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1. MASSACHUSETTS: Where, again, are those savings in closing the developmental centers?

February 11, 2011

David Kassel

COFAR Blog

The Patrick administration has repeatedly assured the public that it intends to plow tens of millions of dollars in projected savings in closing four state developmental centers back into the community system of care.

But now, even the staunchest advocates of the developmental-center closures appear to be starting to question whether the community system is deriving any fiscal benefits from the planned shutdowns of the Fernald, Monson, Glavin, and Templeton centers.

In the current and coming fiscal years, Day Habilitation services, a key community-based budgetary line item is getting hammered by the administration. And the Association of Developmental Disabilities Providers and the Arc of Massachusetts, which have pushed hard for closures of the developmental centers, are up in arms about the cuts. Day habilitation involves a coordinated system of speech language therapy, occupational therapy, physical therapy, behavioral management, developmental skills training, and other programs for persons with intellectual disabilities.

In a series of press releases and emails to their members over the past week, the ADDP and Mass Arc have decried cuts of \$1.6 million in the current fiscal year and \$5 million in the coming year in Day Habilitation services.

That may not sound like a lot of money being cut, but in an email to members, dated Feb. 4, the ADDP describes Day Habilitation services as a key component of the administration's "Community First" initiative, which is centered around the closures of the developmental centers. Day Habilitation should be one of the prime beneficiaries of the money supposedly being saved in closing the centers. But it's not deriving any benefit at all.

As the ADDP email states:

"Over the last several years, the Commonwealth has turned to Day Habilitation programs to provide the day activity for state owned and operated group homes, as well as hundreds upon hundreds of people with disabilities who have moved from state institutions into community settings.

"In fact, the Administration's Community First, Institutional Closure and Olmstead Plans make heavy use of Day Habilitation services by moving former residents of Fernald and other closing state institutions into state owned and operated group homes and private provider day habilitation programs for non-residential supports and services (the state doesn't operate similar day activity programs).

“The proposed Mass Health Day Hab cuts means that there will be less staff on hand to serve many frail individuals who have a variety of challenging health concerns, as well as cognitive impairments. “

In 2008, Health and Human Services Secretary JudyAnn Bigby claimed to *The Boston Globe* that the administration would be plowing \$45 million a year back into the community system as a result of the shutdowns of the developmental centers. As of today, it doesn't appear, however, that the administration is even able to prevent further cuts in one of the key components of its community-based approach.

It's worth noting here is that Day Habilitation services are funded out of the state's massive Mass Health budget, and not from the budget of the Department of Developmental Services. Yet, similar habilitation programs in the developmental centers are funded under the developmental center line item in the DDS budget. So, once again, while the administration may be claiming that closing the developmental centers will save money, what it is really doing is shifting DDS costs to other budgets and not adequately funding those budgets.

Bottom line: Rather than saving money, the administration has compounded its problems by both closing developmental centers and cutting the Day Habilitation line item. The line item cut is a huge and scary loss and a problem for those who currently use Day Hab programs and those for whom it is proposed as they leave the developmental centers. It is not solved by closing the centers, and in fact adds even more people into this overburdened system.

2. ARKANSAS: One DOJ case dismissed; Decision pending in Conway case

DOJ suit filed over 5 centers is tossed; State, relatives of disabled elated

By Amy Upshaw

Arkansas Democrat Gazette

Wednesday, January 26, 2011

LITTLE ROCK — A federal judge Tuesday dismissed a lawsuit against five of the state's human development centers that alleged that they violated the Americans With Disabilities Act, saying the U.S. Department of Justice should have tried to resolve problems that it found before rushing to court.

State officials and families of people who live at the centers lauded Chief U.S. District Judge J. Leon Holmes' decision as a victory in their efforts to fend off what they see as an overly aggressive Justice Department.

“We believe in choices and options for our Human Development Center clients and their families, and that Arkansans are best suited to provide those options,” Gov. Mike Beebe said in an e-mail.

“The Department of Justice has tried to step in and make those decisions from Washington, and I am glad to see the Court turn back that attempt,” Beebe added.

Larry Taylor, president of a statewide group of parents and guardians of human-development center residents, said he was thrilled with Holmes’ decision, although he recognizes that the ruling was based on technical issues and may not deter what many see as an effort by the Justice Department to force the state to stop using large institutions as homes for the developmentally disabled.

“We’d love to think this is the end of it, but we can’t be naive enough to think the Department of Justice will take their lunch and go away,” Taylor said Tuesday morning. “I think this is a major victory, but we haven’t won the war.”

A Justice Department spokesman declined Tuesday to answer questions about the agency’s next steps, saying only that “we are reviewing the decision.”

The May 2010 lawsuit at the heart of Holmes’ decision Tuesday was the second lawsuit the Justice Department filed against the state regarding human development centers.

The first was filed in January 2009 against the Conway Human Development Center. It claimed that the state favors institutionalization for the disabled; is heavy-handed with the use of restraints, many of which are outdated; and too often resorts to drugs instead of finding better solutions to control residents’ disruptive behaviors.

That case went to trial before Holmes last fall, but the judge has not yet made a ruling. That isn’t expected until at least March.

In his 13-page opinion about the 2010 lawsuit, Holmes said the Justice Department should not have filed the complaint alleging that residents at five state-run centers are illegally segregated from the rest of society in violation of the Americans with Disabilities Act until first advising the state of its failures to comply with the law and then determining “that compliance cannot be secured by voluntary means,” steps that are outlined in the law.

