
Secretary of State

State of Oregon

SENIOR AND DISABLED SERVICES DIVISION

Facility Abuse Complaint Investigations,

Estate Administration, and

Adult Foster Home Licensing

Calendar Year 1996



Audits Division

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Audits Division



Auditing for a Better Oregon

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The National State Auditors Association annually conducts a joint audit dealing with a systemic issue affecting various states. This year's audit focused on long-term care. The Oregon Department of Human Resources Senior and Disabled Services Division (division) is the principal state agency governing long-term care services. This report summarizes the results of work performed relating to long-term care operations in the state of Oregon.

We identified improvements that could be made in the performance of adult foster home licensing inspections and the division's oversight of this function. The division could take steps to improve facility abuse complaint investigations, thereby increasing the safety and welfare of senior and disabled individuals. Finally, the division could increase annual estate recoveries by approximately \$400,000 through obtaining timely notification of client deaths and increase recoveries by more than \$255,000 from funds held by the Division of State Lands — Abandoned Property Section. We also noted during our review that the division effectively stops payments to care providers when public assistance clients die.

The division agrees with the audit findings and is currently in the process of implementing many of our recommendations.

The cooperation extended by the management and staff of the division and the local service offices was commendable and sincerely appreciated.

OREGON AUDITS DIVISION

John N. Lattimer
Director

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SUMMARY

PURPOSE

The purpose of this review was to determine whether the Department of Human Resources Senior and Disabled Services Division (division) complied with laws and administrative rules governing the Adult Foster Home (AFH) licensing and inspection process and the facility abuse complaint investigation process. We reviewed whether the division could improve fund recoveries from the estates of deceased public assistance clients and the Division of State Lands — Abandoned Property Section. Finally, we determined whether the division effectively stops payments made to non-medical community-based care providers when public assistance clients die.

BACKGROUND

The division delivers services to seniors and disabled people through a network of offices located in all areas of the state. The division is responsible for oversight of the long-term care program and ensuring compliance with certain laws and regulations when inspecting and licensing AFHs and performing facility abuse complaint investigations. For certain public assistance programs, the division recovers funds from deceased client bank and nursing home accounts for assistance paid on the client's behalf. The division can also collect abandoned assets up to the amount of assistance paid on a deceased client's behalf from the Division of State Lands — Abandoned Property Section.

RESULTS IN BRIEF

We found that the division can improve its processes to ensure that local offices comply with the laws and administrative rules for performing AFH inspections and issuing AFH licenses. We determined Oregon criminal records checks were correctly performed for 87 percent of sampled AFH providers, resident managers, and non-client residents. Our results indicate the division could improve its performance of national records checks. Although only 7 percent of the individuals in our sample required a national records check, 28 percent of those were not evidenced as being performed. We identified one individual in our sample with a disqualifying criminal history currently living in an AFH. Further, while most sampled AFH inspections were conducted in a timely manner, 21 percent of the homes with noted deficiencies were not given a timeframe for correction, 69 percent with deficiencies were issued a license prior to follow up, and 29 percent of those deficiencies were never confirmed as corrected. Finally, we found that the division generally ensures AFH providers and resident managers complete a basic training course prior to licensing.

The division did not ensure provider and resident manager training requirements were met for nine percent of the individuals sampled.

In the area of facility abuse complaint investigations, we found that the division does not always ensure that critical timelines are met. We determined that 18 percent of the facility abuse complaint investigations in our sample were started late, 14 percent had no evidence that an initial status report was issued, and we confirmed that 6 percent of the initial status reports were issued late.¹ We also found that local offices completed 28 percent of the sampled investigation reports outside of required timeframes and remitted 47 percent to the division more than 7 days after completion. Finally, the division did not issue 23 percent of required nursing facility letters of determination in our sample or determine corrective actions for 10 percent of the sampled investigations relating to AFHs within time requirements.²

We also determined that the division could increase recoveries of cash funds from the bank and nursing home accounts of deceased public assistance recipients by \$400,000 annually if the division received timely notification of client deaths. In addition, we identified more than \$255,000 of abandoned funds recoverable by the division from the Division of State Lands — Abandoned Property section.

Finally, we determined the division effectively stops payments to non-medical community-based care providers when public assistance clients die.

AGENCY’S RESPONSE The division agrees with the audit findings and is currently in the process of implementing many of our recommendations.

¹ Initial status reports communicate to a facility, the division, and the complainant that a local office has received a complaint and reiterates the local office’s understanding of allegations received.

² Letters of determination state the division’s conclusions regarding complaint allegations.

INTRODUCTION

BACKGROUND

The Department of Human Resources Senior and Disabled Services Division (division) administers programs that serve seniors (persons 60 and over) and persons with disabilities. The Oregon Legislative Assembly established the division in 1981 for the advocacy of Oregon seniors and the division operates under *Oregon Revised Statute* (ORS) chapter 410. The division's mission states, "As partners in our communities, we will provide leadership for seniors and persons with disabilities through programs that enhance independence, dignity, choice, and individual well-being." The services administered by the division fall into four main categories, Long-Term Care Services, Older Americans Act programs, Cash and Medical Assistance, and Protective Services.

The division delivers services to senior and disabled people through a network of state and local government offices and private non-profit agencies. The local government service offices are called Area Agencies on Aging. Local offices operate in major population areas and in all counties of the state.

Area Agencies on Aging and Multi-Service Offices

Area Agencies on Aging and Multi-Service Offices, referred to in this report as local offices, are public or private non-profit agencies designated by the division to address the needs and concerns of seniors and disabled individuals at the local level. Oregon's 68 local offices currently operate in 18 service areas. Service areas are either single or multiple county districts. Local offices receive state and federal funds to administer and support a wide range of supportive and nutritional services including in-home, community-based, and access services; as well as services to individuals in long-term care settings, such as nursing facilities.

The Multnomah and Clackamas county districts differ from the other districts in the state because they have

adopted county ordinances that govern the AFH licensing and the AFH facility abuse complaint investigation processes. These county ordinances must meet or exceed the standards established in the division's administrative rules.

LONG-TERM CARE SERVICES

Long-term care is generally defined as assistance for individuals who have long-lasting limitations in independently performing basic activities and routines of daily living. Individuals may need long-term care when a chronic condition, trauma, or illness limits their ability to carry out basic self-care tasks, called activities of daily living (ADLs), or household chores, known as instrumental activities of daily living (IADLs). ADLs include eating, bathing, dressing, getting to and using the restroom, getting in or out of bed or a chair, and other self-care tasks. IADLs include grocery shopping, managing money or bills, preparing meals, doing light housework, using the telephone, and other household chores.

The division has worked to create a long-term care network that respects that seniors and persons with disabilities prefer to receive long-term care services in their own homes whenever possible. When remaining in their own home is not possible, clients prefer a homelike care environment. Oregon's long-term care system consists of community-based care, nursing facility care, and specialized services.

The division employs a philosophy of "aging in place." The aging in place concept adapts services to the individual client as that person's needs change. Under this philosophy, the division attempts to provide clients with access to services, when clients' level of care increases, without the disruption of moving clients to new care settings.

Community-Based Care

Community-based care (CBC) is a term associated with services provided in a client's own home or in a substitute home. CBC provides comprehensive care to persons who

require assistance with ADLs and who may need nursing services. CBC services include adult foster care, residential care and assisted living facilities, and other in-home services.

Adult Foster Homes (AFHs)

Licensed providers operate AFHs that care for five or fewer residents in a private residence. AFH providers offer room, board, physical care, and 24-hour supervision. AFHs serve a wide variety of residents including those needing only room, board, and minimal personal assistance to those residents needing total custodial care and skilled nursing. Oregon currently has 2,460 commercially licensed AFHs.

