate which in turn would moderate future rate increases. However, surpluses would be temporary since the rate system was designed to re-establish new rates every two years taking into account actual costs of efficiently delivered services.[7]

In order to further meet the federal requirement to establish a procedurally sound rate methodology considering relevent factors of efficiency and economy, OMRDD additionally established ceilings or "screens" on operating costs. Applying screens would help to contain costs by limiting a provider's reimbursement rates to the median cost performance of other providers. Costs that exceeded the screen amount would be considered uneconomical and therefore not allowed in the per diem rate.

Screens have been developed for each of the following cost categories:

- Administration
- Direct Care/Support Personal Services
- Clinical Personal Services
- Other Than Personal Services (OTPS)
- Fringe Benefits

Generally, screens take into consideration cost fluctuations resulting from differences in geographic region, facility size, client disability levels, and the staffing pattern utilized. Screens also were developed so that over one-half of all providers fell below the cost limits and therefore received full reimbursement;[8] providers exceeding the screens did not have their excess costs reimbursed because such spending was not considered to be efficient and economical.

However, OMRDD's rate system has not achieved its full potential to contain costs. The Commission has found that the 1986/87 base year for calculating rates is not being updated but instead is being "trended" forward for future years using an inflation factor in order to maintain the base year pattern of expenditure.[9] Additionally, sites opened after the 1986/87 base year have had their rates based on "budgeted" costs instead of actual base year costs. Because of the significant expansion of the ICF program in recent years, **about 40 percent of all ICF rates**

7 This feature of the rate methodology has a major drawback. When providers know in advance the new base year for calculating rates, an undesirable incentive is created to "load up" costs in the base year to enhance future rates.

8 Screens were statistically calculated to allow full reimbursement of costs for more than one-half of the providers typically by taking the median costs and adding five percent.

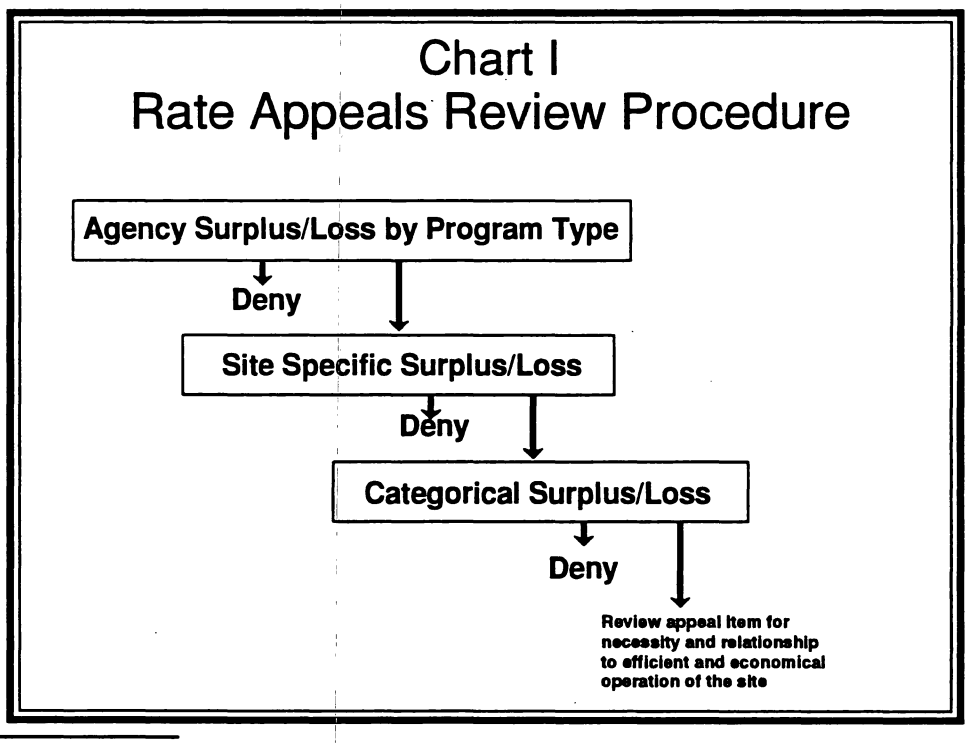
9 There is one cost component, property, which continues to be updated annually based on reported costs of two years prior.

**have been based on budgeted costs.** Although efficiency should not be measured in terms of costs alone,[10] periodic looks at patterns of expenditure and quality of care would help OMRDD determine if it is a prudent buyer of services. As the case of CLA referred to earlier demonstrates, it is not a routine practice of OMRDD to examine such expenditure patterns. Thus, there is little assurance that rates reflect only monies properly spent on quality services rather than on excessive or impermissible expenditures.

## Rate Appeals

OMRDD's regulations allow providers under specific circumstances to request appeals for adjustments to their established rates (14 NYCRR 681.12(d); 14 NYCRR 686.13(j)). OMRDD may consider an appeal to the rates to provide additional funding for:

