An Analysis of the Quality Incentive Payment Program for Adult Homes

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Summary

For the past twelve years, and under lobbying by the adult home industry, the New York State legislature has, through a program called the Quality Incentive Payment Program ("QUIP" or "the program"), paid eligible adult home operators to improve the quality of care they provide their poorest residents – those on supplemental security income ("SSI"). The program, which is administered by the New York State Department of Health ("DOH" or "the department") has dispensed millions of dollars to adult home operators state-wide, including over $6.7 million to 30 adult homes in New York City.

For years, the Adult Home Advocacy Program of MFY Legal Services, Inc. ("MFY") received anecdotal information that QUIP monies were not being used for improvement of care and that DOH exercised little oversight over the program. Rather than rely on these perceptions of the program, MFY did a quantitative analysis of all available QUIP data, focusing on 30 New York City adult homes and on QUIP funding for State Fiscal Year ("SFY") 2003/2004, the most recent year for which data is available. Our report is divided into two parts. Part I summarizes the legislative and regulatory history of the program. Part II analyzes the implementation and oversight of the program, focusing on 30 New York City adult homes.

MFY's study concludes that QUIP funds were in many ways diverted from their intended uses. One of the stated intents of the program is to improve adult home residents' quality of life, and the amount of QUIP funding to each home is specifically tied to the number of SSI recipients the home houses. Time and again, however, the funding did not reach these, or any other, residents. Adult homes instead reported having spent QUIP funds simply to subsidize operating expenses or on capital improvement projects. The primary effect of these capital investments is to enhance the value of the buildings the operators own, and only incidentally to improve the quality of residents' lives. In the period MFY surveyed, almost no homes used QUIP funding for items such as clothing or increased recreational activities that primarily and directly impact adult home residents. In SFY 2003/2004, only one in five QUIP dollars was actually spent on items that might arguably be said to improve resident care. All the while, reports of neglect of adult home residents and the miserable conditions in which they lived were coming to light.

DOH is on notice of the manner in which adult homes spend QUIP funding – homes are required to report their expenditures to DOH, and DOH has the authority to audit and inspect the homes. Nevertheless, DOH appears not to have objected or otherwise acted to curb the homes' diversion of QUIP funding. Nor has DOH conducted any audits of adult homes to independently verify how QUIP funds were spent, or promulgated any regulations to govern the program.

Absent oversight and audits by the State, homes spend the funding they receive through QUIP to benefit their investments. The program ends up doing little to improve the lives of adult home residents. The diversion of QUIP funding, and DOH's lack of

oversight over homes' use of the funds, constitutes another sorry aspect of the failed residential care system represented by adult homes.

MFY Legal Services sent this report to the New York State Commissioner of Health on August 14, 2006, allowing the Commissioner the opportunity to review and comment on the report prior to its public release. In a letter dated August 30, 2006, the Department of Health requested additional time to review and respond to the report. In October, 2006, having received no response from the Department of Health, MFY contacted the Department and asked if it had a response. As of December 1, 2006, MFY has still received no response and is therefore releasing the report without comment from the agency that administers QUIP.

Legislative History

Original Legislation

QUIP was established in its current form in 1996[1] to provide payments to adult homes that house residents who receive SSI, and thus pay a fixed, government-mandated amount for their room, board and services at the home. Adult homes in compliance with applicable statutes and regulations as of the most recent state inspection cycle were eligible for QUIP awards. 1996 N.Y. LAWS 462 §1. The amount of the QUIP award was dependent on the number of SSI and safety net recipients resident in the home, who are the poorest residents. The Department of Social Services ("DSS") retained discretion to grant QUIP awards to non-compliant adult homes on a case-by-case basis.