Local offices perform AFH inspections and issue provider licenses. The division establishes in administrative rule the licensing requirements local offices use to perform these inspections.

Residential Care Facilities (RCFs)

RCFs are facilities licensed to serve six or more residents. The facilities provide room, board, and assist residents with ADLs. Residents may require 24-hour supervision or daily care. Oregon currently has 138 licensed RCFs.

Assisted Living Facilities (ALFs)

ALFs are apartment-type facilities operated by licensed providers. ALF residents live in individual apartments, but the facility provides complete dining and housekeeping services, as well as assistance with personal care. ALFs also provide residents with access to registered nursing services. Oregon currently has 83 licensed ALFs.

Nursing Facility Care

State licensed nursing facilities provide certified nursing care. Nursing facilities provide comprehensive care for persons who require assistance with ADLs and 24-hour nursing care. Oregon currently has 171 licensed nursing facilities.

Specialized Services

Specialized services include Oregon Project Independence, Providence Elder Place, and Personal Care. Oregon Project Independence is a state-funded program that provides supportive services to persons aged 60 and over who are not receiving Medicaid assistance. This program provides home care, day care, and other supportive services that allow persons to remain in their own homes as long as possible before being admitted to a residential facility. Providence Elder Place is an integrated acute and long-term care program for persons at high risk of nursing facility care. Services are primarily provided in a day health setting. Personal Care is a home care program for Medicaid eligible persons who require relatively unskilled care.

Case Management Services

Case management is a component of Oregon's long-term care system. Case management helps assure clients receive appropriate services. Oregon's long-term care programs rely on local office case managers to perform a comprehensive assessment of a client's needs, determine financial eligibility, develop care plans that meet those needs, monitor the provision of services and the client's status, periodically reassess the client's needs, and authorize services.

Older Americans Act Programs

The division contracts with local offices to service persons 60 years of age and older with programs funded by the Older Americans Act. Services include transportation, congregate and home delivered meals, social services, and in-home services.

Cash And Medical Assistance

The division determines eligibility policies for the following programs: Medicaid, Food Stamps, Oregon Supplemental Security Income Program, and the Pre-Supplemental Security Income General Assistance Program. Local offices assess client eligibility for various division programs.

PROTECTIVE SERVICES

Under ORS 410.070, the division shall administer laws and programs relating to protecting seniors and adults with physical disabilities. Protective services include:

- Establishing standards for and licensing long-term care facilities,
- Investigating allegations of abuse, and
- Providing protective services for vulnerable adults who have been abused or who are at risk of abuse and cannot protect themselves.

Protective service workers at local offices perform investigations and forward completed investigation reports to the division for review and determinations of fact. The division initiates corrective actions as deemed appropriate.

Population Served

The demand for long-term care services is increasing and is expected to continue to grow faster than Oregon's general population. This is because the people most likely to use publicly supported long-term care services, the 85 year old and over segment, are also the fastest growing segment of society. According to Portland State University's Center for Population Research, the 85 year old and over population increased 25 percent between 1990 and 1995, while the general population increased 10 percent. Between 1995 and 2000, the general population is expected to increase 7 percent while the 85-year-old and over population is expected to increase 23 percent.

The division has established a priority system to rank client impairment levels on a scale of 1 to 17, representing most impaired to least impaired, respectively. All persons in levels 1 through 17 are eligible for nursing facility care; however, care may be provided in less costly CBC facilities such as AFHs, RCFs, and ALFs.

According to a study published by the Lewin Group and the American Association of Retired Persons Public Policy Institute, "Oregon has also gone farther than the other states by actively taking steps to move people in nursing facilities back into the community. Oregon also has made a greater investment in developing alternative care facilities. Theoretically, these services allow people with high impairment levels and a lack of informal support to remain in the community, whereas, in the past, the state might have placed them in nursing facilities."³

In addition, the report stated that Oregon was included in the study because, "(1) it has a well-developed, integrated, and centralized program covering all forms of long-term care; and (2) it spends more of its long-term care dollars on home and community-based care programs than any other state and has the second lowest institutional growth rate in the nation."⁴

Division Funding 1997-99 Biennium

The division expects to provide services to approximately 172,827 clients each month during the 1997-99 biennium at a cost of \$986.4 million. Of those clients served each month, approximately 35,028 (20 percent) will receive long-term care services at a cost of \$741.5 million annually.

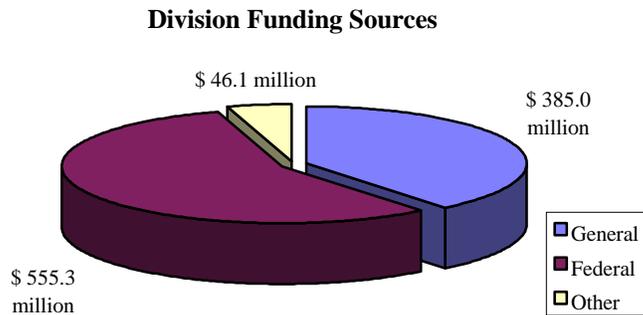
The division's 1997-1999 funding sources include:

General Funds	\$ 385.0 million
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³ Lisa Maria B. Alecxih, Steven Lutzky, and John Corea of the Lewin Group, and Barbara Coleman of the AARP Public Policy Institute, *Estimated Cost Savings From the Use of Home and Community-Based Alternatives to Nursing Facility Care in Three States*, November 1996; report number 9618, p. 23.

⁴ IBID, p. 6.

Federal Funds	555.3 million
Other Funds	46.1 million
TOTAL	<u>\$ 986.4 million</u>



SCOPE AND METHODOLOGY

The objectives of our audit were to determine whether the division complied with pertinent laws, rules, and regulations for the AFH licensing and inspection process, and the facility abuse complaint investigation process for long-term care facilities. In addition, we reviewed whether the division's Estate Administration Unit (EAU) could improve fund recovery from deceased client bank and nursing facility accounts, as well as determining whether the EAU could increase collections by identifying and claiming deceased client abandoned property held by the Oregon Division of State Lands. Finally, we reviewed whether the division effectively stops payments to providers when public assistance clients die.

For the AFH licensing and inspection process, we reviewed the performance of criminal records checks, the timing of inspections, the follow up of deficiencies, and whether the local offices ensured providers and resident managers met training requirements prior to licensing.

Our facility abuse complaint investigation review involved measuring the division and local office's compliance with five timelines:

- beginning investigations,
- issuing initial status reports,
- completing investigation reports,
- providing completed investigation reports to the division, and
- whether the division issued timely letters of determination for nursing facilities and initiated corrective actions for AFHs in a timely manner.

We limited our review of both the AFH licensing and facility abuse complaint investigation processes to the homes licensed in and the facility abuse complaint investigations received by the local offices in eight service areas. Areas are either single- or multiple-county groups. The areas reviewed were Benton, Lincoln, and Linn; Clackamas; Coos and Curry; Jackson and Josephine; Lane; Marion, Polk, and Yamhill; Multnomah; and Washington. These eight service areas serve approximately 81 percent of Oregon's total long-term care client population.

A detailed description of the sample selection and methodology for each audit objective can be found in appendix A starting on page 35.

We verified the reliability and completeness of computer-processed data used in our audit procedures by comparing data amounts with financial records, matching download record totals with reported amounts, and comparing data to documented record layouts.

We conducted this audit in accordance with generally accepted government auditing standards. We limited our review to those areas specified in this section and appendix A of this report.

AUDIT RESULTS

ADULT FOSTER HOME LICENSING AND INSPECTION

Our review of the Adult Foster Home (AFH) licensing and inspection process reviewed the performance of criminal records checks, the timing of inspections, the follow up of deficiencies, and whether local offices ensured providers and resident managers met training requirements prior to licensing. The following sections detail our findings in these areas.