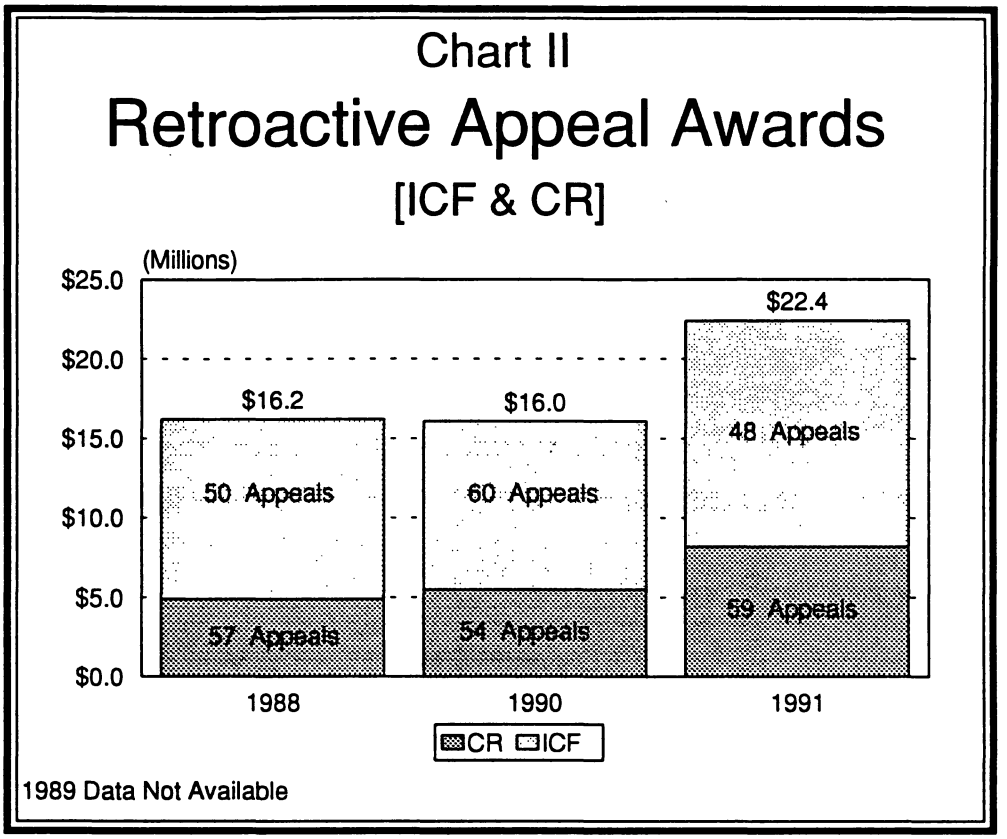
- increases in a facility's base year operating costs due to implementation of new programs or mandates;
- changes in staff or service;




10 In adopting rates, OMRDD is also required to consider costs necessary to assure quality care and to establish rates that allow reasonable access to services for Medicaid recipients.

- changes in numbers or characteristics of clients;
- price increases not anticipated; or,
- "relief" from screens.

Providers generally have one year from the close of the rate year in question to file a rate appeal application and demonstrate that the rate requested in the appeal




is necessary to ensure an efficient and economical operation.[11] (Appeals for relief from screens must be submitted within 90 days.) Once the OMRDD appeals unit receives the application, it performs a surplus/loss analysis. The purpose of this

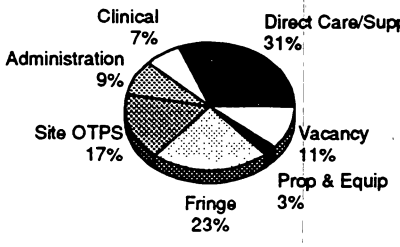
11 According to the State plan filed with the U.S. Department of Health and Human Services pursuant to Title XIX of the Social Security Law, "The burden of proof on appeal shall be on the provider to present clear and convincing evidence to demonstrate that the rate requested in the appeal is necessary to ensure efficient and economical operation."

## Chart III

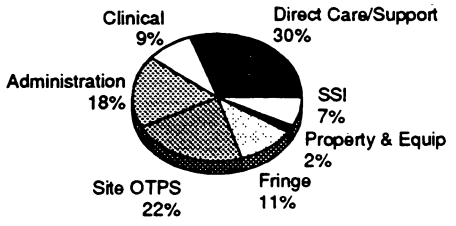
# Retroactive Appeal Awards

## 1991

### ICF Total $14.2M




### CR Total $8.2M




### Total Dollars $22.4M

analysis is to determine whether existing funding levels are sufficient to cover expenditure levels. OMRDD will only consider appeals if there is a shortfall of revenues within the program, site and cost category being appealed (see Chart I). In considering appeals,[12] it is expected that providers apply surpluses at one site or category to losses in another given site or category. When performing the surplus/loss analysis, the appeals unit sometimes projects costs using trend factors or uses unaudited expenditures because a current CFR is not available.

During 1991, OMRDD awarded $22.4 million in rate appeals, an increase of about 40 percent from the two prior years for which appeal award data were available (see Chart II). Of the 392 appeal files "closed" in these years, 84 percent or 328 were granted in whole or in part, and 16 percent or 64 were denied or withdrawn.

Direct Care and Clinical staffing cost categories were frequently appealed for both ICFs and CRs, accounting for over 38 percent of appeals in 1991 (see Chart III). The appeals typically were granted to fund additional staffing because of increases in client severity mix. Appeals of Administration, Other Than Personal Services (OTPS), and Fringe Benefit cost categories, which accounted

12 In this report, the term "appeal" is used to refer to an appeal file. A rate appeal file typically includes appeals for several sites and/or cost categories for an individual provider which, because of the agency-wide surplus/loss analysis, must be processed simultaneously.

for another 49-51 percent of appeal awards, generally involved funding for operating costs that increased dramatically from the base year. For example, Fringe Benefits were often appealed due to escalating health care costs. The appeal process was also used to cover losses in revenue caused by bed vacancies or shortfalls of resident Supplemental Security Income (SSI) payments.

A revised rate is not considered final until granted by OMRDD and approved by the State Division of the Budget (DOB), and formal notification sent to the provider. At no point in the appeal process does the provider have a right to any form of interim determination. If a provider accepts the rate proposed in this "first level" appeal, the provider waives any right to further administrative or judicial review.[13]

In the event that a provider is not awarded some or all of the relief requested in the first level appeal, the provider has 30 days to reject the award and pursue a "second level" appeal by informing the OMRDD Commissioner in writing of its intent to proceed toward an administrative hearing, and to set forth the "appealable factual issues" and documentation to support the provider's position. If the provider rejects OMRDD's offer and requests a second level appeal, and it is determined that no appealable issue has been raised, the proposed first level determination will be certified by the OMRDD Commissioner and put into effect. If it is determined that appealable issues are raised, the proposed award is considered withdrawn and the administrative hearing will lead to a reimbursement rate that may be greater than, equal to, or less than the proposed reimbursement rate at the first level appeal. Since at least 1988, there have been no administrative hearings held in response to provider requests for relief from first level appeal decisions.

