



Health, Education and Human Services Division

B-257440

August 11, 1995

The Honorable George Miller
House of Representatives

Dear Mr. Miller:

As you know, when children do not receive proper care, states may remove them from their homes and place them in foster care. If the children are from low-income families, the federal government generally shares with the state the cost of foster care. States are responsible for ensuring that (1) the foster care homes or facilities receiving these children, whether within the state or out of state, protect the children and promote their growth and development and (2) claims for federal reimbursement of foster care expenses meet federal requirements.

This letter responds to your concern that the State of California may be inappropriately placing children in four out-of-state group homes--Arizona Boys Ranch, Glen Mills, Rite of Passage, and VisionQuest. You have questioned whether these group homes hold for-profit status or operate primarily for the detention of children, in which case placements in these facilities would be ineligible for federal reimbursement.

Under the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), to qualify for federal foster care reimbursement, placements must be in nonprofit facilities that operate for purposes other than the detention of children. This federal reimbursement is to be used solely for the foster care of children and not simply to detain youths in need of secure custody. On the basis of your concerns, our letter addresses the following questions:

- Why did some group homes serving California foster youths convert to nonprofit status?
- Did any of the four group homes meet the federal definition of a detention facility?
- Were any inappropriate federal reimbursements claimed for California youths placed in the four group homes?

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To address the first two questions, we interviewed officials from the Department of Health and Human Services (HHS), the California Department of Social Services (CDSS), and the four out-of-state group homes. We also interviewed officials from the seven counties that make the most out-of-state placements from California.¹ To test whether inappropriate federal reimbursements were claimed for placements in for-profit or detention facilities, we gathered documentation on the profit and detention status of the reviewed group homes and data from the seven counties on their claims for federal foster care funds for fiscal years 1993 and 1994 (July 1, 1992, through June 30, 1994). Our work was performed between May 1994 and June 1995, in accordance with generally accepted government auditing standards. See enclosure I for details of our scope and methodology.

Briefly, California claimed expenditures of \$552 million for federal foster care reimbursement in 1994.² Over 94,000 of California's children were in foster care at the end of 1994. With one exception, we found no evidence of inappropriate claims for federal reimbursement for placements at the four out-of-state group homes in fiscal years 1993 and 1994. The one exception involved reimbursement claims for placements at Rite of Passage's Remote Training Campus that were inappropriate because HHS has designated this site as a detention facility.

BACKGROUND

Children commonly enter foster care because they have been abused or neglected at home.³ California counties place most foster children with relatives or foster parents, but about 18 percent were in group homes at the end of 1994. Children are placed in group homes generally because they need treatment such as special educational, medical, or

¹The seven California counties selected were Alameda, Sacramento, San Bernardino, San Diego, San Joaquin, Santa Clara, and Tulare.

²The amount reported for California claimed expenditures is for federal fiscal year 1994 (Oct. 1, 1993, through Sept. 30, 1994).

³Foster care is considered a temporary arrangement until children can be reunited with their parents or until other permanent arrangements, such as adoption, can be established.

psychiatric services. Some of these children are juvenile offenders on probation and would be difficult to place in family settings. According to local officials, counties place children out of state because of previous success with a given group home or because placements have failed at in-state facilities. In addition, counties sometimes select out-of-state group homes because they provide services that are not available in California.

Foster care expenses are partially reimbursable by the federal and California governments under certain conditions. The federal government reimburses 50 percent of the expenses if the child's family is eligible for Aid to Families With Dependent Children (AFDC)⁴ and other federal requirements are met. Expenses for about 58 percent of California's foster children were eligible for federal reimbursement in 1994.

California reimburses county expenses at 40 percent of the portion not reimbursed by the federal government. Thus, if expenses are eligible for federal reimbursement, California pays 20 percent of the total; if they are ineligible for such reimbursement, California pays 40 percent. For example, if \$100 in expenses were incurred for a federally eligible placement, California would pay \$20 and the county would pay \$30. On the other hand, if the placement was not federally eligible, California would pay \$40 and the county would pay \$60. Legislation passed by California in 1992 changed the requirements for state reimbursement of group home expenses. Effective January 1, 1993, California law paralleled the federal requirement that group homes be nonprofit.

