PERFORMANCE AUDIT

PIONEERS' HOME
AND HOSPITAL FOR DISABLED MINERS

Report to the Arizona Legislature
By the Auditor General
December 1986
86-8

DOUGLAS R. NORTON, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

December 8, 1986

Members of the Arizona Legislature
The Honorable Bruce Babbitt, Governor
Merle Farmer, Superintendent
Pioneers' Home

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Pioneers' Home and the Hospital for Disabled Miners. This report is in response to the July 26, 1985 resolution of the Joint Legislative Oversight Committee.

The report addresses the need for the Pioneers' Home and examines its role in providing long-term care for elderly Arizonans. The audit found that the purpose of the Home has changed since it was created in 1911. Originally, the Home cared for the men and women who settled the Arizona Territory. Today the Home cares for a small segment of Arizona's elderly. The audit also found that the Pioneers' Home has inappropriately used funds from the Hospital for Disabled Miners Endowment Fund to care for non-miners who live at the Home. In addition, the report recommends that the Home strengthen its procedures for evaluating residents' financial ability to pay for their care at the Home.

My staff and I will be pleased to discuss or clarify items in the report.

Respectfully submitted,

Douglas R. Norton

Douglas R. Norton
Auditor General

Staff: William Thomson
Mark Fleming
Nancy Lovell
Patricia M. Krueger
Cindy G. Whitaker
Joseph D. Moore

Enclosure

2700 NORTH CENTRAL AVE. ● SUITE 700 ● PHOENIX, ARIZONA 85004 ● (602) 255-4385

SUMMARY

The Office of the Auditor General has conducted a per
Arizona Pioneers' Home and the Hospital for Disabled
a July 26, 1985, resolution of the Joint Legislativ
This performance audit was conducted as a part of
forth in Arizona Revised Statutes (A.R.S.) §§41-2351

If the H
two i
shou

Although statutorily established as separate institutions, ...
Pioneers' Home (APH) and the Hospital for Disabled Miners currently operate as a single, State funded, long-term care facility. The Home is located in Prescott and presently houses 152 residents, five of whom are miners. Admission is based on eligibility requirements specified in A.R.S. §§41-923 and 41-942. The Home is funded by General Fund appropriations, earnings from Endowment Funds and donations. Residents' payments for care offset General Fund appropriations.

The Need For The Pioneers' Home Is Changing (see pages 15 through 24)

The purpose of the Arizona Pioneers' Home has changed since its creation in 1909. The Home was originally established for Arizona pioneers who had contributed to the development of the Territory and State in its early years. APH has met this goal by providing high quality care at a reasonable cost. However, statutes no longer require applicants to have been actively involved in the development of Arizona. As a result, APH's role is now shifting to a nursing home for long-time Arizona residents. Currently, only 31 percent of APH residents can be considered pioneers. Moreover, APH serves only a small portion of Arizona's elderly population needing long-term care. Of the approximately 5,600 publicly supported people in long-term care facilities, APH accounts for approximately 3 percent. Most publicly funded long-term care in Arizona is provided by the counties. Expanding the State's role in providing indigent long-term care would significantly exceed APH's annual appropriation. Because the Home no longer serves a unique purpose and its ability to meet statewide needs for long-term care is limited, the Legislature needs to determine if APH is still needed.

ome is continued as a residence for Arizona's elderly, at least ssues should be addressed. First, the population to receive care ld be more clearly defined. Although tax supported health care systems in Arizona are for the indigent, APH statutes currently do not require residents to be indigent. Further, more emphasis should be placed on serving a statewide population. Second, the ability of the existing building to meet increasing needs for skilled nursing care should be considered. In addition, although the facility is well maintained, recent DHS inspections express concern over some structural items due to the age of the building.