The purpose of the QUIP legislation appears to have been both to reward adult home operators who met state compliance standards despite the fact that they housed a large number of SSI recipients (and were not able to raise the amount charged to these residents because that amount is determined by the State) and to improve the quality of care provided to residents.[2]

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[1] A quality incentive payment program was first established in 1994. That program appears to have never been fully implemented and to have lapsed after one year. Senator Joseph R. Holland, the Senate sponsor of the 1996 QUIP legislation, explained that the 1994 program "was not entirely successful in rejuvenating the industry because too many unreasonable demands were placed on DSS to implement the program." Letter dated July 31, 1996 from Sen. Joseph R. Holland to Michael C. Finnegan Re: A.9798-C. The 1996 QUIP provided the DSS with more flexibility, according to the bill's sponsor. *Id.*

[2] The economic rationale for the legislation is well summarized by Senator Holland, the Senate sponsor of the legislation:

> Currently the only funding for adult home residents who do not pay privately is the SSI congregate care supplement. In other words, adult homes must provide for non-private pay residents for only $26 per day. This bill would give those adult homes which have a large percentage of SSI residents and who have been found by DSS to be providing quality care a small incentive payment to assist them in continuing to provide appropriate care.
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> Letter dated July 31, 1996 from Sen. Joseph R. Holland to Michael C. Finnegan Re: A.9798-C.

The legislation enjoyed wide support from state agencies (including the Division of Budget, Department of Social Services, Office of Mental Hygiene, Commission on Quality of Care), adult home industry groups (including New York Long Term Care Providers Association and the Empire State Association of Adult Homes), and adult home resident advocacy groups (including the Coalition of Institutionalized Aged and Disabled).[3]

Subsequent Amendments to the Legislation

Since its inception, QUIP has been amended a number of times.[4] In 1997, the legislation was amended to tighten standards for the awarding of QUIP funds. *See* Letter dated August 18, 1997 from Sen. Joseph R. Holland to Michael C. Finnegan Re: Senate Bill 5787 ("The purpose of this bill is to ensure that QUIPP [sic] funding is available only to adult care facilities providing quality care."). The amendments (i) transferred oversight of QUIP to the DOH (which replaced DSS as regulator of adult homes on April 1, 1997)[5], (ii) prevented payments to homes with enforcement proceedings against their operating certificates, (iii) granted the department discretion to deny funding to adult homes not providing "optimum care", although that term is not further defined, and (iv) granted the department discretion to fund newly established homes that did not yet have a record of compliance. 1997 N.Y. LAWS 615 §1; *see also*, N.Y. STATE SENATE MEMORANDUM IN SUPPORT OF LEGISLATION, SENATE BILL 5787. The amendments received mixed support, with the Division of the Budget, Governor's Counsel for Regulatory Reform and the Commission on Quality of Care for the Mentally Disabled

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The legislation's quality improvement rationale is evidenced in the official Senate memorandum in support of the bill: "The purpose of the bill is to help improve the quality of care provided to residents of adult care facilities." N.Y. STATE ASSEMBLY MEMORANDUM IN SUPPORT OF LEGISLATION, ASSEMBLY BILL 9798-B, SENATE BILL 6955-A, July 13, 1996.

[3] Budget Report on Bills, No. A. 9798-C, S. 6990-B (no objection); Letter of July 23, 1996 from John E. Robitzek, Deputy General Counsel, Department of Social Services to Michael C. Finnegan, Counsel to the Governor Re: Ten Day Bill Assembly 9798-C (recommending bill); Letter of July 24, 1996 from Barbara Heyne, Assistant Counsel, Office of Mental Health to Michael C. Finnegan, Counsel to Governor Re: A.9798-C (no objection); Letter of August 8, 1996 from Patricia W. Johnson, Assistant Counsel, Commission on Quality of Care to Michael C. Finnegan, Counsel to the Governor Re: Assembly Bill No. 9798-C Adult Care Residences (supporting bill); Letter of July 3, 1996 from Goeff Lieberman and George Gitlitz, Coalition for Institutionalized Aged and Disabled to Paul Harenberg (supporting bill); Letter of August 14, 1996 from Cary LaCheen, New York Lawyers for the Public Interest, Inc. to Michael C. Finnegan Re: Assembly Bill No. 9798-C (supporting bill); Memorandum in Support of Bill 9798, dated May 28, 1996 from Alliance for the Mentally Ill of New York State; Letter of July 16, 1996 from Coppola Ryan McHugh, on behalf of the Empire State Association of Adult Homes to George E. Pataki, Governor Re: 9788-C (supporting bill); Memorandum in Support of Bill A.9798, dated July 11, 1996 from Weinraub & Ostroff, Inc., on behalf of New York Long Term Care Providers Association.