Criminal Records Checks

To protect senior and disabled clients living in AFHs from individuals engaged in certain criminal activities, state statutes require Oregon and national criminal records checks to be performed for providers, employees, and non-client residents. We found record checks were not always run when required.

According to *Oregon Revised Statute (ORS) 443.735*, the division shall not issue an initial license or renew a license unless the division has completed a criminal records check on the applicant and any person, other than a resident, 16 years of age or older who will be residing in the AFH. The criminal records check shall consist of: (1) a check for a criminal record in the state of Oregon; and (2) a national criminal records check if: (i) the person has resided in another state within the previous five years; (ii) the person has disclosed the existence of a criminal conviction; or (iii) a criminal records check in Oregon discloses the existence of a criminal record in another jurisdiction.

The division employs staff who perform Oregon record checks by querying the Law Enforcement Database System. Local office staff identify the need to conduct the checks, obtain completed “Criminal History Release Authorization” forms, and forward the completed information to the division for performance of the checks. Three service areas reviewed (Clackamas, Lane, and Multnomah) employ staff who directly perform Oregon

record checks. The Federal Bureau of Investigation performs national background checks upon the division's request.

During our review of 116 randomly selected AFH files, we identified 369 individuals who required an Oregon criminal records check during 1996. Of those 369 individuals, documentation was not available to support the performance of 47 (13 percent) of the checks. As part of our audit procedures, we performed current Oregon records checks for 20 of the 47 individuals who did not have Oregon records checks during 1996 or 1997 and were still associated with an AFH. We found that one individual should have been disqualified from living in an AFH because they had a disqualifying crime conviction.

With the information available, we determined that 25 of the 369 individuals also required a national records check. We were unable to determine whether most of the remaining individuals also required a national check because until October 1996 the division did not require the individuals to provide a history of their residence. For the 25 individuals, local offices could not provide documentation that 7 (28 percent) of the national records checks were performed.

Oregon and national criminal records checks were written in statute to protect AFH residents from criminals and are an important part of the AFH licensing process. Failure to perform records checks for all applicable individuals increases the risk senior and disabled residents will be mistreated by individuals associated with AFHs.

During our review, we determined local offices do not have a process in place to identify all individuals employed at or residing in AFHs. Local office staff place heavy reliance on providers submitting criminal records checks for all employees and non-client residents. As part of the annual application process, the division's application form requests providers to list the names of employees and non-client individuals residing in the home; however, this is largely a self-reporting process. Local offices do not have a process to verify whether correct information is provided.

We also noted the process used by several local offices to track provider and employee records checks hampered the

offices' ability to ensure records checks were current. Local office staff informed us a significant percentage of AFH employees frequently change employers. Several local offices file AFH employee records checks in the employer AFH's file. If caregivers change employers and notify local office staff of the change, local office staff move the record check forms to the file of the new AFH employer. This cumbersome process makes it difficult for local office staff to identify employees with current checks. Conversely, we reviewed several other local offices that maintain record check forms alphabetically by year. These offices could easily identify individuals with current record checks.

Finally, the division informs providers during training sessions that failure to submit "Criminal History Release Authorization" forms to local offices may result in a sanction against the AFH. Division management stated, however, that the division sometimes is unable to issue such sanctions because local offices issue verbal warnings in some circumstances. When verbal warnings are not documented in provider files, identifying recurring problems is difficult.

Recommendations

To ensure Oregon and national record checks are completed as required, **we recommend** the division and local offices:

1. Establish a procedure and train local office staff to routinely confirm that all providers, resident managers, and non-client residents identified during all AFH visits, licensing or other, have current criminal record checks. This procedure would help confirm "Criminal History Release Authorization" forms are submitted by providers and that the division performed all applicable background checks for individuals throughout the licensing year.
2. File completed record check forms alphabetically by year. This method of filing should allow local offices to easily determine whether an individual has current record checks.
3. Require local office staff to issue only written warnings for AFH failure to submit "Criminal History

Release Authorization” forms or to document the issuance of verbal warnings in provider files.

Inspection Timing and Deficiency Follow Up

To protect senior and disabled residents of AFHs from conditions that may negatively affect their health, safety, or welfare, statutes and administrative rules require the division to perform AFH licensing inspections, note deficiencies, establish timelines for corrective actions, and ensure deficiencies are corrected before license issuance or renewal. We found that these actions were not always completed as required.

Licensing Inspections. According to *Oregon Administrative Rule* (OAR) 411-50-450, the division shall not issue or renew an AFH license prior to inspecting the home. However, OAR 411-50-420 extends an active license until the division performs an inspection if the provider applies for renewal prior to expiration of the license. According to division management, local offices should perform a renewal inspection within 30 days of the original license’s expiration.

We determined local offices conducted most of the required AFH inspections within 30 days; however, they did not conduct 4 of 116 within this time frame. A local office could not locate documentation supporting one additional inspection, therefore, we could not substantiate whether the inspection was performed. Of the four untimely inspections, local offices performed two inspections after the provider’s initial license was issued and the remaining two more than thirty days after the provider’s annual license expired.

Note deficiencies and establish timelines for corrective action. According to ORS 443.790, the division shall prescribe a reasonable time for correction of a deficiency not to exceed 30 days after the notice of violation. However, if correction of the deficiency within 30 days is determined impossible, the director may approve a reasonable amount of time exceeding 30 days. *Oregon Administrative Rules* 411-50-415, 411-50-420, and 411-50-460 may conflict with this statute by allowing local office inspectors to prescribe up to 60 days for correction. Finally, OAR 411-50-460 requires providers to notify

local offices of deficiency corrections within the date specified in the notice of violation.

While conducting the AFH inspections, local office inspectors cited 85 providers for 443 deficiencies. Of these deficiencies, providers were to correct 312 (70 percent) within 30 days, 37 (8 percent) were allowed more than 30 days to correct, and 94 (21 percent) were not given a time frame for correction. We also determined that only two of the ten local offices require providers to notify the office when cited deficiencies are corrected.

Ensure deficiencies are corrected prior to license issuance or renewal. *Oregon Administrative Rule 411-50-420* states that the division will require providers to correct deficiencies relating to the health, safety, and welfare of residents prior to renewing a license. Furthermore, OAR 411-50-415 requires AFHs to comply with requirements prior to the issuance of initial licenses. Per OAR 411-50-410, if deficiencies cited during inspections are not corrected within the time frames specified, the application shall be denied, and OAR 411-50-460 states the division will institute one or more sanctions against the provider. The sanctions available include placing a condition on the license, civil penalties, denial, suspension, revocation, non-renewal, or reclassification of the license.

We determined local offices did not follow up on deficiencies for 25 (29 percent) of the 85 providers. These 25 providers were cited for 74 deficiencies with no documentation of correction. Examples of deficiencies without follow up include confirming client medication dosages with a physician, installing a smoke detector, and completing required paperwork. Also, licenses for 59 (69 percent) of the 85 providers with deficiencies were initially issued or renewed prior to the correction of the deficiencies cited. Eleven of these were initial licenses and 48 were renewal licenses.

Local offices performing untimely inspections or not following up on cited deficiencies place resident's health, safety, and welfare at increased risk. Also, failure to follow up on identified deficiencies increases the risk providers will forsake corrective actions. During our

review, we identified providers cited for the same deficiency from one follow up to the next.

Division management stated that to effectively sanction providers the division needs clear documentation of the follow up performed by local offices. When local offices do not review and document corrections with providers, the division's ability to utilize corrective actions is reduced.