The Arizona Pioneers' Home Has Inappropriately Expended Money From The Miners' Hospital Endowment Fund (see pages 25 through 30)

APH's use of the Miners' Hospital Endowment Fund violates the Arizona Enabling Act. In the last 14 years APH has expended more than $3 million from the Miners' Hospital Endowment Fund and approximately 95 percent of these expenditures may have been for purposes other than the care of miners. The Fund was created to support a disabled miners' hospital as required by the Arizona Enabling Act. However, the State never built a miners' hospital. Instead, it has allowed disabled miners to be admitted to and cared for at the Arizona Pioneers' Home, although APH is not certified as a hospital. A Legislative Council Opinion states that the use of the Fund for any purpose other than the care of disabled miners in a miners' hospital is inappropriate. Continued violation of the terms of the Enabling Act increases the State's potential liability.

The Legislature should discontinue appropriating, and APH should discontinue using, any money from the Miners' Hospital Endowment Fund. To resolve problems with future use of the Fund, the State should petition Congress for a change in the Enabling Act.

The Arizona Pioneers' Home Needs To Improve Its Payment For Care Determinations (see pages 31 through 35)

APH needs to strengthen its process for determining how much residents should pay for their care. A.R.S. §41-923 and APH policy require APH residents to pay monthly fees, based on their ability to pay, for costs

incurred by the State for their care. A review of recent APH admission files indicates that APH staff generally exclude nonincome-producing assets, principally real estate and personal property, such as automobiles, in determining an applicant's ability to pay. Further, varied treatment of assets in determining payments for care has resulted in inconsistent treatment of some residents.

The Home also needs to establish a policy of including in payment for care determinations the fair market value of assets disposed of within a specified period of time prior to admission or during residency at APH. In addition, APH should verify financial information submitted by applicants.

TABLE OF CONTENTS

	Page
INTRODUCTION AND BACKGROUND	1
SUNSET FACTORS	9
FINDING I: THE NEED FOR THE PIONEERS' HOME IS CHANGING	15
Purpose Of The Home Has Changed	15
The Need For The Pioneers' Home Should Be Evaluated	17
Recommendations	23
FINDING II: THE ARIZONA PIONEERS' HOME HAS INAPPROPRIATELY EXPENDED MONEY FROM THE HOSPITAL FOR DISABLED MINERS' ENDOWMENT FUND	25
Required Miners' Hospital Not Established	25
State May Be Liable For Inappropriate Use Of Funds And Noncompliance With Enabling Act	27
Recommendations	30
FINDING III: THE ARIZONA PIONEERS' HOME NEEDS TO IMPROVE ITS PAYMENT FOR CARE DETERMINATIONS	31
APH Does Not Adhere To State Law In Determining Residents' Ability To Pay For Care	31
APH Needs To Strengthen Its Policies And Adhere To Them	33
Recommendations	35
OTHER PERTINENT INFORMATION	37
Personal Allowance Deduction	37
AREAS FOR FURTHER AUDIT WORK	39
AGENCY RESPONSE	

APPENDIX

Legislative Council Memorandum

LIST OF TABLES

Page

TABLE 1 - Arizona Pioneers' Home And The Miners' Hospital Expenditure And Budget Detail Fiscal Years 1983-84 Through 1986-87 (Unaudited). 5

TABLE 2 - Arizona Pioneers' Home And The Miners' Hospital Staffing 6

TABLE 3 - Year APH Residents Entered Arizona 16

TABLE 4 - Indigent Persons Receiving Long-Term Care By County 18

LIST OF FIGURES

FIGURE 1 - Arizona Pioneers' Home And The Hospital For Disabled Miners Revenue Sources For Expenditures During Fiscal Year 1985-86 4

FIGURE 2 Statewide Distribution of Elderly Population By County Compared To Residence of APH Residents At Time Of Admission 21

INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Arizona Pioneers' Home and the Hospital for Disabled Miners in response to a July 26, 1985, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

The Arizona Pioneers' Home (APH) and the Hospital for Disabled Miners currently operate as a single, State funded, long-term care institution located in Prescott. The Pioneers' Home was established in 1909 and opened in 1911. The Hospital for Disabled Miners was statutorily established in 1929, as required by the Arizona Enabling Act, and although a separate facility was never built the Hospital is located in the Pioneers' Home.