Before the lawsuit, the Justice Department sent Beebe a letter in December 2009 saying that it was “commencing an investigation to determine whether residents” at the centers in Alexander, Arkadelphia, Booneville, Jonesboro and Warren “are being served in the most integrated setting appropriate to their needs” pursuant to Title II of the Americans with Disabilities Act. The state has since decided to close the center in Alexander.

By March, Justice Department officials had begun visiting each of the centers as part of an investigation, but the federal agency never sent the state “detailed, written findings,” nor did it “identify minimum measures” needed to remedy the violations as it said it would in the letter to Beebe.

Less than two months after the visits began, the Justice Department filed the lawsuit against the centers. In that lawsuit, the Justice Department claimed that developmentally disabled

Arkansans were kept in facilities that allowed little interaction with nondisabled people, in part because the state doesn't offer adequate alternatives for them to live in the community.

Once the lawsuit was filed, the state filed a motion to have it dismissed, saying the federal agency violated its own policies by not trying to work with the state to fix the perceived problems.

The Justice Department countered that after the March tours of the centers in Alexander and Arkadelphia, it gave "detailed verbal notification to the state of systemic ADA violations," court records show. It also argued that it was not required to "attempt to obtain voluntary compliance" with the law before filing the 2010 lawsuit.

Instead, Justice Department lawyers said the agency had only to "determine that compliance cannot be secured by voluntary means." The agency made that determination, its attorneys argued, based upon the history of litigation with the state over the Conway Human Development Center.

But Holmes did not believe those steps went far enough.

"The court recognized there are remedies provided under the law to address complaints of this nature," said Julie Munsell, a spokesman for the state Department of Human Services, which is responsible for the state's six human development centers. "Simply put, the Department of Justice has not satisfied those procedural requirements."

Dana McClain, a senior attorney with the Little Rock based advocacy group Disability Rights Center, said she was disappointed that Holmes did not let the lawsuit proceed but that she understands that he had to hold the Justice Department to the requirements in the law.

McClain said her group is hopeful that the Justice Department will move forward with its efforts to improve the conditions for developmentally disabled Arkansans by outlining for the state the problems found during visits to the centers, along with possible fixes.

Maybe, she said, the state will "take that opportunity seriously and remedy the issues" without having to return to court.

3. VIRGINIA: Video of outstanding remarks by State Senator in support of ICFs/MR option

View State Senator Newman's outstanding remarks here:

http://www.youtube.com/watch?v=Tf05_Cl7onE

4. KANSAS - GREAT Editorial: Kansas Neurological Institute (KNI) must remain open

Topeka Capital-Journal
Feb 12, 2011

The movement to close Kansas Neurological Institute was worrisome to begin with, but it's become positively shameful as more information has emerged.

Amid debate over the proposal to close KNI — initially proposed by Gov. Sam Brownback — it's become clear that the cost savings of the move would be insignificant while the human toll would be devastating.

There has been no indication — none — that community service providers in Topeka or anywhere else in the state are equipped with the expertise, experience and infrastructure needed to meet the needs of the severely disabled residents at KNI.

Even the health centers that offer the most extensive care in the region — St. Francis Health Center and Stormont-Vail Regional Health Center — aren't capable of providing the highly specialized services needed by KNI's residents.

Keep in mind that 85 percent of those residents can't speak, one-third are unable to eat by mouth, three-fourths have seizures or a history of seizures and 90 percent have profound intellectual disabilities.

Considering the extent of their needs and lack of community services available, there's little doubt this group of about 150 extremely vulnerable Kansans would face a dark future if KNI were to close.

It's unconscionable that members of the House Social Services Budget Committee voted in favor of shutting down the facility. Even though no community service provider has come forward to offer care on the level of KNI's, the committee saw fit to send the proposal to the next step toward adoption.

For the record, seven members of the committee — all Republicans — voted in favor of closing KNI. They were chairman Don Crum, of Augusta; vice-chair Elaine Bowers, of Concordia; Jana Goodman, of Leavenworth; Peggy Mast, of Emporia; Joe McLeland, of Wichita; Mike Kiegerl, of Olathe; and Bill Wolf, of Great Bend.

Rep. Jerry Henry, D-Cummings, was the only representative on the nine-member committee who didn't vote in favor of the closure. Rep. Barbara Ballard, D-Lawrence, was absent.

The committee's action was ghastly.

Keep in mind, it happened amid the \$300 million Statehouse renovation project that lawmakers have been supporting for more than 10 years.

It's an outrage that the committee members would consider funding for KNI an excessive state expenditure given the opulent outlay on the Statehouse, to name one project that legislators have seemed all too eager to shower with taxpayer funding over the years.

Now that the vote has been taken, though, it's time for action.

Short of a community service provider coming forward with proof that adequate services can be offered to KNI residents, Brownback needs to step in and stop the proposal in its tracks.

Let's make one thing very clear: Brownback deserves credit for his efforts to streamline state government and reduce costs to taxpayers, and he faces an extraordinarily difficult task in solving a \$550 million shortfall in state revenue.

That said, though, closing KNI isn't the right move.