While California has no legal authority to license group homes in other states and may not directly monitor these facilities, the state is a party to the Interstate Compact for the Placement of Children. The Compact is an agreement among all states that have enacted similar laws to ensure that minors placed outside their home state are placed in appropriate (that is, nonprofit, nondetention) facilities and are properly supervised. Although California is ultimately responsible for the appropriate placement of foster children outside the state, it has delegated county

⁴AFDC is a welfare program providing cash benefits to low-income families with children who have been deprived of parental support because their father or mother is either continuously absent from the home, incapacitated, deceased, or unemployed.

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welfare departments to adhere to the Compact when placing children out of state.

Sometimes placing agencies (for example, county welfare departments) or states may be uncertain about a group home's appropriateness. When questions are posed to HHS about a particular facility's being a detention facility, HHS applies its definition of a detention facility to the facts of the case to determine whether the facility operates primarily to detain children. According to the definition, a child care institution is a detention facility if it physically restricts "children who require secure custody pending court adjudication, court disposition, execution of a court order or after commitment" (45 C.F.R. 1355.20). An HHS official explained that more detailed guidance had not been developed because questions about the detention status of facilities are rare.

Furthermore, when such questions have been raised, the facts in each case have been unique, such that detailed regulations could not adequately address all cases. For example, a group home may have bars on its windows or a person stationed at the building entrance and not necessarily be a detention facility. If the facility is located in a high-crime neighborhood, the bars on the windows or the person stationed at the building entrance may be there to protect the children, not detain them.

GROUP HOMES CONVERTED TO NONPROFIT STATUS

The four out-of-state group homes we reviewed were already nonprofit or were converted to nonprofit operations by January 1, 1993. Rite of Passage and VisionQuest converted to nonprofit operations in response to California's new requirement that group homes be nonprofit for counties to claim state reimbursement of foster care expenses.

Rite of Passage changed from for-profit to nonprofit status as of September 1, 1992, though VisionQuest still had not converted as of that date. An October 1992 letter from the California Department of Social Services informed VisionQuest of the impending requirement. The letter warned that unless VisionQuest submitted evidence of nonprofit status by year end, California would terminate reimbursements. VisionQuest became nonprofit as of January 1, 1993.

HHS' DETENTION DESIGNATION

Of the four group homes we reviewed, HHS has designated only Rite of Passage's Remote Training Campus on the Walker River Indian Reservation near Schurz, Nevada, as a detention facility. Rite of Passage's other facilities at other sites have not been so designated. HHS made this determination in response to a congressional inquiry in 1986. In 1988, HHS' Departmental Grant Appeals Board upheld the agency's decision, noting the facility's remote location and restrictive practices as factors supporting the detention designation. However, HHS is currently reconsidering this designation at the request of Rite of Passage, which claims that the campus' facility and program have changed. Officials from several California counties also wrote to HHS, asserting that the Remote Training Campus no longer warranted a detention designation.

Probation officers and judges from the seven California counties that account for most out-of-state placements from the state said that the four group homes we reviewed, including Rite of Passage's Remote Training Campus, were for treatment of children, not detention. Probation officers with responsibility for youths placed in these facilities told us that they routinely visit the facilities to maintain contact with the youths and ensure their appropriate treatment and progress.

INAPPROPRIATE FEDERAL REIMBURSEMENTS
FOR RITE OF PASSAGE PLACEMENTS

HHS' designation of Rite of Passage's Remote Training Campus as a detention facility made placements to the facility by any state ineligible for federal reimbursement. We found that Rite of Passage received payments of about \$2.6 million from the seven California counties we reviewed for services provided to foster care youths in fiscal years 1993 and 1994. Approximately \$1.3 million of this amount was federally reimbursed. A portion of these reimbursements were for placements at Rite of Passage's Remote Training Campus that were ineligible for federal funds. If HHS' redetermination of the Remote Training Campus is favorable to Rite of Passage, the amount of inappropriate reimbursement will depend on the date of the ruling. Currently, however, any federal reimbursement for placements in the Remote Training Campus remain inappropriate.

We could not determine what portion of the \$1.3 million in federal reimbursement was inappropriate. Claim information

provided to us by the counties did not specify what portion of the federally reimbursed amount was for youths placed at the Remote Training Campus and what portion was for youths at other Rite of Passage sites. Except for federal reimbursements claimed for children at Rite of Passage's Remote Training Campus, we found no evidence of other inappropriate federal claims for children placed at the four group homes.