13 Prior to July 3, 1991, a provider could accept a first level appeal determination without waiving its right to further administrative or judicial review of the portion of an appeal that was denied. In order to limit its exposure in cases involving large appeal awards, it was OMRDD's practice to "negotiate" settlements if a provider was willing to waive its right to further litigation.

# System Not Operating As Designed

While the rate making methodology as developed by OMRDD appears to be a reasonable means of carrying out the statutory duty, in practice, the effectiveness of OMRDD's rate methodology to promote efficiently delivered care is being eroded for several reasons:

- "base" year rates have not been recomputed since 1986/87, allowing 40 percent of ICF providers to receive rates based on budgets instead of the actual cost of providing quality services;[14]
- screens are routinely exceeded in the rate appeal process;
- disability level scores have not been used in the appeal process to reflect changes in client characteristics and associated staffing levels;
- over 30 percent of the providers have their rates increased each year through rate appeals; and,
- confidence that rates are efficient is not assured since over 50 percent of ICF sites have rates impacted by previous appeals that are routinely "rolled over" into future years without validation.[15]

**In a system where rates were intended to be efficient and appeals the exception, appeals are commonplace, calling into question the reliability of the rate setting system itself.** When many providers regularly claim that they cannot meet their costs under the rates set for efficiently run facilities, OMRDD cannot be sure without examining spending practices whether rates are reasonable and adequate. However, such an examination of industry spending practices is not conducted regularly.

14 For federal fiscal year ended September 30, 1992, the NYS Department of Social Services recorded $679 million in expenditures for community-based ICFs. This would mean that about $270 million of ICF reimbursement was based on budgeted costs.

15 Based upon a random sample of 62 ICF sites (90% confidence level), 53 percent of all ICF rates were impacted by a previous appeal with 31 percent of the rates impacted by multiple appeals.

# System Is Susceptible to Abuse

As a government agency charged with administering substantial public funding, OMRDD has an affirmative duty to ensure that its employees know and comply with their statutory and fiduciary responsibilities. Procedures and process for disbursing funds, auditing appeals and recouping overpayments should be formalized and followed with regularity. Yet, the Commission has found few formal written procedures for processing appeals and has noted cases where proper reviews were not conducted before rate appeals were granted. Furthermore, the failure to ensure that appeal monies are spent as intended has resulted in millions of dollars of public funds being misdirected and the chances of their recovery negated because of questionable decisions by OMRDD and its Counsel's office.

## Rollover Appeals

OMRDD rate appeal regulations clearly intend that additional reimbursement be restricted to the specific purpose of the appeal decision. Because the appeal process can award additional funds to providers over and above rates set through the normal process, OMRDD apparently sought to attach special restrictions to this extra funding. Regulations for ICF programs found at 14 NYCRR 681.12(d)(9) state that **"Any additional reimbursement** received by the facility, pursuant to a rate revised in accordance with this subdivision, **shall be restricted to the specific purpose set forth in the appeal decision"** (emphasis added). The regulations for community residence programs at 14 NYCRR 686.13(j)(10) are even clearer by further stating that "If the provider does not spend such reimbursement on such specific purpose, **OMRDD shall be entitled to recover such reimbursement"** (emphasis added).

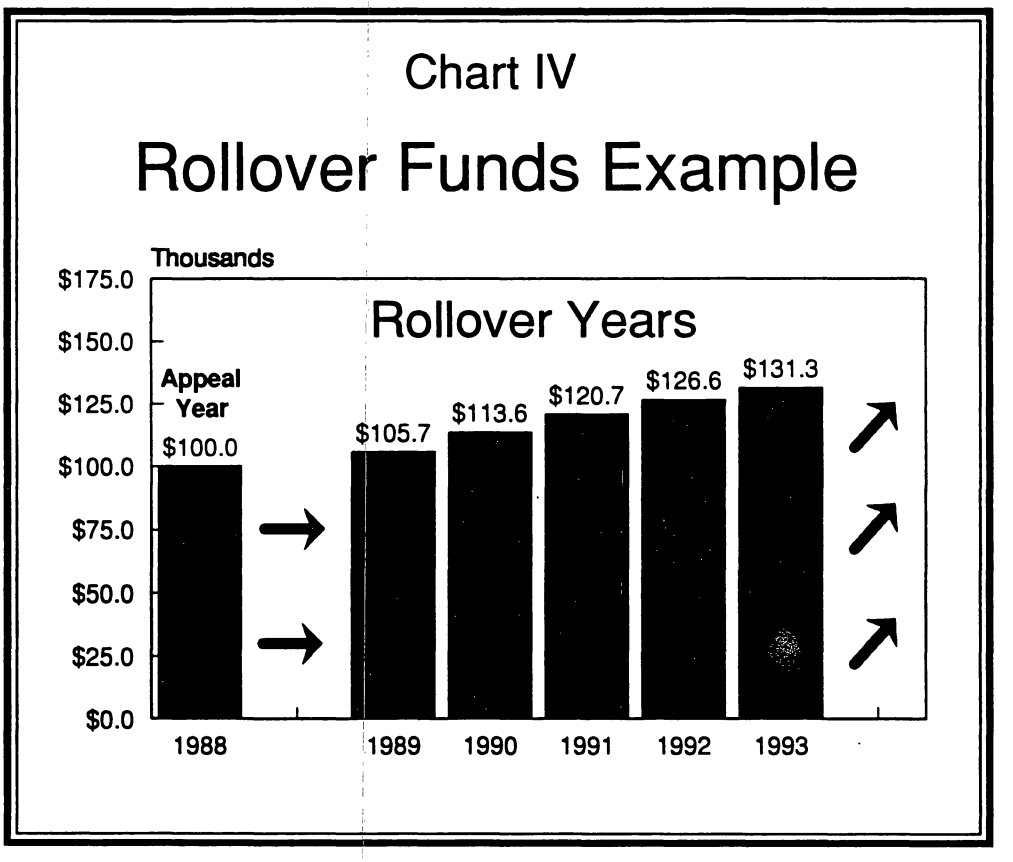
In order to determine provider compliance with these regulations, OMRDD's Bureau of Management and Fiscal Audit conducted audits of high dollar rate appeals awarded (excluding appeals awarded via settlements). The audit bureau recommended that OMRDD recoup over $2.4 million from 24 providers for the years 1986 to 1990[16] because the providers either did not use the additional funds awarded for the specific purpose appealed or in many cases did not even spend the additional funds. However, because of a ruling from its Counsel's office, the OMRDD audit bureau subsequently reversed $1.8 million of the proposed disallowances.