Finally, failure to follow up with providers may increase the division's legal liability for the health and safety of residents. The division and local offices should adhere to the statutes and administrative rules governing the AFH inspection process.

Lack of procedures contribute to local offices not ensuring providers correct deficiencies. The division's administrative rules do not explicitly require the review of homes cited for deficiencies; however, the rules state deficiencies shall be corrected prior to issuing a license to a provider. The division, therefore, is required to perform deficiency follow up. In addition, division management stated they are not actively enforcing the administrative rule that providers notify local offices of corrections.

According to division management, the division trains licensing inspectors to request violations be corrected as soon as possible, generally not to exceed 30 days. The division further stated it grants lengthened time frames, such as up to 60 days, for deficiencies that require longer time periods to correct, such as residence structural modifications.

Recommendations

To ensure local offices inspect all AFHs and follow up on deficiencies prior to issuing provider licenses, the division should:

1. Provide local office inspectors with additional training emphasizing deficiency follow-up procedures and documentation.
2. Review their administrative rules to ensure compliance with ORS 443.790. Specifically, the division should review the time frame for deficiency correction of 60 days in OARs 411-50-415,

411-50-420, and 411-50-460 to determine whether they conflict with the statutory time frame of 30 days per ORS 443.790.

Provider and Resident Manager Training Requirements

To ensure AFH providers and resident managers possess basic care-giving skills, the division requires these caregivers to complete a training course, pass a basic training examination (examination), and attend at least 10 hours of annual continuing training. We found that training requirements were not always met.

Oregon Administrative Rule 411-50-441, adopted April 1996, requires all providers and resident managers to complete a basic training course and pass an examination prior to becoming a licensed provider or qualified resident manager. In addition, currently licensed providers and resident managers who have not previously passed the examination shall do so at or before the time of license renewal.

The division sent an executive letter dated January 22, 1996, to local offices with the division's new basic training exam. The letter stated that providers and resident managers licensed or approved as of January 15, 1996, who had previously passed an examination administered by the local office would be grandfathered and allowed to operate without taking the division's new exam. Conversely, the division required providers or resident managers who had not passed an examination as of January 15, 1996, to take and pass the division's new examination at the time of their annual license renewals.

Finally, OAR 411-50-441 requires providers and resident managers to complete at least 10 hours of division approved training related to the care of elderly and disabled persons each year subsequent to taking the basic training course.

Our review indicates local offices generally ensure AFH providers and resident managers complete a basic training course prior to licensing. Of the 160 providers and resident managers reviewed, local offices granted three exceptions from taking the basic training. Of these, two

were unofficially considered “limited” licenses and these homes have subsequently closed. A “limited” license allows a provider to care for a specific individual and the division to exempt the provider from some training requirements of a normal license. A local office granted the third provider an exception because he works for a corporation that operates AFHs. The provider is listed on the AFH’s license, however, he does not care for residents first-hand. We subsequently reviewed this exception with the division and were informed the local office should not have granted this exception to the provider.

Local offices were unable to provide documentation to support that 11 (7 percent) of 160 providers and resident managers had passed the division’s basic training course exam. We also identified two providers licensed prior to taking the basic training course or passing the exam. Records indicate the providers met these requirements approximately three months after receiving their licenses. One of these providers had been operating an unlicensed AFH, and the other was assuming a home with residents from another provider.

Local offices are not always ensuring providers and resident managers attend 10 hours of annual continuing training. Local office staff were unable to provide documentation that 14 (9 percent) of the 160 providers and resident managers had met annual training requirements. We also noted that local offices did not always issue a notice of violation to providers or resident managers that failed to meet training requirements. During our review of the files at local offices, we noted the division has included space on the renewal application form for providers to document the previous year’s training attendance. Many providers completed this space; however, some did not.

The requirements for AFH providers and resident managers to pass the basic training course examination and complete 10 hours of continuing training serve important functions. Division management stated that many providers and resident managers must meet minimum experience requirements, but are not required to have credentials as caregivers in order to care for residents of AFHs. The examination helps ensure basic training course participants learn the minimum skills necessary to properly care for senior and disabled

persons. The examination also helps verify providers and caregivers have achieved proficiency using the English language of at least the sixth grade level. Training attendance introduces caregivers to new techniques and concepts, as well as strengthening general care-giving skills.

Recommendations

To ensure AFH providers and resident managers comply with training and basic examination requirements, the division should:

1. Ensure that all of the eleven providers and resident managers identified as exceptions by the audit have passed the basic training course exam.
2. Require local offices to obtain documentation verifying providers and resident managers have passed a basic training course examination prior to licensing.
3. Institute policy requiring inspectors to document providers failing to complete 10 hours of training as a deficiency on a notice of violation. This formally documents the training deficiency and will serve as a reminder to perform follow up.

FACILITY ABUSE COMPLAINT INVESTIGATIONS

Our review of facility abuse complaint investigations reviewed the timeliness of the following actions: (1) beginning investigations, (2) issuing initial status reports, (3) completing investigation reports, (4) providing completed investigation reports to the division, and (5) issuing letters of determination and initiating corrective actions. The following sections describe our findings in these areas.

Beginning Investigations

Per OAR 411-89-100, if a complaint alleges a nursing facility resident has died, been hospitalized, or is in imminent danger, an on-site investigation shall begin

within two hours of the complaint's receipt. The OAR states that if a complaint alleges circumstances could place a resident's health or safety in imminent danger, an on-site investigation shall begin prior to the end of the first working day following receipt of the complaint. All other complaint investigations shall begin and be completed within 90 days following receipt of the complaint.

Oregon Administrative Rule 411-50-455 states that AFH investigations shall begin within two hours of a complaint's receipt if the complaint alleges a resident has died, been hospitalized, or is in imminent danger due to abuse or neglect. If a complaint alleges circumstances exist that could place a resident's health or safety in imminent danger from injury, abuse, or neglect; the investigation shall begin by the end of the next working day.

Although RCFs and ALFs are not specifically identified in these rules, division management stated that they apply the AFH standards to RCF and ALF facilities for beginning investigations. We believe this approach is reasonable and for reporting purposes held RCFs and ALFs to the same standards as AFHs when reviewing whether investigations began in a timely manner.

Of the 120 investigation reports sampled, 22 (18 percent) were started late. These 22 investigations were required to begin within 1 day. The untimely investigations were not concentrated in one local area, as seven of the nine local offices reviewed started at least one inspection late.

Table 1 below provides a detailed analysis of the 22 investigations started late.

Table 1
 Number of Facility Abuse Complaint
 Investigations Started Late

Days Late	Number of Reports
1 day	9
2 to 8 days	11
52 days	2
Total	22

The facility abuse complaint investigation response times were established in statute and administrative rule to protect the health and safety of senior and disabled persons and to stop inadequate care practices. Based on interviews with division personnel and other health care professionals, the length of time between an incident and its investigation impacts the physical evidence available for analysis by protective service workers. The visibility of a bruise or injury fades as time passes; therefore, it is important for protective service investigators to visit the client timely to observe such evidence.

In our samples, one investigation involved a client who fractured an arm falling out of bed. The investigation for this complaint should have begun by the end of the next business day; however, the local office began it 52 days after receiving the complaint. In addition, division personnel stated that clients' and witnesses' memories of incidents often fade as time passes. A different complaint in our sample alleged that a client was verbally abused and sent to his or her room as punishment. The investigation for this complaint should have begun by the end of the next business day, but it began 52 days after the complaint was received.

Division and local office staff also stated that facility employees frequently change jobs, and that locating and

interviewing a witness after they leave employment with a provider is often difficult or impossible. Beginning investigations promptly would reduce this problem.