Although KNI received \$29 million in funding for operations in 2010, the majority of that figure came through Medicaid. The state appropriation was about \$10 million. Considering the proposal calls for transferring to community services some of the funding currently going to KNI, the net savings to the state would be even less.

In a budget of \$14 billion, the savings would be a drop in the bucket.

The human cost would be staggering — and not just for the residents of KNI. Dispersing KNI's population would place enormous strain on the resources of hospitals and other community health service providers, likely to the point it would be difficult for them to maintain their current range and level of services.

Please, governor, just drop it. Shrinking government is a noble cause, but it can be done without hurting some of the state's most vulnerable sons and daughters.

5. KANSAS: Local officials worried about hospital closure

By Cristina Janney

Newton Kansan

Jan 26, 2011

The Associated Press contributed to this story

NEWTON — The governor's proposal to close a state hospital for the developmentally disabled in Topeka has local officials worrying if the influx of new clients in the community will stress an already overburdened system.

Under Gov. Sam Brownback's proposal, the Kansas Neurological Institute would close by 2014. The plan assumes the state will begin reducing the population at the hospital on July 1. His

administration is assuming \$659,000 in savings in the hospital's budget in the next fiscal year.

The institute has an average daily population of 142. Documents provided by Brownback's office say it would take almost two years to move all of the residents into community programs. Local officials do not know how many hospital residents might come to the Harvey and Marion county communities.

Advocates for the disabled argue moving developed disabled residents to community settings is better for the people who are served, said Elizabeth Schmidt, director of the Harvey/Marion County Developmental Disability Organization.

"Philosophically we want to provide support opportunities for people in the community, but for there to be choices there, there needs to be adequate funding and system structure for those people," she said.

Schmidt said the new clients will come into a system that already is struggling.

"My hunch is that service providers will ask for an increase in reimbursement rates to expand capacity," she said. "They will struggle to bring in more people when the rates have been frozen."

Schmidt said wages also continue be low for direct care workers in the community.

"Closure of a state hospital such as KNI must be balanced by initiatives to expand and strengthen the community service system, which lags far behind in funding to hire, train and retain quality direct support workers," she said. "The average wage for a direct support worker in the community service system is \$8.78 per hour, while starting wage for state hospital direct support workers is \$12.85 per hour."

Service dollars can follow the people who are moved from the state hospital to the community, but there are many disabled Kansans who have spent years on waiting lists for state funds.

Statewide there are more than 4,000 people on the waiting list for state funding for community services, according to Social Rehabilitation Services.

Of those 3,391 wanted their services to start in 2010 or earlier. Of that number, 1,413 are children younger than age 18, and 1,978 are adults.

In Marion and Harvey counties, 85 people are on that waiting list.

They may be waiting for adult residential support outside of the family home, as well as adult day support to increase productivity and community involvement, Schmidt said.

One local person who came off the waiting list in 2010 had waited five years to have services funded by the state, Schmidt said.

"It puts a lot pressure family members and decreases the quality of life issue for people who can't get services," she said.

6. GEORGIA: Problems from mental health closings outlined

Summary: A DOJ/Governor Settlement in Georgia calls for the closure of all mental health and mental retardation facilities (ICFs/MR) by 2015. This article foretells the problems that very likely occur with closures. Families of Georgia's state operated ICFs/MR are working hard to educate lawmakers as to the potential costs – financial and human – if the settlement is implemented.

Problems from mental health closings outlined

By Walter C. Jones

Morris News Service

Wednesday, Feb. 2, 2011

<http://chronicle.augusta.com/news/government/elections/georgia-elections/georgia-legislature/2011-02-02/problems-mental-health>

ATLANTA --- Last year's closing of Central State Hospital included glitches that shouldn't be repeated when the state closes the Northwest Regional Hospital in Rome, according to a parade of advocates for the mentally ill who testified before a legislative budget panel Tuesday.

Central State in Milledgeville stopped admitting new patients in 2009 and formally closed its doors last March. The closings are part of the state's agreement with the U.S. Department of Justice to shift away from hospitalization of mental patients and instead treating them on an out-patient basis with providers found in their local communities.

However, in the past seven months, 345 have wound up in the emergency room of one of the local hospitals in the region that Central State used to serve, according to Jean Aycok, the president of Oconee Regional Medical Center.

"This is not our area of expertise," she said. "We do medical care, so behavioral health is a challenge for us."

Some of the mental patients were sent to the intensive-care unit so they could be given constant supervision. Others required the hospital to hire off-duty deputy sheriffs to guard them because the facility has no secure beds.

As the state directs more patients toward so-called community-based treatment and away from hospitalization, it will face similar challenges. For instance, the members of the Human Resources Subcommittee of the House Appropriations Committee heard that county jails locked up more than 9,000 inmates in 2009 requiring treatment for mental conditions and more than 14,000 required transporting to hospitals for it.

"We have to have a place to put these people," said Baldwin County Sheriff Bill Masee.

The subcommittee is reviewing the budget for the state Department of Behavioral Health & Developmental Disabilities. It's one of the few state departments that Gov. Nathan Deal recommended for a budget increase. Most departments are getting cuts averaging 7 percent.

Subcommittee Chairwoman Penny Houston, R-Nashville, asked each of the 22 witnesses how lawmakers should change the department's budget. "Can you tell us what we need to do?" she asked.

Most said before closing the Rome hospital or discharging any more patients from other regional hospitals, the state needs to fund the community service providers.