[4] See Annex A for a more complete history of the changes in the legislation.

[5] 1997 N.Y. LAWS 436 §122(e).

objecting to ambiguities in the amendments, particularly the reference to "optimum" care.[6]

The next material amendments to the QUIP statute occurred in 2003. 2003 N.Y. LAWS 62, Pt. C3, §1. These amendments eliminated the problematic "optimum care" language, limiting DOH discretion to deny funding to adult homes solely to those homes not in compliance with applicable statutes and regulations. *Id.* The amendments also required adult home operators to consult with the residents' councils of each home in coming up with a list of proposed QUIP expenditures. *Id.*[7] At least in theory, residents were thereby given input into how operators spent QUIP funds.

In 2004, the QUIP legislation was further amended. 2004 N.Y. LAWS 58, Pt. A, §36. These amendments limited the instances in which DOH could deny QUIP funding to a home – allowing DOH to deny QUIP funding only to those homes that had been *adjudicated* noncompliant or against which equitable relief had been *granted* pursuant to the Social Services Law. At the same time, they increased the participation of residents in the homes' decisions about how to spend the QUIP funding – requiring homes not only to *consult* residents' councils regarding QUIP expenditures but to obtain the councils' *approval* of an expenditure plan.[8]

Regulations

During the first year of its implementation, QUIP was disbursed pursuant to regulations promulgated by the DSS, which at that time regulated adult homes. 18 N.Y. COMP. CODES R. & R. 495.3. The DSS regulations set forth eligibility standards, application procedures and provided that QUIP funding "must be used to improve the

[6] *See* Budget Report on Bills, Chapter 462 of the laws of 1996, Section 1 (noting technical flaws of the bill); Letter dated September 17, 1997 from Patricia Jones, Assistant Counsel, Commission on Quality of Care for the Mentally Disabled, to Michael C. Finnegan, Counsel to the Governor Re: Senate Bill No. 5787 (noting that "the bill's language authorizing denial of payment to a home not providing 'optimum care' embraces every adult home"). The Empire State Association of Assisted Living Facilities, the leading adult home trade group, "wholeheartedly" supported the legislation without reservation. Letter dated August 14, 1997 from Coppola Ryan McHugh to George E. Pataki Re: S.5787 (Holland); *see also* Letter dated August 22, 1997 from Robert A. Hussar, Assistant Counsel, Counsel on Regulatory Reform to Michael C. Finnegan, Counsel to the Governor to Re: S. 5787 (opposing bill as written because "a reference to 'optimum' care provides the Department with unbridled discretion by enabling them to compare a facility's assessment against an ambiguous standard").

[7] The new language provided that "prior to receiving quality incentive payment program funds, an operator shall consult with the residents' council for such facility and shall submit an expenditure plan to the department. Such plan shall detail how quality incentive payment program funds will be used to improve the physical environment of the facility or the quality of care and services rendered to the residents and may include but not be limited to staff training, furnishings, equipment, maintenance or repairs to the facility and its residents, or expenditures related to corrective action as required by the most recent inspection report. Such expenditure report shall be accompanied by an operator attestation." 2003 N.Y. LAWS 62, Pt. C3, §1.