Starting investigations promptly supports the legal preparation of the investigation report. According to division management, if investigators do not complete investigations within time requirements, providers frequently legally challenge sanctions and corrective actions assessed. In addition, division management stated, gathering evidence becomes more difficult when local offices start investigations late.

Investigations may start late because local office staff have a limited number of protective service investigators to handle an unknown number of complaints received on any given day. This situation prompts protective services staff to triage complaints. In addition, the method local offices use to triage calls may not always ensure investigations begin in a timely manner. Finally, not documenting the time complaints are received makes it impossible to determine if local offices begin investigations in a timely manner. This is particularly true for investigations that should begin within two hours of receipt.

Issuing Initial Status Reports

Per ORS 441.650, nursing facility complaints require the issuance of initial status reports (ISR). An ISR communicates to a facility and the division that a local office has received a complaint. ISRs are intended to reiterate to complainants the local office's understanding of allegations received.

Additionally, the statute states that the local office shall complete an ISR within two working days of the start of the investigation and provide the ISR to the complainant, specific residents or persons designated to receive information concerning the residents, the Long Term Care Ombudsman, the facility, and the division, and make the ISR available for public inspection.

For the 87 ISRs in our sample, there was no evidence that 12 (14 percent) were ever issued and 5 (six percent) were

issued late. These incidents were spread amongst six of the nine local offices sampled.

Failing to prepare and send ISRs promptly may result in protective service workers investigating incomplete or incorrect allegations. The division reviews ISRs to determine if immediate corrective action is necessary or if other parties, besides the local office, need to be involved. If facilities do not receive timely ISRs, they are unable to take immediate corrective actions and clients may continue to reside in dangerous or uncomfortable living arrangements.

Completing Investigation Reports

To ensure investigation reports are timely and useful, administrative rule requires local offices to complete reports within defined time periods. According to OAR 411-89-120, if complaints allege abuse in nursing facilities, complaint reports shall be completed in less than 62 days. All other nursing facility investigation reports shall be completed within 90 days. In general, ORS 443.767 requires investigation reports be completed for AFH facilities within 60 days of receiving complaints. Although RCF and ALF reporting standards are not specifically identified in statute, division management stated they apply the AFH standards to these facilities. We believe this approach is reasonable and for reporting purposes held RCFs and ALFs to the same standards as AFHs.

Of the 120 reports reviewed, 33 (28 percent) were completed late. The number of days to complete the reports ranged from 63 to 252 days. These incidents were spread amongst seven of the nine local offices sampled.

Table 2 below provides a detailed analysis of the number of days late the 33 reports were completed.

Table 2

Number of Days Late Investigation
Reports Were Completed

Number of Days Late	Number of Reports
1 to 5 days	6
6 to 20 days	9
21 to 80 days	11
more than 80 days	7
Total	33

Investigation reports are the product of local office investigations and formally communicate the results of investigations to complainants, facilities, alleged perpetrators, and the division. The reports provide the information for the division’s corrective action process.

According to division management, local office failure to complete reports timely weakens the division’s ability to assess fines and other corrective measures. Management stated that this is because providers frequently legally challenge sanctions and corrective actions assessed after statutory time requirements for investigations have lapsed. Division management also stated that a benefit of timely reports is that facilities and perpetrators are able to immediately modify their care practices based on the investigation’s results. Completing investigations and reports late increases the risk that facilities and employees will repeat improper care practices or abuse to clients. Finally, timely completion of investigation reports facilitates communication of investigation outcomes to interested parties.

Local office staff informed us that some investigation reports are not completed in a timely manner because investigation procedures are prioritized over completing

investigation reports. Local office staff also stated that reports are occasionally completed late because investigators are attempting to gather additional information, such as contacting witnesses, to finish the report.

**Providing Completed
Investigation Reports to the
Division**

Per OAR 411-89-120, nursing facility investigation reports shall be sent to the division promptly upon completion. *Oregon Administrative Rule 411-50-455* requires local offices to send AFH investigation reports to the division immediately upon completion. “Promptly” is not defined in the administrative rules; therefore, for the purposes of this audit we have defined promptly as within seven days of the report’s completion. Although RCF and ALF reporting standards are not specifically identified in statute, division management stated they apply the AFH standards to these facilities. We believe this approach is reasonable and for reporting purposes held RCFs and ALFs to the same standards as AFHs.

To ensure local offices provide the division completed investigation reports timely, we reviewed 111 sampled reports at nine local offices. Of the 111 reports, 52 (47 percent) were not mailed promptly. We determined the local offices held reports up to 92 days after completion. These incidents were spread amongst eight of the nine local offices sampled.

Table 3 below provides a detailed analysis of the number of days late the 52 reports were provided to the division.

Table 3

Number of Days Late Investigation Reports Were Provided to the Division

Number of Days Late	Number of Reports
1 to 5 days	19
6 to 10 days	8
11 to 20 days	14
more than 20 days	11
Total	52

During a local office visit we reviewed a complaint log that detailed investigation report completion and mailing dates. Review of the log identified this one particular local office mailed 44 of 46 (96 percent) reports an average of 8 months after investigations started. The longest time period identified was 17 months.

The division independently reviews investigation reports and determines if abuse is substantiated or whether the alleged perpetrator violated a rule. This independent determination is the division’s basis to issue sanctions or corrective actions against perpetrators. According to division management, local office failure to promptly mail completed reports weakens the division’s ability to assess fines and other corrective actions. Management stated this is because providers frequently legally challenge sanctions and corrective actions assessed after the time requirements for investigations have lapsed.

Administrative rule requires local offices to mail reports to the complainant, facility, and the alleged perpetrator to communicate investigation results. Failure to mail completed reports timely increases the risk that facilities and employees will continue to subject clients to improper care practices.

Although we were unable to identify a single primary reason investigation reports were mailed late, the division has contributed to this issue by not defining mailing requirements within administrative rule. Our review indicates local offices held completed reports for extended periods of time prior to delivery to the division. Finally, local offices informed us they do not believe completing and mailing a report with what they consider to be unsubstantiated allegations is as important as mailing a report with substantiated allegations.

**Issuing Letters of
Determination and Initiating
Corrective Actions**

Oregon Revised Statute 441.677 requires the division to issue nursing facility letters of determination (LODs) within 60 days of receipt of investigation reports. *Oregon Revised Statute 443.767* requires the division take corrective actions within 60 days from completion of AFH investigation reports. Statutes or administrative rules do not exist governing corrective actions for RCFs and ALFs. Although RCF and ALF reporting standards are not specifically identified in statute, division staff stated they apply the AFH corrective action standards to these facilities. We believe this approach is reasonable and for reporting purposes held RCFs and ALFs to the AFH 60 day corrective action standard.

The division did not issue 20 LODs (23 percent) or determine 2 AFH corrective actions (8 percent) within time requirements. Three (38 percent) corrective actions to be determined by a local office were not timely.

The division should have issued the LODs within 60 days; however, the LODs were issued between 1 and 95 days late.

Table 4 below provides a detailed analysis of the number of days late the 20 LODs were issued.

Table 4

Number of Days Late LODs Were Issued

Number of Days Late	Number of Reports
1 to 10 days	9
11 to 20 days	7
more than 20 days	4
Total	20

The AFH corrective actions should have been issued within 60 days; however, they were issued between 19 and 205 days late. The three local office corrective actions should have been issued within 60 days; however, these corrective actions were issued 15, 16, and 103 days late. In addition, one of the division’s AFH corrective actions required a local office to issue a letter of reprimand to a provider. We determined the local office did not issue the letter of reprimand.

Statutes require the division to provide determinations of fact based on the information provided in local office investigation reports. From determinations of fact, the division may assess sanctions and other corrective actions.