"I get calls from parents, sometimes three and four daily, saying 'Where do I go? What do I do? Where do I turn?' " said Bonnie Moore of Rome, whose child has a mental illness. "In this day and time, right now, there's not the services we need in the community."

The final witness of the four-hour meeting was Dr. Frank Shelp, commissioner of the department. He told the legislators he set a June 30 target for having the community providers in place and that he could delay the closing of the Rome hospital if they aren't ready, although arrangements are on pace to meet that goal.

By contracting with existing traditional hospitals in the region Northwest Regional serves, the state has lined up more beds for the most urgent cases than it has now at its Rome facility. Also, other providers are contracting with the department to offer treatment for the less-urgent cases.

"We are hearing from private providers who are interested in coming into the area," he said. "We've also received another call from yet another hospital in the area. So the community providers, those who do mental health and developmental-disability services in the community, are stepping up and making themselves known."

In 2009, the department announced plans to close five of its seven regional hospitals, including the one in Savannah and most of the hospital in Augusta. It backed away from that plan, but it is still shrinking the number of patients in all of them.

7. MISSOURI: Proposed bill would close Missouri's state-run institutions for disabled, ignites fierce debate; Governor opposed

Summary: Missouri State Senator Scott Rupp has introduced a bill to close all public ICFs/MR within five years. However, Governor Nixon says he will not support closing the habilitation centers. "Unfortunately, there are folks who are so disabled, have so many challenges, that keeping them inside a habilitation center is the only way," Nixon said. "Wiping that out completely is, I think, very dangerous for folks who need that 24-hour care."

Proposed bill would close Missouri's state-run institutions for disabled, ignites fierce debate February 15, 2011

NBC Action News

By Ryan Kath

(excerpts) (Full article at

http://www.nbcactionnews.com/dpp/news/local_news/investigations/proposed-bill-would-close-missouri-s-state-run-institutions-for-disabled,-igniting-fierce-debate)

A controversial idea could put a huge dent in Missouri's budget deficit. Supporters say the state's institutions for the developmentally disabled are costing too much taxpayer money and that cheaper options are available in the community that provide similar care. However, defenders of the state-run habilitation centers argue closing them would not save money and would be devastating to hundreds of disabled residents.

Lawmaker's proposal: closing institutions

The debate about the future of Missouri's state-run institutions has gathered steam as lawmakers wrestle with a massive budget shortfall.

Sen. Scott Rupp, R-Wentzville, is proposing legislation that calls for the complete shutdown of the state's six habilitation centers in the next five years. The bill would require the Department of Mental Health to develop a transition plan for the state's 644 residents into the "most appropriate setting" in the community.

Because of the habilitation centers' fixed costs for utilities, maintenance and employee wages, Rupp says the average cost of daily care will continue to climb as the population declines. Rupp estimates savings to be \$16 million on the low end, in addition to potential cost savings from employee salaries and facility upgrades.

Thousands of others wait for services

Meanwhile approximately 5,000 individuals with less severe developmental disabilities are on a waiting list for services in the community. Rupp believes cost savings from his bill could be used to tackle the waiting list.

Governor Jay Nixon launched his Partnership for Hope initiative to cut down on the state's waiting list this year. However, Nixon told NBC Action News he will not support closing the habilitation centers.

"Unfortunately, there are folks who are so disabled, have so many challenges, that keeping them inside a habilitation center is the only way," Nixon said. "Wiping that out completely is, I think, very dangerous for folks who need that 24-hour care."

Some families say closing institutions would be "devastating"

When Jean Barrett recalls the day she brought her son, Kevin, to the Higginsville Habilitation Center, tears well up in her eyes. "It was hell," said Barrett. "You have to have the hard love to do what's best for the person. The soft love is not letting go."

Kevin, who is now 57-years-old, has lived in a habilitation center since he was 11. Barrett said her son only uses half his brain and suffers from frequent seizures. On a good day, she said he can write his first name.

If the bill passes, the 84-year-old widow is worried she might have to take on the 24/7 job of being caretaker for her son.

Barrett has already added handicap accessibility improvements around her Independence home for Kevin's frequent weekend visits. However, when he occasionally falls, she's had to call the fire department for help because she is unable to lift his 200-pound body frame.

"If they close, it will be devastating," said Barrett. "One shoe doesn't fit all."

Barrett said she supports people with developmental disabilities that can live, work and succeed in the community. But she does not believe Kevin could make the adjustment.

8. MISSOURI: Great Testimony Delivered by Mary Vitale

Mary Vitale is the President of the Bellefontaine Habilitation Center (ICF/MR) Parents Association and the VOR Missouri Co-State Coordinators.

Public Testimony House Appropriations Health, Mental Health, Social Services Committee
January 24, 2011

Good afternoon. Thank you for this opportunity to speak with you today. My name is Mary Vitale. I am the current president of the Bellefontaine Parents Association. I am also the Missouri state coordinator for the national organization, VOR. We advocate for a full continuum of care for persons diagnosed with mental retardation, including home, community placement, and habilitation centers.

Most importantly, I am the sister and legal guardian for my 57 year old brother, who is severely mentally retarded having a mental capacity of a 3 year old. He has been in a wheelchair all of his life, and has never been able to walk or talk. He uses gestures and facial expressions to try to communicate. He has severe agitated behaviors, and is on a choking precaution because of swallowing abnormalities. He is totally dependent upon others for all his daily needs. The care and services he receives at the Bellefontaine Habilitation Center has allowed him to attain and maintain his highest abilities.