[8] The amendments also included air conditioning in the nonexclusive list of items for which QUIP funds may be used. Since there was no QUIP funding in SFY 2004/05 and SFY 2005/06 funding is currently in the application process, the practical effect of the statutory change in language from "consulting" resident councils to obtaining the "approval" of resident councils is not known.

quality of care and services provided to SSI or HR [home relief] recipient residing in the facility." 18 N.Y. COMP. CODES R. & R. 495.4(i). The regulations also specified that QUIP funds could be used to pay for "staffing; training; furnishings; equipment; maintenance and repairs; and other purposes that will enhance the quality of care and services provided in the facility which benefit eligible residents." 18 N.Y. COMP. CODES R. & R. 495.3(i) (internal numbering omitted). The regulations mandated that QUIP recipients maintain documentation of their expenditures of the awards, but did not require any active reporting of how the funds were spent. 18 N.Y. COMP. CODES R. & R. 495.4(j). The regulations simply stated that if an audit revealed that the funds had not been spent in compliance with the grant, those funds would have to be returned to the DSS by the home. *Id.*

The initial DSS regulations expired by their own terms on June 4, 1997. Since their expiration, no new regulations have been promulgated, despite the QUIP statute's express mandate to promulgate regulations. QUIP funds have been distributed pursuant only to the terms set forth in the annual funding applications themselves.

Applications

The application requirements have remained largely the same from the inception of the program. Applicants must agree to abide by a list of conditions for participation in QUIP, must provide general information (such as address, tax number, authorized representative), an explanation of how the funds are to be used, an assurance (and, starting in SFY 2003/2004, an itemization of expenditures) that prior years' QUIP funds were used appropriately, and a listing of eligible SSI / Safety Net recipients. Applicants have also always been required to certify that the list of residents receiving SSI / Safety Net is accurate.

The conditions for participation, listing some 30 items, have not materially changed since SFY 1998/99. The great bulk of the conditions for participation recite common "request for applications" disclaimers, seeking to give DOH maximum discretion in awarding QUIP funds. Several conditions, however, purport to hold adult homes accountable for their QUIP expenditures by requiring them to maintain records related to those expenditures for seven years and make them available to DOH and the state comptroller for audit purposes upon request. DOH also reserves the right to demand reimbursement if such inspection reveals "that any item of work for which disbursement has been made was not carried out in full compliance with the terms and conditions of the QUIP program."

The QUIP application for SFY 2005/2006 is attached hereto as Annex B. Significant variations in the QUIP applications are discussed below:

SFY 1998/99

The DOH letter accompanying the SFY 1998/99 QUIP application[9] reiterates that the "purpose of this program is to enhance the quality of care provided to SSI/Safety Net recipients by providing additional funding to certified operators to improve service delivery and to encourage the admission of new eligible residents into certain types of adult care facilities." It states that funds "may be used for facility maintenance and repairs, hiring of additional staff, staff training, furnishings, equipment, or other purposes which directly improve the quality of care and services to facility residents."

SFY 1999/2000

The DOH letter accompanying the SFY 1999/2000 QUIP application adds improvements of "the physical environment of the facility" and correction of "identified deficiencies" to the purposes of QUIP.

SFY 2000/01

This year's application requires applicants for the first time to separately certify that they used their prior year's QUIP funding in an appropriate manner and to attach documentation related to the expenditures. This requirement has been included in all subsequent applications.

SFY 2002/2003

The DOH letter accompanying the SFY 2002/03 QUIP application recommends that operators "consider using this year's funds on air conditioning, facilitating a smoke free environment, or enhancing adequate clothing for SSI Residents." The letter also states that the use of QUIP funds "will also require an endorsement by the facility resident council and the format for this is included in the application." The application itself, however, appears not to include any provision or form for resident counsel endorsement (and the QUIP statute itself did not contain a resident council consultation requirement until May 15, 2003, one month after the SFY 2002/2003 application went out).

SFY 2003/04

The SFY 2003/04 application includes a requirement that an applicant "provide documentation that the resident council was consulted regarding the proposed use of QUIP funds" and that an attestation be signed by the chairperson or president of the resident council to verify this process (QUIP Application for SFY 2003/04, Instructions, §C(b)).