The reversals concerned "rollover funds" which involved appeals that had been granted in a previous year and then "rolled-forward" to subsequent years, presumably because the provider still had the specific need for the additional funds. OMRDD Counsel's office interprets its regulations to apply only to the **initial** year for which a rate appeal has been granted, even though the regulations do not state

16 OMRDD had issued 21 final and three draft audit reports with recommended disallowances totalling $2.4 million.

this limitation (Appendix B). This opinion differs from the OMRDD audit bureau interpretation which sought to restrict the spending of rollover funds. However, in Counsel's opinion, rollover funds cannot be disallowed even when funds have not been spent on the appeal purpose or not spent at all. This legal opinion has already affected $1.8 million in proposed audit disallowances and can continue to have a serious adverse consequence on the efficient expenditure of public funds.

Chart IV illustrates how this decision could impact on a provider. Assuming that OMRDD's audit bureau disallowed $100,000 from an appeal year, over the following five years (trended forward) an additional $597,900 in rolled forward expenditures would be allowed based on this legal opinion. In other words, a disallowance of $100,000 would be recouped from the provider for the appeal year, but the provider would be allowed to keep the remaining $597,900 (received over the next five years) and spend it without restriction or retain it as a surplus.[17]




17 Even after the $100,000 disallowance has been established, repayment will typically not commence for at least a year while it is being processed by OMRDD, and will be spread over a two- to three-year period with no interest on this debt.

Based on Counsel's opinion, OMRDD's audit unit retracted its findings and amended its audit reports to reflect $1.8 million in reduced disallowances. The Commission examined $1.4 million of the reversed rollover disallowances and found that over $600,000 was not spent for the purpose appealed and another $800,000 was not spent at all by the providers.[18] For example, the OMRDD audit of Sullivan County ARC, covering the years 1988-90, found appeal dollars totaling $220,000 were not spent to operate its 40-bed Bennett ICF. The Commission's look beyond the OMRDD audit period found that in 1991 and 1992 the site received another $412,000 of appeal funding which was also not spent. OMRDD has no plans to reduce or audit future rollover funding (Appendix C).

OMRDD's allowing providers to retain these rollover funds without restriction or accountability permits a misuse of public funds. Notably, prior to OMRDD Counsel's opinion, the Commission found that of the 21 final audit reports released, over half of the providers **agreed** with the auditors' disallowance findings and, in many instances, further agreed to pay back the funds identified as being improperly obtained.

## Negotiated Settlements

More disturbing, it has been OMRDD's practice to grant appeal settlements without holding them to the purpose of the appeal or subjecting them to an audit. Not only does this allow inconsistent treatment to those providers often times receiving the largest rate adjustments,[19] but also there is no follow-up fiscal analysis or concern whether these public monies will be used as intended for the benefit of the program or its clients.

Illustrative is a 1991 settlement with the Young Adult Institute, Inc. (YAI). In this instance, YAI sought to increase its rates by approximately $2.6 million for 27 specifically designated facilities; OMRDD settled with the agency for $2.1 million. However, because YAI was concerned that an audit would limit its expenditures to the spending categories appealed (as required by regulations), it sought and was granted assurances from OMRDD that the settlement funds would not be audited (Appendix D). It also sought and was granted confirmation that OMRDD

18 OMRDD is considering a policy shift towards recouping rollover dollars from providers which did not spend the appeal year dollars as required in the first year. This may affect a Putnam ARC rollover of $134,281, two years of which are included in the above figures. However, this policy change would not affect providers which spend the appeal dollars in the year for which they are granted, but do not spend them for the purpose specified in future years, or do not spend them at all.

19 Although settlement awards occur less frequently than rate appeal awards, they involve large dollar amounts. For example, in 1991, three providers received settlements totaling $3.7 million, while the average appeal award in 1991 was about $180,000.

considered its rates as efficient and economical. In a June 13, 1991 letter, the OMRDD Commissioner acknowledged both of these requests (Appendix E).

Conversely, the Commission found one provider, the Terence Cardinal Cook Health Care Center, where the settlement agreement awarding $676,000 specified that there would be a follow-up fiscal audit and that any audit adjustments would be used to reduce rates.

OMRDD's failure to insist on procedural regularity over the accountability for settlements permits inconsistent treatment of providers.

## Rate Appeals Finance Mismanagement

The Commission encountered two instances where appeal award money went into agencies with deteriorated financial positions which stemmed from mismanagement and diversions of agency funds away from resident care for unexplained purposes.

In the case of CLA, OMRDD closed its appeal file in April 1992 and transmitted revised rates to cover three additional staff who were supposed to have been hired in July 1989. However, OMRDD never verified whether the staff were actually hired. Although the CLA cost report for 1989/90 was severely delinquent, OMRDD did not require its submission to corroborate the hiring of staff. Furthermore, in January 1992, months before OMRDD closed the appeal, a 1990/91 CLA cost report was received by OMRDD which showed that there was no increase in staffing.