I am in contact with families across the state and across the country. Their stories are much the same as mine. Families are extremely alarmed at the relentless efforts to close habilitation centers over the objections of families who need them.

Because of a St. Louis Post Dispatch expose about the care of persons with mental retardation, many long hours of statewide hearings, testimonies, and individual meetings were held in 2006. The recommendations are in two extensive reports quoted below.

The Mental Health Commission Report of August 2006 states:

“The Department of Mental Health and the Governor must make a clear and unequivocal commitment to providing a continuum of facility and community-based services that afford real choices to all Missourians who require DMH services. The experiences of other state departments of mental health in the U.S. have demonstrated that there are clients with specific profiles of disability and or medical/psychiatric co-morbidity, **who may be better served in dedicated centers than in community settings.**”

The Mental Health Task Force Report of November 2006, chaired by Lt. Gov. Peter Kinder states:

“The Department of Mental Health shall make a clear and unequivocal commitment to providing public and community based services that afford real choices for all Missourians who require DMH services. Because it is recognized that various types of care are needed for different individuals, the Department shall provide services on a person by person basis. **To that end, no habilitation center shall be closed as long as there is a need for its continued operation.** Conversely, any habilitation center for which there is no need shall be closed. **This will require the collaboration of the Governor, legislators, the Department, consumers, and their families. Budget action for capital renovation and facility upgrades will be a necessity.**”

It is unconscionable that these reports are being ignored!!!

The community is not prepared to take proper care of persons with high level needs who now in habilitation centers. What convinced me even more of this fact was my participation in a review of providers who answered an RFP from the Department of Mental Health and Office of Administration. Out of 17 interested providers only 6 submitted proposals. Out of those 6, only 2 of the proposals were acceptable for interviewing. The others lacked the expertise or the financial stability to care for the high level of needs of habilitation center residents. Although the 2 providers interviewed did do some good work, we found out that each of them had recent Immediate Jeopardy situations twice in only one year, one of them declared a homicide. Nothing I heard in this whole process convinced me that the care of habilitation center residents would be safer, better, or cheaper in the community.

Habilitation centers **do offer cost-effective** care for the most disabled population of persons with mental retardation. Their high level of disability will cost more than high functioning persons who can live in the community. A 2003 and 2009 updated peer-reviewed cost comparison study published in Mental Retardation, states: “From the studies reviewed here, it is clear that large savings are not possible in the field of developmental disabilities by shifting residents from institutions to community placements.”

Many advocates of closing habilitation centers use very fuzzy math when talking about costs. Many times expenses such as dental, medical, therapies, transportation costs, room and board,

and day programming are not included. Habilitation costs are all inclusive. Not so with community costs.

Did you know that when some residents move to the community they end up having to apply for food stamps? This is not cost savings - this is cost shifting to another agency.

Did you know that the millions of federal reimbursement dollars for habilitation centers go into the Missouri general fund to be used for other state expenditures? In the community, these federal reimbursement dollars go to the provider.

Again, when comparing apples to apples, **habilitation centers are cost effective.**

The way to make them more cost effective is to allow new long term admissions. Families that come to habilitation centers from the community for crisis services are thrilled with the care received, and comment that their loved one is doing better than they have done in several years because of all the specialized supports located on one campus! They want their family member to stay at a habilitation center, but are denied that choice! Families with loved ones now living in habilitation centers know the cost-effective, quality care and services provided in these facilities. Open up long term admissions for these families who desperately want and need these services!!!! They can also be used them as resource centers for those living in the community, as some other states are doing.

We represent the minority - the less than 5% of citizens who are severely disabled with profound mental retardation, multiple physical impairments, extreme behavior challenges, and ongoing medical concerns. Your decisions about habilitation centers should be based on sound judgment, not on which group can bring the most people to testify and sit in the gallery. It is time we stopped fighting a battle that paints community care as good and habilitation center care as bad. We must take steps that respect the needs of each individual.

Please remember that your term in office will end in a few years, but the decisions you make about habilitation centers will last a lifetime for me, my brother, and other families who need them.

The residents of Missouri habilitation centers need and deserve the level of care provided in these centers to continue to live a decent life and die a natural death, not death caused by lack of proper care.

Closing habilitation centers is truly like pulling the plug on the life support system needed by these residents over the objections of loving families, resulting in avoidable death, abuse, and neglect.

If indeed this is where our state and country are going – then God help us all.

**9. MICHIGAN: Repeated violations found at Oakland County group homes;
Mistreatment, health, safety problems cited in state investigation**

Mike Martindale
The Detroit News
January 10, 2011

Pontiac — A state agency has found repeated legal violations, health and safety problems and mistreatment of residents since 2008 at four Oakland County group homes for people with mental disabilities.

Problems at the facilities, run by Patterson Care Services Inc. of Birmingham, were documented in special investigative reports by the Michigan Department of Human Services' Bureau of Children and Adult Licensing.

The Detroit News reviewed 19 state reports covering Patterson's seven Oakland County facilities and found serious violations at two facilities in Bloomfield Hills and two in Southfield.

Problems cited include lax supervision of residents, failure to provide proper medications and medical services and lack of proper cleaning and upkeep.