The SFY 2003/04 QUIP application also implements an ostensibly more detailed requirement for homes' accounting of their QUIP expenditures. Prior to the SFY 2003/04 QUIP application, DOH required that an applicant "provide an assurance" that the prior year's QUIP funding it received had been used in the manner originally

[9] DOH does not appear to retain QUIP Applications for years prior to SFY 1998/99.

proposed by the home and that documentation related to these expenditures be attached. (It is not known whether applicants complied with the documentation requirement – MFY received no supporting documentation from DOH pursuant to our request for information.) *See, e.g.*, QUIP Application for SFY 1999/2000, §C(b). The SFY 2003/04 QUIP application included a more detailed ledger on which QUIP recipients were required to itemize their QUIP expenditures. *See* QUIP Application for SFY 2003/04, §F. The SFY 2003/04 application also specified that "QUIP funds should be expended within six months of receipt." *Id.*

In addition, the DOH letter accompanying this year's application included "vocational & educational opportunities, training for more independent living, computers, identification cards and telephone services" as recommended uses for QUIP funding.

SFY 2005/06

The DOH letter accompanying the SFY 2005/06 QUIP application adds "telephones in resident rooms" as a recommended use for QUIP funding. It also highlights the following application requirements: (i) applicants must "*describe in detail* how QUIP funds will be used" (emphasis in original); (ii) applicants must provide documentation that the resident council has endorsed the proposal, including an attestation from the chairperson or president of the council; (iii) applicants must keep a detailed inventory, including documentation, of their QUIP funding expenditures; (iv) if an applicant received QUIP funding in SFY 2003/04, no SFY 2005/06 grant will be issued to them until they have submitted a completed expenditure form to DOH detailing how the SFY 2003/04 funds were spent; (v) QUIP funds received must be spent within 12 months; and (vi) facilities that have received an enforcement notification may still be eligible for SFY 2005/06 QUIP funding.

The application itself remains largely the same as the SFY 2003/04 application with the notable change that the resident council president attestation that the resident council has approved the home's expenditure plan is expanded to state that the representative has reviewed the home's QUIP expenditure plan and agrees with it.

Conclusions

It is clear from the legislative history of QUIP, its implementing regulations (when they existed) and applications that the program was intended to provide funds to enhance the quality of life of residents while giving adult home operators discretion to prioritize the needs, with the advice and consent of the residents' council. DOH also appears to have, at least in theory, provided itself with the means to hold recipients of QUIP funding accountable for the manner in which they used the funds. As discussed below, however, QUIP funding appears to have been diverted from its intended beneficiaries, and oversight of the program appears to have been largely nonexistent.

The Implementation of QUIP

MFY analyzed several hundred pages of data about QUIP received from DOH pursuant to two requests for information under to the New York Freedom of Information Law, Public Officers Law § 84 *et seq.*[10] The analysis focused on the disbursement of QUIP funding and DOH's oversight of the program, with a particular emphasis on New York City adult homes. Presented below are the results of that analysis, which generally showed that, while the State expends significant resources on the QUIP program, the benefits largely do not reach adult home residents. In SFY 2003/2004, the most recent year for which data is available, at most one out of every five dollars of QUIP funding was used to improve resident care. In part, the failure of the program to directly improve resident lives is a result of compromises built into QUIP, and in part it appears to be the result of poor oversight of the program by the DOH.

Overview

In total, the State has awarded nearly $28 million to adult homes under QUIP. In recent years, individual adult homes with large SSI / Safety Net populations routinely receive grants of close to $100,000 a year. Even for these larger facilities that report annual revenues of between $1 and $3 million, these QUIP grants represent a significant source of homes' revenue.