The goal of APH is to "provide a home into which qualified applicants may enter and reside in an atmosphere that is pleasant, secure and dignified - meeting individual needs of lodging and health care." The site where APH now stands was deeded to the State to provide a home for people who had lived in and contributed to the development of the Territory. The first residents of the Home were men. Women were admitted beginning in 1916 when the Home was willed money to build an addition for them.

The purpose of the Hospital for Disabled Miners was to care for miners who had sustained injuries while working in the mining industry or who were financially unable to support themselves. The statute also provided that the Superintendent of APH oversee the miners' hospital as well. Although a hospital facility was never built, it exists in statute and APH staff consider the Hospital for Disabled Miners to be a part of the Pioneers' Home.

Admissions Requirements

Arizona Revised Statutes set forth qualifications for admission to APH and the Hospital for Disabled Miners'.

A.R.S. §41-923 provides that a person is eligible to be admitted to APH who:

- is and has been a citizen of the United States and the State of Arizona for five years prior to application for admission;
- has been a continuous resident of Arizona for not less than 30 years;
- is 65 years or older;
- is unable to provide himself with the necessities and ordinary comforts of life because of adverse circumstances, failing health or other disabilities; and
- does not require care in a hospital or skilled or intermediate care nursing home at the time of admission.

Likewise, A.R.S. §41-942 provides that a person may be admitted to the Hospital for Disabled Miners who:

- has been employed in the mining industry in Arizona for 20 years;
- is a citizen of the United States and the State of Arizona;
- has been a resident of Arizona for not less than 35 years;
- is 60 years or older; and
- is financially unable to support himself, or has suffered incapacitating injuries from and in the course of mining.

As of July 1, 1986, there were 157 residents in APH, five of whom were miners. Residents come predominately from Yavapai and Maricopa counties. Yavapai County residents make up approximately 55 percent of the Home's population, with another 30 percent from Maricopa County. APH residents currently range from 68 to 101 years of age, with an average age of 86.

Organization and Services

When APH was initially created it was placed under the charge and management of the Board of Control of the Territory of Arizona. Later the Governor assumed total responsibility. In 1973 the Director of the Department of Health Services (DHS) was made the responsible official for