In one instance, the state found, a resident at Square Lake II in Bloomfield Hills drank Windex and was treated at a hospital in August 2008. In another, a staff member at Philip Residence in Southfield did not perform CPR or call 911 after a patient suffered a seizure; the resident later died.

According to state records, a male worker at Philip Residence was fired after sexually assaulting two female residents in September 2009. At Square Lake II, police found in August 2009 that a resident had left repeatedly and burglarized neighbors' houses.

In April 2010, patients at Rockingham Residence in Southfield got two doses of the same medicines after a staffer failed to initial a drug log, according to the state. At Wattles Manor in Bloomfield Hills, records showed two residents repeatedly missed medical appointments.

After an investigation in October, the state ordered the operator of the homes to correct the problems. No other action was taken.

"It's absolutely appalling," said Ann Kraemer, an ombudsman with Citizens for Better Care, after reviewing the reports. "I've been to a lot of facilities, some with problems, but these type of serious violations are very disturbing, including that they are under the same ownership."

Janet A. Patterson, the homes' owner-operator, declined to address the state's findings during an interview.

Kraemer, whose nonprofit group is an advocate for residents needing long-term care and their families, stressed she has not visited any of the four facilities.

"But the large number of special investigations done and the findings indicate to me that the residents living there are not being treated in a respectful, dignified manner," she said. "What's worse is because of their special needs, most of them are unable to speak for themselves."

The News reviewed the records after a fired employee at Philip Residence sued Patterson last month.

Former facility manager Latoya Johnson alleges in a complaint, filed in Oakland Circuit Court, that she was fired Sept. 29 after questioning residents' care and conditions at the home.

The suit names Janet Patterson, the company, and two managers, Robert Clark and Martin Marcus, as defendants.

Clayton Johnson, the attorney for Johnson, said: "My client was attempting to have some concerns addressed at the group home she worked at and after she reported some matters, was retaliated against.

"They blamed her for problems she was trying to have corrected," the attorney said.

'We are a good company'

Janet Patterson dismissed Latoya Johnson's charges.

"This amazes me," Patterson said. "She was the group home manager and responsible for what happened there. That's why she was fired — along with five others who worked there. We fired all of them.

"We are a good company and do not keep people like that on," she said. "These (allegations) were already tested before the EEOC (Equal Employment Opportunity Commission) and the (state) Office of Recipient Rights."

Patterson declined to comment further.

Many of the allegations contained in Latoya Johnson's lawsuit match those found in DHS records.

Among those allegations: A Square Lake II resident in December 2008 broke into a supermarket two miles away and returned without being discovered — until police investigating the burglary tracked footprints in the snow. According to state records, the caregiver on duty was watching TV, warming up his car and taking cigarette breaks.

The Philip Residence smelled of urine and feces, and had stained, dirty and torn carpeting. According to Johnson's suit, the facility had broken appliances, lacked smoke detectors and did not have a large enough grocery budget.

After an Oct. 7 investigation by DHS, Adult Protective Services and the state Office of Recipient Rights, the company was ordered to submit written plans for correcting the problems.

Johnson's suit says she told company officials, including Janet Patterson, of problems starting in July 2010, and was fired two months later after leaving work early to buy groceries and a birthday cake for residents.

In the suit, Johnson said all her claims went unheeded and that she was fired after a company audit of Philip Residence blamed her for not fixing the conditions there.

The company's homes are each licensed for up to six adults suffering developmental disabilities, including mental illness, Alzheimer's, traumatic brain injuries or the effects of old age. The company employs 60 people, according to state filings.

Licenses remain in effect

Under state law, DHS can revoke a group home's license if operators fail to address health and safety issues. The department's Bureau of Children and Adult Licensing also can modify a facility's license, making it effective for just six months while it more closely monitors the home.

According to state records, the homes' licenses remain in effect.

"In order for us to revoke a license, we have to prove that the violations against the licensee were 'willful and substantial' violations," said Gisgie Davila Gendreau, a DHS spokeswoman.

The state had 4,709 licensed adult foster care facilities and homes for the aged in 2010, Gendreau said. During the year, the state conducted 2,324 renewal inspections, investigated 1,938 complaints and closed 357 facilities.

The state law governing adult foster care homes does not provide for fines or other sanctions, Gendreau said.

Additional Facts

Adult foster care homes cited: Four of the seven adult foster care homes operated by Patterson Care Services Inc. were found to have violations in the past three years by state special investigations. Corrective actions were ordered in each case. The facilities are still licensed. Philip Residence, 23823 Philip, Southfield Rockingham Residence, 23640 Rockingham, Southfield Square Lake II, 1674 Square Lake, Bloomfield Hills Wattles Manor, 760 Wattles, Bloomfield Hills.

10. TEXAS: Jewish Federation of Greater Houston calls on state legislators to support choice

Note: In Texas, publicly operated ICFs/MR are called State Supported Living Centers. The Jewish Federation of Great Houston's Legislative Priorities include support for State Supported living

Source:

**The Jewish Federation of Greater Houston Legislative Priorities
February 2011**

State Supported Living Centers

- There is an effort by some organizations to close or outsource State Supported Living Centers. We are asking the legislature to ensure a continuum of care including group homes and state schools.
- State Supported Living Centers are especially important for residents who are medically fragile, profoundly disabled or those with severe behavior issues.
- State Schools help ensure religious freedom for all residents, including those in the minority such as Jewish residents.
- Adequate levels of funding are required to make certain all state schools and group homes have sufficient staffing, with proper supervision and oversight.
- In our state's history there have been times when conditions at the 13-state schools have been improperly monitored. Therefore, it follows that hundreds or thousands of group homes are at higher risk of improper oversight.