The following table lists amounts distributed for QUIP grants per year.[11]

State Fiscal Year	**Amount Distributed ($) (rounded to nearest whole number)**
1994/5	1,349,000*
1996/7	800,000*
1997/8	[no data provided by DOH]
1998/9	1,923,415
1999/2000	1,802,474
2000/01	5,894,899
2001/02	3,370,078
2002/03	3,947,959

[10] MFY made its requests for information regarding QUIP expenditures and oversight of the program to the DOH in July 2005 pursuant to the Freedom of Information Law (Article 6 §§ 86-90 of the New York Public Officers Law). DOH responded to these requests by setting unreasonably long time-tables for providing the information MFY sought. In September and October, MFY administratively appealed the department's schedule to DOH's appeals office. In an opinion issued at the end of October, the appeals office upheld DOH's schedule. In December 2005, after DOH had failed to provide any documents at all pursuant to its production schedule, MFY challenged the department's continued intransigence by filing a petition pursuant to Article 78 of the Civil Practice Law and Rules in Albany Supreme Court. Upon the filing of this suit, DOH finally began producing the requested documents. In April 2006, some ten months after MFY had requested the information, DOH completed its production of some 500 documents.

[11] Unless otherwise indicated, the information is taken from spreadsheets setting forth QUIP payments to each home for each SFY, supplied by DOH in response to MFY's Freedom of Information Law requests. The spreadsheets for SFY 2002/03 and 2003/04 were unclear in places, and MFY has tried to estimate as closely as MFY can the amounts allocated in those years.

2003/04	6,031,027
2004/05	[no QUIP program]
2005/06	2,750,000*
TOTAL	**27,868,852**

* Amount appears to be allocated to QUIP in the Health and Mental Hygiene Budget for the particular SFY. No data on actual distributions available.

QUIP awards to 30 New York City Adult Homes

MFY also tracked QUIP payments made to 30 New York City adult homes from SFY 1998/99 – SFY 2003/04. Set forth at Annex C is a complete list of these homes and the amounts of QUIP funding they received over the period. Over the course of that period, over $6.7 million in QUIP funding was provided to these homes. Two homes, Queens Adult Care Center and Elm-York Home, received over $400,000 each in QUIP funding over the period. Five homes received over $300,000 each; seven homes over $200,000 each; and nine homes over $100,000 each. Over the course of the period, per capita amounts allocated under QUIP generally increased – the amount per SSI resident was $158.75 in SFY 1998/99 and had risen to $542.81 per SSI resident in SFY 2003/04.[12]

In attempting to learn how adult homes expended their QUIP funding, MFY's analysis focused on QUIP awards for the SFY 2003/04 period. This period is the most recent year for which data is available about the amount awarded to each home, as well as about how the homes reported spending their grants.[13]

MFY's analysis of the QUIP funding for this period was hampered by the fact that DOH had only received SFY 2003/04 QUIP expenditure documentation for 16 of the 30 homes in the study group.[14] This was so despite the SFY 2003/04 QUIP applications' instruction that all QUIP funds disbursed in that year be used by the homes within six months of disbursement (and presumptively reported to DOH on the QUIP expenditure ledgers found at §F of that year's application).[15] MFY was informed by DOH in response that "the Department anticipates that any operator who has not yet submitted a copy of the [expenditure] form will file one with their SFY 2005-06 applications … This

[12] The amount of QUIP funding did not uniformly rise over the period. It varied as follows:
- $158.75 per SSI resident in SFY 1998/99;
- $145.08 per SSI resident in SFY 1999/2000;
- $473.60 per SSI resident in SFY 2000;
- $349.05 per SSI resident in SFY 2001/02;
- $412.88 per SSI resident in SFY 2002/03;
- $542.81 per SSI resident in SFY 2003/04.

[13] There was no QUIP funding in SFY 2004/05, and applications for SFY 2005/06 QUIP funding are not due until April 30, 2006.

[14] One of the 16 homes that did report its expenditures to DOH, Long Island Hebrew Living Center, listed the stores at which it had spent the funding (*e.g.* $6203.68 at Home Depot) and attached a sticker to the form stating, "The funds were used as proposed: To improve the physical environment of the building; General repairs, maintenance and refurbishing for the betterment of Residents."