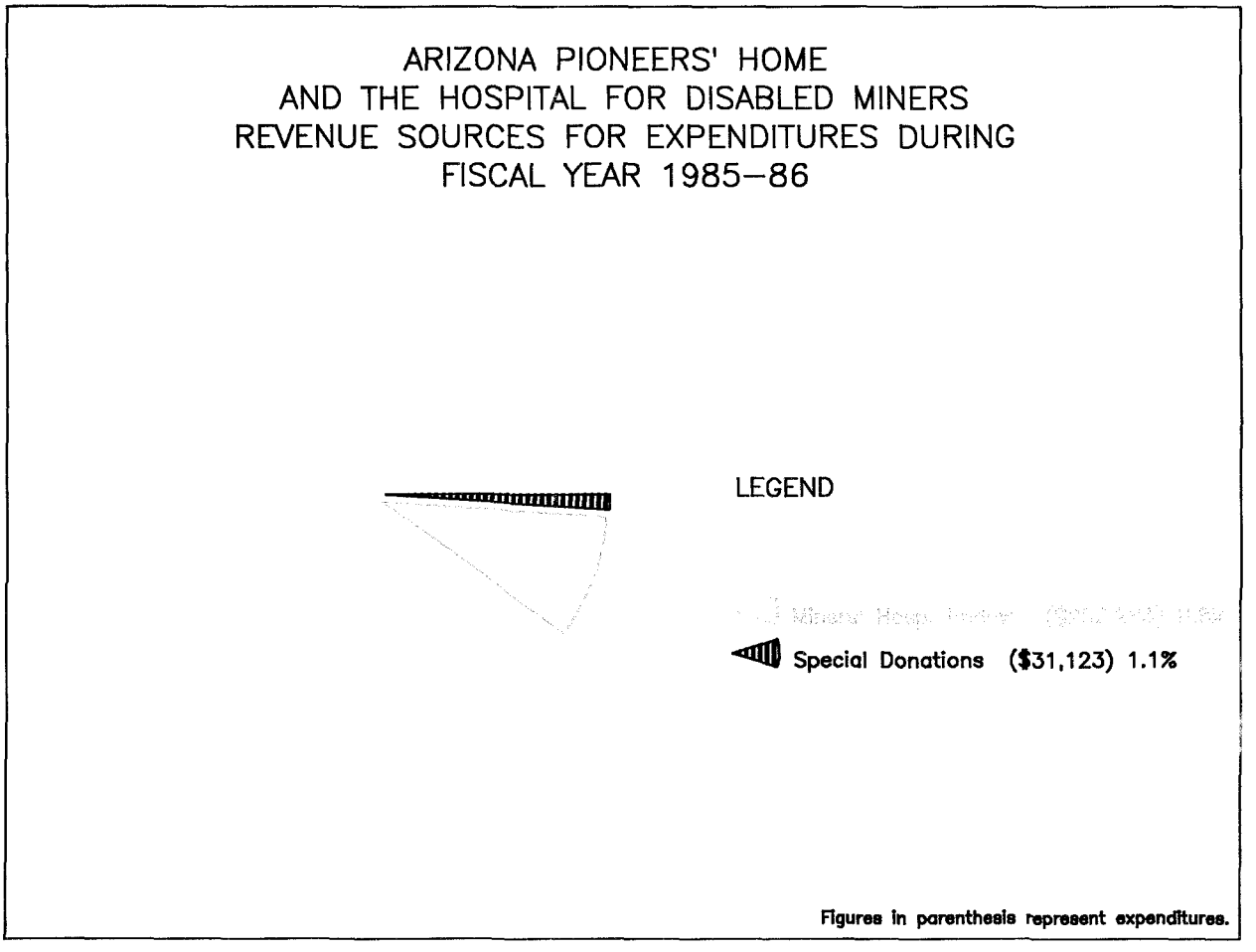
APH. While under the auspices of DHS, the Pioneers' Home was maintained as a licensed long-term care facility. In 1976, however, responsibility for the Home was returned to the Governor, who appoints the Superintendent. As a result of this realignment, APH is not required to be a licensed nursing care facility. However, DHS is required to inspect the Home at six months intervals.

Although APH, by statute, cannot accept people requiring intermediate or skilled nursing care, APH provides three levels of care - personal, intermediate and skilled - for residents who may require such care after admission. There are currently 180 beds available for APH residents, 64 of which are for people needing skilled care. In addition, although APH is not able to provide hospital services at the Home, residents do receive these services at area hospitals.

Budget and Personnel

APH is funded through the General Fund and through various Endowment and Donation Funds. Since fiscal year 1983-84 approximately 82 percent of the Home's operating costs have been paid from the General Fund. The remaining costs are paid from the State Charitable - APH Endowment Fund (10 percent), the Miners' Hospital Endowment Fund (7.5 percent), and the Special Donations Fund (1 percent). Figure 1 (page 4) illustrates the percentage of expenditures from these sources for fiscal year 1985-86. Table 1 (page 5) presents APH's expenditure detail for fiscal years 1983-84 through 1985-86. As shown, expenditures consist primarily of personnel-related expenses, food and other operating costs.

FIGURE 1



Source: Prepared by Auditor General staff based on fiscal year 1985-86 budget information provided by APH staff.