According to division management, failure to determine fact and issue LODs weakens the division’s ability to assess fines and other corrective actions. Weakened corrective action procedures reduce the division’s ability to initiate provider care practice changes, and alleged victims may remain in potentially dangerous situations. Division management stated providers frequently legally challenge sanctions and corrective actions assessed after statutory investigation time requirements have lapsed.

If a local office does not issue a letter of reprimand as directed by the division, the corrective action function of

the facility abuse complaint investigation process does not operate effectively. It is important for information, such as a letter of reprimand, to be captured and documented in a provider's file in the event that the facility has a recurring or similar allegation made against them in the future. Maintaining a history may help to identify patterns of abuse that when left as a single issue may not warrant corrective action.

According to division management, the division may issue LODs late because staff are waiting for additional information from local offices before making final determinations of fact.

Recommendations

To help ensure facility abuse complaint investigation timelines are met, the division should:

1. Provide additional training to division and local office staff emphasizing the timelines involved in the facility abuse complaint investigation process and the importance and objectives of each.
2. Consider obtaining an electronic or manual tracking and monitoring system for facility abuse complaint investigations. Such a tracking system could operate as a tickler system to alert staff of impending timelines.

We have identified specific recommendations for several pieces of the facility abuse complaint investigation process. These specific recommendations are:

1. To ensure investigations begin within time requirements, the division and local offices should document the time they receive facility abuse complaint investigations and the time investigations begin.
2. To ensure local offices effectively prioritize complaints, the division should review the procedures local offices use to triage complaints.
3. To ensure local offices mail completed reports within time requirements, the division should define the term "promptly" in administrative rule.

4. To ensure timely corrective actions are issued for RCFs and ALFs, the division should consider establishing timeline requirements in administrative rule. Timeline requirements are currently established for AFHs and nursing facilities.

BANK AND NURSING FACILITY CASH ACCOUNT RECOVERIES

The division's Estate Administration Unit (EAU) is unable to recover some deceased client funds through the bank letter process because local office personnel are not reporting some client deaths to the EAU in a timely manner, or not at all.

Upon the death of a client whose public assistance is subject to recovery by the division, the EAU may recover funds that belonged to the client on deposit with a bank, savings and loan, or credit union per ORS 708.520, 722.262, and 723.463; respectively. *Oregon Revised Statute 708.520* limits the EAU's ability to recover from a bank up to 60 days from the date of a client's death; therefore, timely notification of the death is crucial to the recovery process. In addition, deceased client deposits held by a nursing facility in a personal incidental fund (PIF) are recoverable by the EAU through the same process.

The division's worker guide, chapter VIII, section 13 requires local office personnel to submit to the EAU a completed form 454D within five working days of the office's notification of a client's death.

Local offices did not report 11 (7 percent) of the 150 sampled deceased clients to the EAU within 60 days of the client's death. Without receiving a form 454D, the EAU's staff is unaware of the need to send recovery letters to financial institutions and nursing facilities for recovery of clients' financial resources.

Local offices' delays or failures to complete and submit 454D forms to the EAU resulted in recovery efforts not being performed for an estimated 252 clients during the six-month period reviewed. Through analysis of the EAU's historical recoveries, we determined the average

monetary collection from financial institutions and nursing facilities is \$681 per letter sent. In addition, we determined the EAU generates approximately 1.16 letters for every 454D form received. The EAU sends multiple bank and PIF account letters if clients have assets deposited at several locations.

Projecting our sample results to the population of 3,443 clients, the EAU was unaware of approximately 252 client deaths during this period. Had the EAU received the 454Ds, the EAU would have sent bank or nursing facility letters to approximately 292 financial institutions for recovery. Using the \$681 average recovery amount, the EAU would have recovered nearly \$200,000 more from September 1996 through February 1997 through the bank and PIF letter process. We estimate the annualized recovery losses to be approximately \$400,000.

Per division management, bank and PIF letter recoveries enable the division to fund future public assistance. Because the bank letter process recovers for services funded from state and federal funding sources, the division is required to reimburse the federal portion of recoveries. The division currently reimburses 48 percent of recoveries to federal sources and retains 52 percent for future service delivery.

The local offices do not have a process in place to identify all deaths of public assistance clients. Currently, local offices rely primarily on providers or clients' families to report clients' deaths. Local office personnel also stated that they occasionally learn of client deaths by reading the obituary section of newspapers. The EAU does not currently have access to the Oregon Health Division — Vital Statistics Section. The Vital Statistics Section records all deaths in the state. Using current listings from Vital Statistics, the EAU could identify deceased clients not reported by local offices.

While reviewing the bank letter process, we identified clients flagged by local offices as deceased in the division's computer system; however, the EAU had not received notification of these deaths from the local offices. Because local office personnel input the information to the division's computer system, we conclude local offices do occasionally know of a client's

death, but do not report the information to the EAU using a form 454D.

Recommendations

To ensure the EAU is able to identify and recover all available resources from banks and nursing facilities, we recommend the division:

1. Provide training to local offices and the EAU detailing the process and importance of notifying the EAU of client deaths.
2. Determine the feasibility of obtaining deceased client listings from the Oregon Health Division — Vital Statistics Section. The EAU could then develop a process to identify and notify local offices of the client's death and request the information needed to begin estate recovery processes, including bank and nursing facility letters.

ABANDONED PROPERTY RECOVERABLE FROM THE DIVISION OF STATE LANDS

The EAU could recover more than \$255,000 from the Division of State Lands (DSL) — Abandoned Property section. Upon the death of a client whose public assistance is subject to recovery by the division, the EAU may recover funds that belonged to the client held by the DSL up to the amount of assistance paid. The DSL collects abandoned properties from all sources, both public and private, within the state. Examples of common abandoned properties are cash from bank accounts, utility refunds, and outstanding vendor checks.

We electronically matched the DSL abandoned property records to deceased division clients, thereby identifying clients with abandoned property held by the DSL. The EAU may recover public assistance paid on a client's behalf from the deceased client's estate. Our electronic comparison identified 242 deceased clients with approximately \$246,000 of recoverable assets. We estimate the division could recover \$231,000 of this amount. We reduced the figure because the division can only claim up to the amount of assistance paid on a

client's behalf. While most matches had corresponding division claims in excess of the funds held by the DSL, a small percentage did not.

The EAU also performed manual matching procedures in November 1996, and identified 36 deceased clients with abandoned property assets of \$24,137. These 36 clients are in addition to the clients identified using the audit's electronic match.

The EAU identified the \$24,137 of abandoned property held by the DSL as recoverable prior to the audit's procedures, however, the EAU has not collected these funds. According to the EAU section manager, the EAU prioritizes other EAU claims higher than the DSL abandoned properties because of claim deadlines in the estate and probate legal processes. A recovery time limit does not exist for claims made by EAU against assets held by the DSL. In addition, identification of deceased clients with abandoned property at the DSL was not prioritized because the extent of recoverable assets was unknown.

Recommendations

To ensure the EAU recovers abandoned properties from the DSL, we recommend the division:

1. Work with the DSL to claim and recover the abandoned property identified by the audit.
2. Determine whether the performance of further procedures to identify assets currently held by the DSL would be effective.
3. Identify and implement a process to monitor and claim future recoverable abandoned property collections.

**PAYMENTS TO DECEASED
CLIENTS THROUGH THE
512 PAYMENT SYSTEM**

Our review determined the division effectively stops payments to providers made through its 512 payment system (512 system) when public assistance clients die. The 512 system processes monthly Community-Based Care (CBC) non-medical service payments to care providers. The system automatically generates monthly payments after the payment's initial establishment. To end payments because of a client's death, local office personnel must electronically close the client's payment file.