[15] All but one of the homes in MFY's study group (Oceanview Home for Adults, which received its funding on October 4, 2005) received their SFY 2003/04 QUIP funding on November 10, 2004, so that, by the terms of the QUIP application, they should have made their expenditures by May 10, 2005.

information must become available before the 2005-06 funds are released." Letter of Robert "Jake" LoCicero, dated March 9, 2006, Re: FOIL Requests 05-07-154 & 05-08-237. (The delay underscores the lack of oversight of QUIP that appears endemic in the funding scheme.)

The SFY 2003/04 QUIP data shows that some adult homes used QUIP funds for expenditures that even the most permissive auditor would deem wholly unrelated to the intended purpose of the funding. For example:

- Three homes (Surfside Manor, Mermaid Manor and New Gloria's Manor) reported using a total of over $40,000 in QUIP funding to cover increases in their liability or workman's compensation insurance.
- Two homes (Queens Adult Care Center and Surfside Manor) reported using a total of over $21,000 in QUIP funding to cover monthly employee health and medical benefits payments. Queens Adult Care Center also proposed using QUIP funding to "promote [the] facility and attract qualified applicants."
- One home (New Gloria's Manor) reported using over $7,600 in QUIP funding to pay "interest on financial operations."

Outside of these expenditures, QUIP funding appears to have been used by operators primarily to cover day-to-day operating expenses and to enhance the physical plant of their properties. While these expenditures arguably improve residents' lives, they also serve as investments that increase the value of adult home operators' main asset – the physical homes themselves.

Of the $1,367,965 distributed to the 16 homes in the survey group during the period which have provided expenditure ledgers to DOH, homes reported spending over $1 million on physical plant investments (such as elevator maintenance, refurbishing the building, painting, installing boilers, refrigerators and windows). $68,600 is reported to have been spent on paying insurance and medical premiums and interest on loans. Only $270,774 is reported to have been spent on providing improved services or goods directly to residents (such as a clothing allowance (in one home only), staff training, recreational activities, air conditioning). Of that amount, about a third, $89,858, is reported to have been spent on routine upkeep of the facility – replacing beds, bedding and chairs. Including expenditures for replacement resident furniture, only about 20% of SFY 2003/04 QUIP funding – one out of every five dollars – was used to directly benefit residents (*e.g.* clothing allowance, air conditioning, etc.) (excluding furniture expenditures, the figure is 13%, or about one out of every eight dollars).

Annex D presents the complete data of homes' proposed uses of QUIP funding, their reported actual uses, and the amounts each home received in SFY 2003/04.

An independent audit of the homes in MFY's survey group to assess the accuracy of the expenditure reports the homes submitted to DOH is beyond the scope of this report. Nevertheless, MFY conducted a sample spot check of six of the 16 homes that have submitted their expenditure reports to DOH to determine whether certain of the reported expenditures had in fact been made. The homes are Lakeside Manor, New Gloria's Manor, New Haven Manor, Rena's Residence, Riverdale Manor and Sanford Home.[16]

Each of the homes appears to have installed the items on which they reported spending QUIP funds. Annex E shows the items confirmed as having been installed in the homes by residents in each of the homes.

Five of the six homes reviewed reported spending SFY 2003/04 QUIP funding on air conditioning units for resident rooms. Each of these homes appears to have installed air conditioners in resident rooms during the relevant period. Notably, however, the costs reported by the homes for doing so varied dramatically. New Gloria's Manor, for instance, reported spending over $62,000 on the purchase and installation of 93 air conditioning units. Riverdale Manor, on the other hand, reported spending about $19,000 on the purchase and installation of 85 air conditioning units. In addition, three of the homes that installed air conditioning charged residents for the use of the air conditioning, turning what might have been a benefit for residents into another source of profit for the operators.