In June 1992, when CLA received a $138,798 appeal check for the increased staffing, it was used instead to pay off $40,000 of delinquent payroll taxes and penalties. Most of the remainder of the check proceeds disappeared in cash payments made by the executive director for unexplained purposes. Had OMRDD looked first at financial records which were **on file in its own office** at the time the appeal was granted, it would have been obvious that 25 percent of the agency funds were flowing out of the agency in checks written to cash and that the agency's checking account was substantially overdrawn. This should have alerted OMRDD to make inquires about potential financial irregularities at this problem agency before issuing the appeal check, which was to cover retroactive staffing costs that were never incurred.

In a second situation, in January 1989, OMRDD offered a $1.9 million settlement to fund an accumulated deficit at the Federation of Puerto Rican Organizations of Brownsville Inc. (FPRO), which had a long history of financial problems and mismanagement. This was done without OMRDD having completed an audit of FPRO's finances to insure that its funds were only being used for the efficient and economic operation of FPRO's ICF and CR programs. After

FPRO's rejection of the settlement, OMRDD found that a major cause of FPRO's deficit was $900,000 in questionable and undocumented costs which had been charged to its OMRDD programs. These included the misapplication of OMRDD funds to cover the costs of other programs which FPRO operated, and other questionable transactions including a trip to Puerto Rico for agency officials and non-interest bearing loans to employees. These apparent abuses were facilitated by the near total absence of internal controls at the agency and the executive director's use of a hidden bank account.

In 1991, even though FPRO had not fully implemented OMRDD's audit recommendations designed to address its internal control and board oversight weaknesses, OMRDD granted FPRO a $1.7 million retroactive rate increase covering April 1986 to February 1990 which essentially underwrote the cost of the past fiscal mismanagement of the agency without fully addressing the fundamental management problems.[20] The apparent rationale for this decision was to rescue this provider from bankruptcy.

20 This sum is in addition to a $320,000 rate appeal "advance" granted in 1989.

# Internal Problems in Processing Appeals

The Commission also found numerous internal problems in the accuracy and reliability of the mechanism used to assess appeals. Most disturbing was a lack of written procedures for processing rate appeals. This has lead to inconsistent approaches to processing appeals by individual analysts and inequitable treatment among providers. These inconsistent approaches by staff are apparently not detected or corrected at supervisory review levels although all appeals go through multiple levels of internal review before being forwarded to the Division of the Budget for approval. Moreover, the system for reviewing appeal awards is vulnerable to error because voluminous past records on appeals are filed haphazardly without any kind of spreadsheet summary on appeal history. The Commission noted numerous cases where providers received duplicative funding of costs for the same period and incorrect numbers were used for rate calculations.

## Double Reimbursement of Property Costs

In processing an appeal, OMRDD prepares a surplus/loss analysis by cost category which attempts to compare the base year allowable costs to those costs currently being incurred by the provider. Because of the changing cost reporting structure, the current CFR reporting format is quite different from the 1986/87 cost reports. Since the categorical screens are based on the 1986/87 reported costs, it is necessary to realign the CFR reported costs in order to coincide with costs built into the rates. This realignment must be performed or else a provider may receive more appeal funding than is warranted. This is particularly true when it comes to the reclassification of property costs.

The surplus/loss analysis is designed to ignore property costs and property reimbursement because OMRDD annually updates the rates for changes in property expense. By improperly incorporating certain property costs into the appeal analysis, OMRDD has reimbursed costs (averaging about $24,000 for each ICF provider) through the appeal process, while also reimbursing the same costs through its annual property updates. Consequently, the Commission estimates that ICF and CR providers receiving appeals had their deficits overstated by a total of $1.4 million annually, potentially subjecting this amount to double reimbursement.

## Payment of Administration Costs in Excess of Screens

Although OMRDD officials are adamant that the administration screens are rarely pierced, the Commission has found that OMRDD's appeal methodology

frequently **indirectly** grants funds in excess of ceilings for administrative salaries and other costs. This occurs primarily because the appeals cost analysis considers costs for administration which are over screens as part of the agency's deficit thus making these expenses eligible for reimbursement in the surplus/loss analysis.

The Commission has found at least seven cases where this had occurred. For example:

- Young Adult Institute (YAI) received a settlement appeal award which indirectly allowed it to cover $95,000 in excessive administration costs. The YAI executive director and assistant director were among the highest paid executives in the OMRDD system, each earning in excess of $180,000 in 1990/91.
- Independent Living Association (ILA) received a 1990/91 appeal award which indirectly covered $91,000 in excessive administration costs. In the following year, ILA received an additional award enabling it to cover $130,000 in excessive administration costs. The OMRDD file for the 1991/92 ILA appeal contained a cost analysis of administration expenses which showed that the controller and executive director were receiving large pay increases. Over a two-year period, reported costs for the ILA controller escalated from $60,323 to $102,420. During the same period, the executive director of ILA had his pay raised from $85,400 to $114,400, a 34 percent increase. OMRDD funded much of these excessive administration costs through its appeal process.
- The Association for the Advancement of the Blind and Retarded, Inc. received a 1988/89 appeal award which indirectly funded $62,000 of administration costs despite the fact that a note in the OMRDD appeal file stated "there will be no additional money made available in the Admin. category to this agency" because a "special investigation has found improprieties on Admin. payroll."

## Reduction in Administration Screen Overridden

In 1992, as a cost-cutting measure DOB directed OMRDD to reduce its administration screens by two percent. OMRDD, however, exempted all of those providers with rollover appeals built into their administration rates. The Commission selected three providers (YAI, ILA, and the United Cerebral Palsy Association of New York City) with past appeal awards for administration and found that $49,000 in annual reductions were avoided because of this treatment. OMRDD contends that this budget-motivated reduction violates assurances it made to the federal government under the Boren Amendment that these appealed rates be

"reasonable and adequate." But, as indicated earlier, there is no necessary correlation between having rollover appeal funds and a continuing need for this additional funding.