Request:

- Maintain a continuum of care that includes both group homes and State Supported Living Centers for developmentally disabled Texans.

11. NEW JERSEY: Lawmakers approve bill to give Legislature power to block closure of N.J. hospitals for disabled patients

Thursday, February 10, 2011

By Susan K. Livio/Statehouse Bureau

TRENTON — In a rebuke to the Christie administration's proposal to close the Garrett W. Hagedorn Psychiatric Hospital in Glen Gardner, an Assembly committee today voted to give the Legislature the authority to block the demise of any state institution serving disabled patients.

The Assembly Human Services Committee voted 6-2 with one abstention to approve a bill (A2880) requiring state Human Services officials to provide information allowing lawmakers "to review and consider the reasons for the decision and its impact on residents and employees of the facility," if there are more than 100 full-time workers. If the Legislature disagrees with any proposed closing, it could void the governor's decision.

Committee Chairwoman and bill sponsor Valerie Vainieri Huttle (D-Bergen) said the intent is to force the administration to share the information it uses to make decisions about facilities and the vulnerable people who live in them.

Huttle said a recent report analyzing the state's cost-cutting decision to close Hagedorn next year and transfer patients into community housing revealed nothing to contradict her belief the hospital serving mostly senior citizens "is a wonderful jewel."

"Every person suffering from mental illness or a developmental disability has a unique set of circumstances. We cannot employ a one-size-fits-all approach when it comes to providing the services they need," Huttle said.

But in an odd twist, many of the same families and disability advocates who support keeping Hagedorn open urged the committee to vote against the bill blocking future closures because they said in most cases, institutions are bad places to live.

The state has relocated about 600 former psychiatric patients into smaller group housing over five years to comply with a U.S. Supreme Court decision and a separate lawsuit demanding less reliance on institutional care.

"We believe that this bill creates an additional obstacle to institutional closure and flies in the face of decades of civil rights advocacy on behalf of people with developmental disabilities," said Tom Baffuto, executive director of the Arc of New Jersey, which advocates for people with developmental disabilities.

"They need to close every single institution in New Jersey," said Todd Emmons of Voorhees, a former resident of two developmental centers who is much happier in a group home.

Defenders of developmental center favor the bill. Joanne St. Amand of Cranford said her sister has lived at the Woodbridge Developmental Center for about 35 years and vowed to "fight to the death any effort to change that. This is her home."

Jenelle Blackmon of Communications Workers of America Local 1040, representing 5,000 institution employees, defended the care they provide.

"They become part of our family," she said.

12. NEW JERSEY: Closing Vineland Developmental Center and UEZs hurts state's poorest residents

Editorial by Norm Cohen
February 28, 2011
Shore News Today

In his budget address last week, Gov. Chris Christie proposed closing the Vineland Developmental Center to reduce the state budget gap for this year and in future years.

Founded more than 100 years ago back in 1888, the Vineland Developmental Center, according to www.nj.gov/humanservices/ddd/home/centers/vineland, provides habilitation, behavioral and medical services and supports for women with developmental disabilities. As of Dec. 1 there were 400 residents at the center, and their average age was 54.

VDC is located on 257 acres in Vineland, land that could be very valuable commercially if it were to close. It has two campuses, which will be consolidated into one this year.

VDC employs more than 1,400 people. While this might seem like a large staff-to-resident ratio, one must remember that residents who live at the center include many people whose developmental disabilities are so profound that they could not live on their own. Many residents are basically wards of the state, as they have no family at all. Thus the staff has become their family.

Gov. Christie claims that closing the center would result in savings of \$163,000 this fiscal year, \$1.5 million next year, and almost \$3 million in the years to come. But it is not clear if those figures include the cost to the Cumberland County economy of having 1,400 people losing their jobs and their state health benefits. Much of the supposed savings will be lost by higher costs to the state's safety net, from welfare to unemployment to foreclosures.

This closure will have a ripple effect on the economy of South Jersey. Companies that supplied the center with goods and equipment needed to run it on a daily basis – such as office supplies, soap, equipment repair, lawn and garden supplies, and building supplies – all of these suppliers will lose a good customer that paid its bills on time.

So what might be a short-term budget savings might well be a long-term disaster for its workers and their families, and for Vineland, Cumberland County and South Jersey.

The reality is that yes, once again, a Republican governor is trying to balance the state budget on the backs of the weakest and poorest among us. In recent speeches and television appearances, our governor has tried to distance himself somewhat from the more radical of his fellow governors, like Gov. Walker of Wisconsin. But this action, combined with his plan to shut down the state's Urban Enterprise Zones, make it clear that the poor are the targets.

It is interesting how “shared sacrifice” to balance the budget doesn't include the very well-off, those folks earning a million dollars a year or more (you know Christie will veto the millionaires tax again this year). It would be good to know which group created more jobs in New Jersey last year, folks earning more than a million dollars a year, or small businesses situated in the UEZs.