Conclusions and Recommendations for Change

QUIP had the potential to significantly improve adult home residents' lives. Over the course of its existence, nearly $28 million was made available to adult homes across the state on a per capita needy resident basis. This money was intended to both improve the physical environment of adult homes and to provide funding for expenditures that directly improve residents' lives. Despite the dual purpose of the legislation, only about 20% of the funding, at best, appears to have been used to benefit residents. The vast majority of the funding appears to have been used, instead, to increase the value of adult home operators' principal assets (*i.e.* their buildings). The program, though well intentioned, has ended up improving the quality of operators' finances rather than the quality of residents' lives. It has proven to be a lucrative give-away to the administrators of a broken system rather than a first step in improving that system, for those whose lives depend upon it.

DOH's "hands off" and "self-reporting" approach has left adult home operators free to spend QUIP funds as they see fit. Left to their own devices, adult home operators – who are, first and foremost, in the business of making a profit – use the money to enrich themselves rather than improve quality of care they provide residents. During the period of MFY's study, DOH failed to curb this behavior, despite the fact that it was made aware of it by adult homes' QUIP applications. DOH readily funded homes which reported that they would spend their funding on items such as promotional advertising (Queens Adult Care Center, SFY 2003/04) and insurance premiums, apparently without comment or restrictions. In addition, DOH did not enforce its requirement that homes

[16] MFY's sample of homes for the spot check may not be representative of the 30 homes in its broader survey. The six homes which were spot checked had all submitted expenditure reports to DOH and may have represented a particularly compliant segment of the larger group.

promptly account for the manner in which they spend their QUIP funds – only 16 of 30 New York City QUIP recipients have thus far reported their SFY 2003/2004 QUIP spending to DOH. Finally, during the nearly ten years it has administered the program, DOH has not conducted a single audit of the manner in which an adult home expended its QUIP funds. Other than the self-reporting by homes, some of it woefully inadequate or wholly missing, the State simply has no idea how the nearly $28 million provided in QUIP funding was spent by adult homes.

Beginning in 2006, adult home operators received an increase of over 10% (from $884 to $978) in the amount of rent they receive from SSI recipients, when the living rate for SSI recipients in adult homes was designated by the State as "Congregate Care Level 3." This rate will continue to increase over the next several years. Because adult home operators now receive significantly more money per SSI recipient than they have in previous years, the State's allocation and oversight of QUIP funds should receive even greater scrutiny to ensure that the funds benefit residents.

To the extent that the State continues to use adult homes as a major source of housing for people with mental illness (and MFY is opposed to this), MFY recommends the following:

1. DOH immediately strengthen its oversight of QUIP. DOH should audit adult homes to determine how they, in fact, spent QUIP funding. Adult homes are required to keep QUIP expenditure records going back seven years. DOH should audit these past expenditures. DOH should penalize homes that cannot account for their expenditures or cannot show the work allegedly done or items allegedly purchased. DOH should also penalize homes that spent QUIP funding on inappropriate items, such as insurance, financing and advertising costs. DOH should draft stricter guidelines about the items for which a home may expend its QUIP awards, and carefully review QUIP applications to ensure homes' proposed expenditures are in line with those guidelines, and expenditures are actually made.

2. DOH should issue regulations to implement the QUIP statute. The plain language of the statute requires regulations, but they have not been promulgated. These regulations should specify expenditures that will effectuate the intent of the statute and the intent of the Legislature when allocating funds to the QUIP program.

3. In the alternative, the State should use these monies to support community-based housing, rather than perpetuate the adult home system. Over the years, report after report has shown that the adult home system is one that is rife with neglect and abuse of residents, and questions abound about over-billing, unnecessary medical services and other Medicaid abuse that line the pockets of adult home operators. *See, e.g.,* New York State Commission on Quality of Care for the Mentally Disabled, *Adult Homes Serving Residents with Mental Illness: A Study on Layering of Services* (Aug. 2002); New York State Commission on Quality of Care for the Mentally Disabled, *Adult Homes Serving Residents with Mental Illness: A Study of Conditions, Services and Regulation* (Oct.

1990); *The New York Times* series *Broken Homes* (Apr. 28 – 30, 2002). QUIP is one more source of funds that have not reached adult home residents in any meaningful way.