## Haphazard Files and Errors Result in Appeal Overpayments

Due to systemic flaws in the internal review process, coupled with sloppy record keeping, the Commission found many processing errors which were not detected by staff performing basic accuracy checks. The errors included the use of wrong rate sheets, the use of incorrect numbers from rate sheets, and the pulling of wrong data from the cost reports in the surplus/loss analysis. This resulted in improper appeal amounts being awarded to providers.

In one case, OMRDD awarded an appeal to Sullivan County ARC for $84,000 when, in fact, the agency only requested an $8,000 increase. Although the provider was basically requesting a shift in staff from clinical to direct care, OMRDD awarded appeal funds for the direct care staff without decreasing the clinical care rate. This enhanced funding to Sullivan ARC contributed to surplus revenues for which OMRDD has no intention of recouping (See, Supra, Discussion at p. 10). In another appeal case, OMRDD overpaid CLA $17,500 because of a trending error which should have been detected upon review.

OMRDD files which document the amount of appeals built into rates are also haphazard, thus creating an environment which facilitates the improper awarding of future appeals. For example, in one of the instances found by the Commission, Niagara County ARC received a double appeal payment for the same period (1990) because OMRDD failed to consider a previous appeal award and erroneously funded an additional $25,900 to the agency. This same appeal package also contained many data errors causing an overstatement of the agency's deficit subject to appeal reimbursement. Such errors reinforce the need for stricter guidelines, controls, and review procedures.

## Revenue from High Occupancy Levels Ignored

OMRDD does not properly calculate the revenue for the large number of providers that operate at an occupancy level (e.g., 100 percent) that exceeds the level on which their rates are based (e.g., 99 percent). This leads to higher per diem revenues and, therefore, higher total revenues. The Commission estimates that ICF providers receiving appeals had their deficits overstated by a total of

$474,000 annually because full revenue was not considered in the appeal calculations. This flaw is costly, especially when considering that the same type of error has occurred in the processing of CR appeals.

## Flawed Vacancy Calculation

OMRDD allows appeal reimbursement for unbillable vacant beds when providers can justify the vacancies. However, DOB has requested that vacancy reimbursements be reduced by the amount of variable costs which are built into the rate. The theory behind this reduction is that certain expenses, such as food costs, will not be incurred if the bed is empty and therefore should not be reimbursed.

In response to DOB's request, OMRDD devised a "boiler plate" formula to offset vacancy reimbursements by such variable costs. Yet, OMRDD's standardized formula to reduce funding of variable costs is mathematically flawed and virtually eliminates the variable cost reduction. This has resulted in excessive appeal awards which are not being reduced in accordance with DOB's request. The Commission examined one vacancy appeal award for 1990/91 for ILA. It found that the $366,000 award for four sites was overvalued by $31,270.[21]

In 1991, there were $1.5 million in vacancy appeal awards that were susceptible to this same type of error.

21 For example, ILA's 10-bed Pacific Street site received no funding through the Medicaid program for a bed that was vacant for 365 days. OMRDD concluded that ILA was entitled to receive funding for other than "client sensitive" variable costs through the appeal process for the vacant days. However, when OMRDD calculated the appeal award, total variable costs ($57,223) were erroneously reduced to 10.1 percent ($5,779) even though this 10.1 percent (should be 10 percent) vacancy factor is again applied at a later point in the calculation. This resulted in a double reduction in non-reimburseable "client sensitive" variable costs which inflated the appeal award by $5,781 for the Pacific Street site and $31,270 for all four ILA sites.

| | OMRDD Calculation | Corrected Calculation |
|---|---|---|
| Total cost built into rate | $644,939 | $644,939 |
| Less variable costs in rate | 5,779 | 57,223 |
| Total less variable costs | 639,160 | 587,716 |
| X percent of vacant days | x 10.1% | x 10.0% |
| Appeal award | $ 64,553 | $ 58,772 |
| Error (Pacific Street site) | $ 5,781 | |
| Error for all four ILA sites combined | $31,270 | |

## Reimbursement of Non-Allowable Costs

The Commission found that the OMRDD appeals unit granted appeals without excluding costs which by the provider's own admission were considered non-allowable. Within the annual cost report, providers disclose certain costs as being non-allowable; yet, the OMRDD appeals unit has not deducted such costs from the amounts subject to appeal awards. Although the Commission only came across a couple instances involving three to four thousand dollars, clearly, such costs should not be subject to appeal reimbursement.

# Conclusion

OMRDD has the statutory obligation to ensure that rates are sufficient to cover the costs of efficiently run facilities. Yet, the Commission has found that appeal funding has been routinely granted in excess of ceilings intended to control excessive costs; appeal funding has been used as a substitute for effective regulation of problem agencies; appeal monies not spent, or used for other than requested purposes, are not being recouped for rollover years; and, certain providers receive large lump sums through appeal settlements without being subjected to spending restrictions and audits. Additionally, because of the failure to follow written procedures, sloppy record keeping, and a failure to take periodic looks at provider spending practices, there is little assurance that OMRDD can contain costs.

The findings of this review indicate that most of the weaknesses uncovered are systemic in nature and affect the payment of large amounts of public funds to providers of service. Although the system for processing rate appeals is supposed to have multiple stages of review, approval, and follow-up audits to minimize the risk of erroneous or improper decisions, the Commission's review found that these methods of internal control were not working as intended.

The Commission is concerned that the irregularities in the process of reviewing and granting rate appeals, the lack of accountability for how appeal funds are actually spent, and questionable legal interpretations of OMRDD regulations that essentially place provider decisions to spend public funds on purposes unrelated to the appeal beyond scrutiny have combined to place a low priority on ensuring the fundamental legal objective of "efficient and economical" rates.

# Recommendations

1. Currently, OMRDD Counsel's office does not believe its regulations permit it to recover unspent or misspent rollover appeal funds. Therefore, OMRDD should revisit and review the validity of the Counsel's opinion, and consider modifying its regulations and policies to safeguard the expenditure of public monies.