How much business will a company like Art Handler's lose now that he won't be able to include half off sales tax as a selling point to compete with the Best Buys and other big-box stores? One of the main reasons for the formation of a UEZ was to give local small businesses the chance to compete on a more level playing field. If local small businesses did better, they could hire local workers, who would then be able to spend more locally. I don't know how well UEZs have performed around the state, but it seems that having the program has helped the UEZ towns of South Jersey more than not having it.

Our state senators and assemblymen have a real challenge in front of them to try to stop both of these closure plans. Jeff Van Drew is going to have to find a way to fight to save the Vineland Center. There is no way he can allow 1,400 people to lose their jobs. Folks, please call your state representatives and the governor. Tell them to find another way to cut the budget.

Remember: If the state can close Vineland down, then what is stopping Christie from closing down Woodbine Developmental Center or New Lisbon or Ancora next year to balance another budget? You better stop Christie now, before things get worse.

13. FLORIDA: Governor Scott proposes to privatize Sunland and Tachachale

Scott proposes to privatize Sunland and Tachachale

By Deborah Buckhalter

Jackson County Floridian

February 8, 2011

Gov. Rick Scott wants to privatize Florida State Hospital, Sunland [ICF/MR] Training Center and other mental health facilities, according to a Florida Small County Coalition summary of the governor's proposed budget.

Unveiled Monday at a Tea Party function, the governor's proposed budget would also privatize the Mentally Retarded Defendant Program on the Florida State Hospital campus, along with the Northeast Florida State Hospital at MacClenny, the North Florida Evaluation and Treatment Center in Gainesville, and the Tacachale [ICF/MR] Center, also in Gainesville.

The Coalition summary cites several key pages in the governor's proposed implementing bill, which addresses two years of changes.

The proposed budget directs the Agency for Persons with Disabilities to privatize Sunland by March 2013, along with the MRDP at Chattahoochee and the Tacachale Center in Gainesville.

Legislators will have their say in the budget-setting process during their next session, which begins on March 8.

“I know it’s something that won’t just happen tomorrow, whatever the scope of this would wind up being,” Jeff Egelston, Sunland Superintendent, said. “It takes a while to look at the numbers, and the legislature, I’m sure, will be heavily involved in approving or not approving the proposals.”

Rep. Marti Coley, R-Marianna, said she was just getting the budget Monday afternoon and had little information about its specifics.

“Almost every year I’ve been here, a proposal has been made to privatize some of these same institutions, and every year we have been able to ward that off,” she said. “We’re facing more challenging budget times that we ever have before. As a legislature, we’ll be looking at his proposals very carefully.”

While Coley would prefer that the facilities remain state-run, she doesn’t think the privatization-public sector question is the most important issue for the people who work there.

“My main concern is to protect the jobs in our area. I will do everything in my power to save those jobs, whether they’re private or public. I think we’re facing more challenging times economically than before, and we have to balance our budget. I think the institutions we have in Gadsden and Jackson County have proven themselves to be effective, and I have been a strong supporter of keeping those as state-run institutions.”

She expects lawmakers to come up with proposals of their own.

“We will look at his proposals and consider them carefully while we are creating our own proposal,” she said. “I know that his goal is the same as ours – not to raise taxes and to reduce government intrusion, so we have that common goal and this is his proposal to reach that goal. We’ll take all this into consideration going forward. I think we have a lot of work to do as legislators.”

Jackson County Commissioner Jeremy Branch said he will fight the governor’s privatization push. Keeping the facilities in the public sector, he said, will allow for stability that workers just can’t count on from the private sector.

“We will have a full court press to oppose privatization,” he said. “We will plead our case with legislators. The cards are not in our favor right now, because these facilities listed and proposed to be privatized are in rural areas that don’t have as much clout, but I hope that we have some bipartisan support to stop this.”

According to Branch, “(Senator) Bill Montford’s office has said they stand with us to protect Sunland and Florida State Hospital.”

Branch said responsibility for defending the region’s interests now rests in large part on the shoulders of on the district’s two Republican representatives and the Senate Democrat.

“It’s going to take more heavy lifting on their part,” he said, as opposed to the sort of grassroots protest he helped spearhead when the threat of privatization and/or job cuts at prisons in the county became apparent last year.

The 167-page budget proposal drew some heavy criticism from Democratic legislators in key leadership positions.

13. MONTANA: HB 36 to clarify commitment laws for people with developmental disabilities fails to pass

Source: Disability Rights Montana

HB 36 failed to pass the Montana House of Representatives.

HB 36, sponsored by Rep. Trudi Schmidt, was developed by the 2009-2010 Interim Children, Families, Health and Human Services Committee. It cleared up confusion in the developmental disabilities commitment law and made sure that people with these disabilities are treated as fairly as people in other legal proceedings.

The current DD commitment process is unfair to people with developmental disabilities in one important respect: there is no initial appearance. As a result, people with disabilities may never know that they have an attorney, never know that there is a legal proceeding, and never know that they have a right to object to commitment. There is no reason why DD proceedings should be different from every other legal proceeding - civil or criminal - in this important respect.

Initial appearances are brief and can be conducted by video. Even so, the initial appearance may result in better representation, which could result in a successful resolution of the case.

HB 36 did not change the commitment standard and did not cost counties more money. The Interim Committee asked for a comment from the district court judges, county attorneys, and public defenders and got one response. The Montana County Attorneys Association and Montana Judges Association had no objection to this bill.

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