CONCLUSIONS AND RECOMMENDATION

With one exception, we found no evidence of inappropriate claims for federal reimbursement on the basis of profit or detention status during fiscal years 1993 and 1994 at the four group homes we reviewed. This one exception involved reimbursement claims for placements at Rite of Passage's Remote Training Campus that were inappropriate because HHS had designated this site as a detention facility.

To correct these inappropriate reimbursements, we recommend that the Secretary of HHS determine the amount of federal funds claimed by California for placements in Rite of Passage facilities for fiscal years 1993 and 1994 and recover all reimbursements, except those for placements that the state can demonstrate were at nondetention Rite of Passage sites.

AGENCY COMMENTS

Officials from California's Department of Social Services agreed with our recommendation, emphasizing that determining a group home's detention status is HHS' responsibility. Further, California officials pointed out that if HHS rules favorably on Rite of Passage's request, the amount of inappropriate federal reimbursements for Rite of Passage placements will depend on the effective date of the ruling.

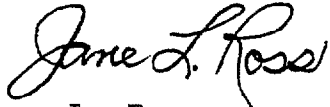
Officials from the Secretary's office of HHS agreed to act on our recommendation. They stated that they will also work with California to improve its capacity to submit accurate title IV-E claims and to identify ineligible placement facilities so future claims for these facilities can be avoided. Further, HHS officials acknowledged that they are currently reviewing Rite of Passage's request for redesignation of its Remote Training Campus as a group home that would be eligible for title IV-E funding.

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If you or your staff have any questions concerning this letter, please contact me at (202) 512-7215 or Robert MacLafferty at (415) 904-2000. Other contributors to this letter include Julian Fogle (Evaluator-in-Charge), Susan Arnold, Tre Forlano, and Cheryl Haviland. Enclosure II presents a list of related GAO products.

Sincerely yours,

A handwritten signature in cursive script that reads "Jane L. Ross".

Jane L. Ross
Director, Income Security Issues

SCOPE AND METHODOLOGY

To determine why foster care group homes serving California youths converted to nonprofit status, we interviewed California Department of Social Services officials and reviewed state laws and regulations. We also reviewed the nonprofit status during fiscal years 1993 and 1994 (July 1, 1992, through June 30, 1994) of the following group homes: Arizona Boys Ranch in Phoenix, Arizona; Glen Mills in Concordville, Pennsylvania; Rite of Passage in Minden, Nevada; and VisionQuest in Tucson, Arizona. We selected this time period to examine whether group homes changed their profit status in response to a 1992 California law that excluded for-profit group homes from receiving state foster care funds as of January 1, 1993.

To determine whether the facilities of the four group homes we reviewed met the federal definition of a detention facility in Public Law 96-272, we interviewed HHS officials to find out what criteria the agency used to determine the detention status of facilities. We also gathered documentation on the one case in which HHS determined a facility to be a detention facility. Because HHS applies the regulatory definition of detention facility on a case-by-case basis and has no formal guidelines, we made no independent assessment of detention status.

However, we gathered information on the detention status of the group homes in question by visiting them to see their operations firsthand and getting the views of their administrators. In addition, we interviewed probation officers and judges from seven California counties to determine whether they used these out-of-state facilities for detention or treatment of children. The seven counties--Alameda, Sacramento, San Bernardino, San Diego, San Joaquin, Santa Clara, and Tulare--were selected because they accounted for most of California's out-of-state placements (approximately 80 percent) in fiscal year 1994.

To test the appropriateness of reimbursements claimed by California for placements in the reviewed group homes, we obtained data on the claims that the seven selected counties made for placements at these group homes during fiscal years 1993 and 1994. We did not verify the accuracy of the information the counties provided. From these data, we calculated the potential cost of inappropriate federal claims during these years. We did not ascertain whether inappropriate claims were made for placements in for-profit group homes or in facilities deemed primarily for detention during earlier or later periods.

RELATED GAO PRODUCTS

RESIDENTIAL CARE: Some High-Risk Youth Benefit, But More Study Needed (GAO/HEHS-94-56, Jan. 28, 1994).

FOSTER CARE: State Agencies Other Than Child Welfare Can Access Funds (GAO/HRD-93-6, Feb. 9, 1993).

CHILD WELFARE: Monitoring Out-of-State Placements (GAO/HRD-91-107BR, Sept. 3, 1991).

FOSTER CARE: Use of Funds for Youths Placed in the Rite of Passage Program (GAO/HRD-87-23BR, Dec. 9, 1986).

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