2. OMRDD should only grant settlements with the condition that the funds are subject to audit and could be disallowed if not spent on the purposes stated in the appeal. The OMRDD Bureau of Management and Fiscal Audit should discontinue its practice of avoiding the auditing of settlements.

3. As part of the appeal review process, there should be coordination between OMRDD's Division of Administration and Revenue Support and its Division of Standards and Regulatory Compliance to assure that appeal money is not used to finance mismanaged programs. When programs are found to be unsound, an on-site fiscal review should be conducted to assess the "financial responsibility" of operators and underlying management problems corrected before additional taxpayer monies are placed at risk.

4. There are many areas which OMRDD should address to correct its current appeal processing methods.

   - OMRDD should develop uniform guidelines and procedures to enable accurate and equitable processing of appeals.
   - OMRDD should correct its surplus/loss analysis in order to accurately realign costs, particularly property costs, so that proper appeal awards can be determined.
   - OMRDD should better maintain its appeal files especially in the area of documenting rate changes resulting from appeals.
   - OMRDD should correct the mathematical flaw in its standard vacancy appeal calculation.
   - OMRDD should correct its surplus/loss calculations in order to accurately reflect revenues for the many providers whose rates are based upon less than full occupancy.
   - OMRDD should avoid the indirect funding of costs above the administrative screen by not including such costs as part of an agency's deficit in the surplus/loss analysis.

- OMRDD should reconsider applying the two percent administration screen cut to all providers with rollover administration appeals built into their rates.
- OMRDD should exclude provider's self-reported non-allowable costs from the surplus/loss analysis to avoid reimbursing such costs through the appeal process.
- Supervisory review by OMRDD officials should be more rigorous to reduce or eliminate erroneous or inconsistent handling of appeals by individual analysts.

# Appendix A

STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

44 HOLLAND AVENUE • ALBANY • NEW YORK • 12229-0001

THOMAS A. MAUL
Commissioner

Executive Deputy Commissioner

January 19, 1994

Mr. Clarence J. Sundram
Chairman
Commission on Quality of Care
for the Mentally Disabled
99 Washington Avenue, Suite 1002
Albany, NY 12210-2895

Dear Mr. Sundram:

I recently concluded my review of the Commission's audit report concerning the OMRDD's rate appeals process. The report contained a number of valuable recommendations. I have, therefore, advised staff to immediately implement certain of these recommendations. Pursuant to my direction, the Rate Appeals Manual will be updated and expanded. The surplus/loss calculation utilized in the appeal process has been revised to remove unallowable costs and to include revenues generated from 100 percent occupancy.

Certain of the processes targeted in the audit were in place during the period of the audit, but were temporary situations which were corrected, prior to the audit. I am specifically referring to the realignment of property costs in the surplus/loss calculation.

Staff are currently analyzing the report and will be preparing the formal response. Coincidental to this analysis will be a request to CQC for a review of the associated work papers and statistical calculations contained in the report.

Although the report contained many valuable recommendations and insights, inherent in the document was substantial editorial license and many superficial conclusions. The formal response will address these issues in a thorough manner thereby clarifying any misinterpretations by CQC.

I sincerely appreciate the valuable work that resulted in the report and commend your staff's efforts to absorb and understand a process as complex as rate appeals.

Please contact me if you wish to further discuss the contents of the report.

Sincerely,

Thomas A. Maul
Commissioner

c: Mr. Kaplan
Mr. Cody
Mr. Hogeboom

# Appendix B

STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

44 HOLLAND AVENUE • ALBANY • NEW YORK • 12229-0

ELIN M. HOWE
Commissioner

THOMAS A. MA
Executive Deputy Commissi

# MEMORANDUM



January 20, 1993

To: Thomas Maul

From: Paul R. Kietzman

Subject: Audits

Counsel's Office has received an audit appeal hearing request from UCP/Western New York. Two of the issues concern findings that amounts granted for rate appeals both in the ICFs and CRs were not spent in subsequent years for the same cost categories for which the appeals were granted. The regulations at issue are as follows:

14 NYCRR §681.12(d) (9) - Any additional reimbursement received by the facility, pursuant to a rate revised in accordance with this subdivision, shall be restricted to the specific purpose set forth in the appeal decision.

12 NYCRR §633.13(f) (10) - Any reimbursement received by the facility pursuant to a fee revised in accordance with this subdivision shall be restricted to the specific purpose set forth in the first or second level appeal decision. If the provider does not spend such reimbursement on the specific purpose, OMRDD shall be entitled to recover such reimbursement.

While there is agreement between DQA, DARM and Counsel's Office that any rate/fee adjustments must be spent in the specific categories in the rate appeal year, there is disagreement on whether these regulations would require that the adjustments be spent on the same cost category in subsequent years.

Counsel's Office position is as follows:

Right at home. Right in the neighborhood.

1. Although both regulations require that any rate/fee adjustment must be spent in the specific categories granted in the appeal, we interpret this to require spending in the appealed categories only in the rate/fee appeal period.

2. There is no reference in either regulation to a requirement that a granted appeal be restricted to those same cost categories for subsequent years. If in fact this is the intent of the regulation, a reference to subsequent years should be in the regulation.

3. In the absence of a specific reference to a spending requirement in subsequent years, such a mandate conflicts with the budgetary interchange policy which allows providers to shift spending among the cost categories. In addition, the promulgation of this regulation originally contemplated a change in the base year every two years. Had this occurred, this issue would have been moot.

In the case of UCP/WNY, a facility determined by DQA to have utilized rate appeal adjustments for a different category than originally appealed, DARM has determined that the facility had incurred deficits which more than made up for the audit disallowances.