Of the 342,463 non-medical CBC payments processed between January 1, 1994, and June 1, 1997, 82 (less than 1 percent) were paid on behalf of deceased individuals. However, the division had recovered 51 of those payments prior to our review. The division confirmed the remaining 31 payments totaling \$15,399 have not been recovered.

According to the division, the 512 system relies on local office personnel electronically closing deceased client files. If file closure is made after a provider's monthly service payment has been made, the division is to recover the payment. Division personnel are uncertain of the reason the 31 payments have not been recovered.

REPORT DISTRIBUTION

This report is a public record and is intended for the information of the Department of Human Resources management, the governor of the state of Oregon, the Oregon Legislative Assembly, and all other interested parties.

COMMENDATION

The courtesies and cooperation extended by the officials and staff of the Senior and Disabled Services Division and the local offices were commendable and much appreciated.

AUDIT TEAM

Catherine E. Pollino, CGFM, Acting Deputy Director
Craig M. Stroud, CPA
Brenda L. Fairbrother
Kelly L. Olson
Nancy L. Young

APPENDIX A

AFH Licensing and Inspection. Our audit of the AFH licensing and inspection process reviewed the performance of criminal records checks, the timing of inspections, the follow up of deficiencies, and whether local offices ensured providers and resident managers met training requirements prior to licensing. We randomly sampled AFH files from ten local offices in eight service areas. The areas reviewed were Benton, Lincoln, and Linn; Clackamas; Coos and Curry; Jackson and Josephine; Lane; Marion, Polk, and Yamhill; Multnomah; and Washington.

To determine if Oregon and national criminal records checks were completed as required by statute, we reviewed 116 randomly selected AFH files. We identified individuals requiring criminal records checks by reviewing provider files at local offices.

Oregon Revised Statute 443.735 requiring criminal records checks became effective in July 1995; however, the division did not require local offices to conduct annual criminal records checks until April 1996, when the division updated their administrative rules for this change in statute. Therefore, when reviewing records checks we did not include individuals associated with AFHs that renewed their 1996 licenses prior to April 1996.

We identified 369 individuals from those files who required Oregon criminal record checks during 1996. We were unable to determine whether all of the 369 individuals needed a national records check because historically the division did not require individuals to provide information about their residence during the prior five years. In October 1996, the division modified the criminal records authorization form to question applicants if they had resided anywhere other than Oregon in the five years prior to application. From the information available, we were able to identify 25 individuals that also needed a national records check. For those individuals that we identified as needing criminal background checks during 1996, we reviewed provider files to determine whether the checks were conducted. Further, for those 20 individuals associated with an AFH who did not have the required Oregon record checks during 1996 or 1997, we performed current Oregon record checks to determine whether the individual had committed a crime that would automatically disqualify them from association with an AFH.

To determine if local offices ensured AFH providers and resident managers met training and examination requirements prior to licensing, we reviewed 116 randomly selected AFH files at local offices. Our review identified 160 providers and resident managers that should have attended a basic training course and passed the basic training exam.

The division adopted OAR 411-50-441 that requires providers and resident managers to complete a basic training course and examination in April 1996; however, the division issued an executive letter dated January 22, 1996, explaining the division's new basic training examination policy. The letter states providers and resident

managers licensed or approved as of January 15, 1996, who had previously passed an examination administered by the local office would be grandfathered and allowed to operate without taking the division's new exam. The division did not enforce the basic training course and examination requirements until April 1, 1996, therefore, when reviewing the samples we did not require licenses issued prior to April to meet these requirements. We also reviewed whether the 160 providers and resident managers had completed 10 hours of training as required each license year subsequent to passing a basic training course and exam.

Facility Abuse Complaint Investigation. Our audit of the facility abuse complaint investigation process involved measuring the division and local office's compliance with five timelines. We sampled 120 investigation reports from nine local offices in eight service areas. The areas reviewed were Benton, Lincoln, and Linn; Clackamas; Coos and Curry; Jackson and Josephine; Lane; Marion, Polk, and Yamhill; Multnomah; and Washington. Although RCF and ALF timeline standards are not addressed in statute, division management stated that they apply AFH facility abuse complaint investigation timeline standards to these facilities. We believe it is reasonable to hold RCFs and ALFs to the same standards as AFHs, and therefore we used these timelines when reviewing RCFs and ALFs.

We were unable to determine if seven investigations began within time requirements. These investigations should have begun within two hours of complaint receipt; however, local offices did not document either the time the complaint investigations were received or the time investigations began.

A nursing facility complaint requires the issuance of an initial status report. Of the sampled investigation reports related to nursing facilities, 87 required the issuance of an initial status report.

Per OAR 411-89-120, nursing facility investigation reports shall be completed within 62 days if complaints allege abuse. All other nursing facility investigations reports shall be completed within 90 days. AFH investigation reports are to be completed within 60 days of a complaint receipt.

Per OAR 411-89-120, nursing facility investigation reports shall be sent to the division "promptly" upon completion. *Oregon Administrative Rule 411-50-455* requires local offices to send AFH investigation reports to the division upon completion. For audit purposes, we considered "promptly" to be received by the division within seven calendar days of a reports completion. Multnomah county files completed investigation reports with the division for informational purposes only, therefore, this test was not applicable to the nine reports issued by local offices in this district. We reviewed 111 reports for this test.

The division issues letters of determination (LODs) to communicate to complainants, victims, facilities, and alleged perpetrators the division's independent findings of fact for facility abuse complaint investigations relating to nursing facilities. In those circumstances deemed appropriate, the division takes corrective actions against

facilities based on complaint investigation results. We reviewed 120 sampled investigation reports to determine if the division issues LODs for nursing facilities and takes corrective actions for AFHs, RCFs, and ALFs within time requirements. Of 120 investigation reports sampled, 86 required the division to issue LODs and 33 required the division to determine AFH, RCF, and ALF corrective actions. One investigation was suspended because the facility closed during the investigation. Multnomah County, as a district with its own county ordinances governing AFH protective services, was required to determine whether corrective actions would be taken for three of the AFH investigations.

Bank and Nursing Facility Cash Account Recoveries. To perform our audit of the EAU's collections for bank and nursing facility letters, we obtained a listing of 3,433 division clients whose case files were closed in the division's computer system due to death from September 1996 through February 1997. From the listing we sampled 150 deceased clients to determine if local offices notified the EAU of the client's death and provided the paperwork needed to perform collections.

Abandoned Property Recoverable From the Division of State Lands. We limited our identification of deceased clients with abandoned property held by the DSL to clients enrolled in specific recoverable division programs. These programs included general assistance, aid to the blind, aid to the disabled, medical old-age assistance, medically needy, and Medicare beneficiaries. The division's Office of Information Systems provided an electronic file of clients enrolled in the previous programs from before 1990 through August 1997. The DSL also provided electronic listings of 41,147 abandoned property records held with estimated values of \$100 or more for the period of 1983 to 1995. Our review of the property recoverable by the EAU involved an electronic comparison of these two data listings, using Social Security Number (SSN) as the common link. Our review was limited by the fact that the DSL data only contained SSNs for approximately 20 percent of the records provided. We were informed abandoned properties remitted to the DSL are frequently missing SSNs.

Payments to Deceased Clients Through the 512 System. Our review of the division's 512 payment system for payments to deceased clients was also achieved through an electronic review. We obtained a listing of 342,643 payments processed through the 512 system between January 1, 1994, and June 1, 1997, from the division's Office of Information Systems. In addition, the Oregon Health Department — Vital Statistics section provided a second computer file of all recorded Oregon resident deaths between January 1, 1994, and March 7, 1997. We electronically compared the 512 system payments to the Vital Statistics data to identify payments made to providers on behalf of clients after the client's date of death.