It is Counsel's Office recommendation that DARM and DQA decide which interpretation they wish to follow. Depending on what they want to do we may have to revise the regulations. However, if the decision is to limit this spending requirement only to the rate appeal period, it is Counsel's Office position that the regulations as the are currently written do not support disallowances for subsequent years and would not have to be amended.

PRK:KSH

cc: Alden Kaplan
Thomas Cuite
Richard Cody
Philip Joyce

# Appendix C

OMR 1A (4-75)

STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

INTRADEPARTMENTAL CORRESPONDENCE

TO: BMFA Audit Appeals File

FROM: Mr. Joyce

DATE: January 26, 1993

SUBJECT:

Audit of Rate/Fee Appeals

ADDITIONAL COPIES TO:

Mr. Cuite

As Mr. Cuite and I agreed during our January 14, 1993 meeting, the Bureau of Management and Fiscal Audit will change its audit procedures which will result in rate/fee appeals only be audited for the initial appeal period. Adjustments for not using the additional revenue or not using the revenue for the items detailed in the appeal will also be limited to the initial appeal period.

We also agreed that BMFA will provide DARM with a breakdown of the adjustments by initial period and subsequent periods for all Final Audit Reports. Reports which have been issued in Draft will be adjusted and Revised Draft Report will be issued to the Agencies. And finally, all audit reports in development will include adjustments only for the initial appeal.

This change in policy and audit procedure is a result of Counsel's opinion (See attached January 20, 1993 memorandum) that the regulations do require the spending of money for specific purposes in the initial rate period, but does not hold the Agency to the same requirement for subsequent periods. Counsel has already stated that they do not believe OMRDD would be successful in the adjudication of an audit appeal based on these regulations. Therefore, we concluded that the Division of Quality Assurance had no choice but to amend the audit reports and change our current auditing procedures. One appeal has already been filed and additional appeals will certainly be filed if the original appeal was successful. In addition, without Counsel's support, Quality Assurance would not have the opportunity to defend its position in a hearing even if the Agency were to be granted a hearing by the Commissioner.

PFJ/masp
Ref.: CAP
Attachment

# Appendix D

OMRDD
STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

44 HOLLAND AVENUE • ALBANY • NEW YORK • 12229-000

ELIN M. HOWE
Commissioner

THOMAS A. MAUL
Executive Deputy Commissione

MEMORANDUM

TO: Commissioner Elin Howe

FROM: Richard T. Cody

DATE: June 14, 1991

SUBJECT: YAI Settlement Agreement

For some time, we have been negotiating a settlement agreement with YAI. Finalizing the agreement has taken longer than originally anticipated due to various concerns expressed by YAI regarding the terms and language of the settlement agreement. In particular, YAI is concerned that an audit may limit the provider to its categorical expenditures, thus disallowing funding already granted through the settlement.

We have explained that this situation cannot happen since settlement agreements are not governed by the rate appeals regulations requiring such action. In fact, settlement agreements are not governed by any regulation. We had hoped that this information would be sufficient to alleviate YAI's anxiety over the audit process and permit us to promptly finalize the settlement. Instead, YAI has requested written assurance from you regarding the above matter.

In addition, YAI is uneasy because the settlement agreement does not refer to the revised rates as "efficient" and "economic". We would like to include another statement in your letter to YAI confirming that the rates were calculated in accordance with rate setting regulations and as such are considered to be efficient and economical.

Counsel's Office has advised against making changes of this nature to the settlement agreement itself. Therefore, addressing these matters in a letter avoids changing the "boiler plate" portions of the agreement as well as satisfies YAI's apprehension about certain terms and/or language in the settlement agreement. We feel strongly that your letter is needed before YAI will agree to sign the agreement.

I appreciate your concern about this matter and am available to discuss it further with you at your earliest convenience.

Thank you.

cc: Mr. Hogeboom
Mr. Flynn
Ms. Grasso

# Appendix E

STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

44 HOLLAND AVENUE • ALBANY • NEW YORK • 12229-0001

ELIN M. HOWE
Commissioner

(518) 474-7700
Fax: (518) 474-7382

THOMAS A. MAUL
Executive Deputy Commissioner

June 13, 1991

Joel M. Levy
Young Adult Institute, Inc.
460 West 34 Street
New York, NY 10001-2382

RE: Settlement Agreement

Dear Mr. Levy:

This letter is to confirm our mutual understanding of two issues relative to the settlement agreement for twenty-seven specifically designated YAI facilities, including eighteen ICF/DDs and nine CRs.

First, you have asked that in the event of an audit of any of these programs, that expenses not be subject to categorized areas originally appealed as provided in 14 NYCRR 681.12(d)(10) and 14 NYCRR 686.13(f)(11). Since any monies granted to YAI are being granted as part of a settlement and not an appeal, neither of these regulations is applicable to this settlement agreement.

Secondly, you have asked that OMRDD acknowledge that the rate adjustments in this settlement agreement are efficient and economic for the operation of these facilities. The federal statutory standard for reimbursement rates requires that rates be reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities. 42 U.S.C. 1396a(a)(13)(a). Although the efficient cost standard does not require OMRDD to reimburse individual providers for costs they actually incur, at the time of this settlement, the rate adjustments in this settlement agreement are efficient and economic for these twenty-seven facilities.

I appreciate the time and attention you have given to the terms of this settlement agreement. I look forward to continuing the ongoing "partnership" between OMRDD and YAI.

Sincerely,

Elin M. Howe
Commissioner

EMH/PRK

Copies of this report are available in large print, braille, or voice tape. Please call the Commission for assistance in obtaining such copies at 518-473-7538.

The Commission on Quality of Care for the Mentally Disabled is an independent agency responsible for oversight in New York State's mental hygiene system. The Commission also investigates complaints and responds to requests concerning patient/resident care and treatment which cannot be resolved with mental hygiene facilities.

The Commission's statewide toll-free number is for calls from patients/residents of mental hygiene facilities and programs, their families, and other concerned advocates.

Toll-free Number: 1-800-624-4143 (Voice/TDD)