AGENCY'S RESPONSE TO THE AUDIT REPORT



Oregon

John A. Kitzhaber, M.D., Governor

February 19, 1998

John Lattimer, State Auditor
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Encouraging independence,
dignity and quality of life

Dear Mr. Lattimer:

This letter is in response to your draft audit report on Senior and Disabled Services Division's Protective Services, Estates Administration, and Adult Foster Home Licensing dated February 4, 1998. The report makes several excellent suggestions, many of which we are currently in the process of implementing.

We have a technical disagreement with the report's use of the term "Protective Services." The audit was focused on facility abuse complaint investigations, not the entire range of SDS's protective service activities. We request that wherever "Protective Services" appears, that it be replaced with the more limited term "facility abuse complaint investigations." This will clarify for our staff and local government partners the scope of the audit's findings and recommendations.¹

Response to Recommendations

Criminal Record Checks

Recommendation 1

Establish a procedure and train local office staff to routinely confirm that all providers, resident managers, and non-client residents identified during all AFH visits, licensing or other, have current criminal record checks.

The division will reaffirm its policy and provide training regarding verification of staff and non-client residents in the home during licensing or other monitoring visits, and to subsequently verify criminal record checks have been completed.

Recommendation 2

File completed record check forms alphabetically by year. This method of filing should allow local offices to easily determine whether an individual has current record checks.

"Assisting People to Become Independent, Healthy and Safe"

HRB 1015 (6/97)

¹ Auditor's Note: Throughout the report, we made this change where appropriate.

John Lattimer
February 18, 1998

The division will provide guidelines to local offices on developing effective systems for criminal records check tracking such as filing alphabetically by year.

Inspection Timing and Deficiency Follow-up

Recommendation 1

Provide local office inspectors with additional training emphasizing deficiency follow-up procedures and documentation.

SDSD agrees with this recommendation and will provide additional training and policy clarification. We will explore new methods of assuring that deficiencies have been corrected.

Recommendation 2

Review . . . administrative rule to ensure compliance with ORS 443.790. Specifically, the division should review the time frame for deficiency correction of 60 days in OARs 411-50-415, 411-50-420, and 411-50-460 to determine whether they conflict with the statutory time frame of 30 days per ORS 443.790

The division agrees and is currently reviewing the statute and regulations with the goal of eliminating conflicts.

Provider and Resident Manager Training Requirements

Recommendation 1

Ensure that all of the eleven providers and resident managers identified as exceptions by the audit have passed the basic training course exam.

The division agrees and will review all eleven exceptions with local offices and ensure that basic training course exams have been passed.

Recommendation 2

Require local offices to obtain documentation verifying providers and resident managers have passed a basic training course exam prior to licensing.

This requirement is current SDSD policy and will be re-emphasized in writing and during training with local offices.

John Lattimer
February 18, 1998

Recommendation 3

Institute policy requiring inspectors to document providers failing to complete 10 hours of training as a deficiency on a notice of violation. This formally documents the training deficiency and will serve as a reminder to perform follow-up.

The division agrees and will provide additional training on deficiency follow-up for local office staff.

Protective Services: Time lines

Recommendation 1

Provide additional training to division and local office staff emphasizing the Time lines involved in the protective services process and the importance and objectives of each.

The division began planning activities for the enhancement of its entire Adult Protective Services program in August of 1996. A draft manual was completed in September of 1997 and pilot trainings began shortly thereafter. The division will edit the manual and training to place additional emphasis on time lines of the adult protective services system, including facility abuse complaint investigations. Statewide training is planned for the summer of 1998.

Recommendation 2

Consider obtaining an electronic or manual tracking and monitoring system for protective service complaints. Such a tracking system could operate as a tickler system to alert staff of impending time lines.

SDSD has been developing an internal system that will aid local offices in monitoring the facility abuse complaint investigation process. SDSD will include a centralized on-line reporting system as part of its process of setting data system development priorities. We will begin to generate reports that indicate which local offices are following required time lines in the facility abuse complaint investigation process.

John Lattimer
February 18, 1998

Protective Services: Process

Recommendation 1

To ensure investigations begin within time requirements, the division and local offices should document the time they receive protective services complaints and the time investigations begin.

It is the division's policy that local offices document the time they receive complaints and the time they begin investigations. These time requirements will be re-emphasized in policy communications and training.

Recommendation 2

To ensure local offices effectively prioritize complaints, the division should review the procedures local offices use to triage complaints.

The division will review local procedures with the goal of providing local offices guidance on the most effective methods of triaging complaints.

Recommendation 3

To ensure local offices mail completed reports within time requirements, the division should define the term "promptly" in administrative rule.

The division will further clarify its written policy and expectation on investigation time lines, including the meaning of the word "promptly."

Recommendation 4

To ensure timely corrective actions are issued for RCFs and ALFs, the division should consider establishing time line requirements in administrative rule. Time line requirements are currently established for AFHs and nursing facilities.

The division will reaffirm with local office staff its policy directive and time lines requirements for investigation of complaints for RCFs and ALFs.

John Lattimer
February 18, 1998

Bank and Nursing Facility Cash Account Recoveries

Recommendation 1

Provide training to local offices and the EAU detailing the process and importance of notifying the EAU of client deaths.

The division agrees with this recommendation and has already taken several steps toward this goal. Estates staff have reviewed and revised training materials to place more emphasis on timely completion of reporting forms and will be issuing a formal policy memorandum stressing the importance of timely reporting.

We have arranged for Estates Administration Unit staff to conduct a portion of the division's Medicaid training of local office staff. EAU is also planning a quarterly Estate Administration Training to familiarize all local office staff with the estate recovery process. This training will start being delivered this year.

Recommendation 2

Determine the feasibility of obtaining deceased client listings from the Oregon Health Division — Vital Statistics Section. The EAU could then develop a process to identify and notify local offices of the client's death and request the information needed to begin estate recovery processes, including bank and nursing facility letters.

The division is very interested in pursuing this possibility with the Health Division and our Information Systems staff, and will do so.

Abandoned Property Recoverable from the Division of State Lands

Recommendation 1

Work with the DSL to claim and recover the abandoned property identified by the audit.

SDSD is identifying staff who can begin the property recovery process.

Recommendation 2

Determine whether the performance of further procedures to identify assets currently held by the DSL would be effective.

John Lattimer
February 18, 1998

SDSD will examine whether possible recoveries will justify the addition of staff to the EAU. Methods of matching DSL and Medicaid records will also be explored.

Recommendation 3

Identify and implement a process to monitor and claim future recoverable abandoned property collections.

See response to Recommendation 2, above. SDSD will explore cost-effective methods of identifying claimable abandoned property.

Payments to Deceased Clients through the 512 Payment System

The division will analyze the reasons for this small number of overpayments to determine methods of reducing or eliminating such cases entirely. We will also explore the cost-effectiveness of regularly using the method developed by the auditors to identify these payments for possible recovery.

Conclusion

SDSD takes note of the audit's recommendations and will explore ways to improve ongoing monitoring for improved compliance with policy and regulation. Our staff will immediately begin the process of incorporating the audit recommendations into our staff training. Formal communication re-emphasizing and clarifying policy will be issued in the coming months.

SDSD would like to commend your audit team on its professionalism, thorough investigation, and willingness to discuss issues as they emerged. We believe that such a spirit of cooperation between auditors and agency staff will result in better government for the people of Oregon. We will summarize the audit findings and recommendations and communicate them to our field organization.

Sincerely,

Roger Auerbach
Administrator

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Deputy Director

Deputy Director

John N. Lattimer

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