TABLE 1

ARIZONA PIONEERS' HOME AND
THE HOSPITAL FOR DISABLED MINERS
EXPENDITURE AND BUDGET DETAIL
FISCAL YEARS 1983-84 THROUGH 1986-87
(UNAUDITED)

	Actual Fiscal Year 1983-84	Actual Fiscal Year 1984-85	Actual Fiscal Year 1985-86	Estimated Fiscal Year 1986-87
FTE	110	110	110	110
Personal Services	$1,490,930	$1,568,100	$1,696,800	$1,849,200
Employee Related	383,870	418,900	425,100	554,300
Professional and Outside Services	60,336	52,500	46,600	60,700
Travel	1,599	1,300	1,500	2,400
Food	177,400	196,400	184,700	206,000
Other Operating(1)				
Personal Services		68,167	74,200	
Employee Related		14,247	15,000	
Other	385,936	429,386	410,700	455,200
TOTAL	$2,500,071	$2,749,000	$2,854,600	$3,127,800

(1) Other operating costs not funded from General Fund appropriations such as personnel, maintenance and medical expenses, are funded through APH's Endowment and Donation Funds. APH staff indicated that in fiscal year 1983-84 no Endowment Funds were expended for personnel related costs. The fiscal year 1986-87 figures are based on budget and appropriations documents which did not anticipate expenditures for employee related services.

Source: Prepared by Auditor General staff based on fiscal years 1983-84 through 1986-87 budget documents and information provided by APH staff.

The Endowment Funds were established by the Arizona Enabling Act. This Act provided lands to be held in trust by the State, from which earnings are to be used for the benefit of the Hospital for Disabled Miners and State charitable institutions, from which APH benefits. As of July 1, 1986, the expendable portion of the Miners' Hospital Endowment Fund was $1,274,359, while the State Charitable - APH Endowment Fund had a balance of $514,912. The nonexpendable portion of these Trust Funds, (funds not available for agency use but which earn money for the expendable funds) had balances of $841,919 and $2,539,307, respectively.

In addition, residents entering the Home since August 11, 1970, have been required to pay for the cost of their care to the extent that they are financially able to do so. The amount is limited by statute to the average monthly per capita cost of operating the Home, $1,535 for the current fiscal year.* The resident contribution is collected by APH and deposited into the General Fund. In fiscal years 1983-84 through 1985-86, these collections represented approximately 19 percent of APH's total expenditures. Based on estimates for fiscal year 1986-87, resident collections will represent about 17 percent of expenditures.

Staffing at the Pioneers' Home has remained stable at 110 full-time equivalent (FTE) positions for the past several years. However, since APH makes extensive use of part-time and seasonal employees, 146 people currently occupy these 110 FTE positions. The staff is presently organized along functional lines, as shown in Table 2.

Table 2

ARIZONA PIONEERS' HOME AND
THE MINERS' HOSPITAL
STAFFING

Department	FTEs	Staff
Administration(1)	10.80	11
Nursing	58.70	84
Maintenance	7.50	8
Housekeeping	11.50	12
Food Services	21.50	31
TOTALS	110.00	146

(1) Includes administrative, accounting, resident services and activities, and pharmacy personnel.

Source: Compiled by Auditor General staff from Arizona Pioneers' Home personnel records.

* Currently only one resident pays the maximum amount and, as of July 1, 1986, 17 paid nothing. Of these 17, six are miners, four are exempt because they entered the Home before 1970, and seven have insufficient income to be assessed.

Audit Scope and Purpose

This audit was conducted to evaluate the need for and the adequacy of the Arizona Pioneers' Home and the Hospital for Disabled Miners. Specifically we examined:

- The need for and purpose of the Arizona Pioneers' Home,
- APH's payment for care policies and procedures, and
- The Home's use of the Miners' Hospital Endowment Fund.

In addition, we developed information concerning the residents' personal allowance deductions. This is found in Other Pertinent Information (see page 37).

We also present the 12 factors that should be considered in determining whether the Arizona Pioneers' Home and the Hospital for Disabled Miners should be continued or terminated. This is found in Sunset Factors (see page 9).

This audit was performed in accordance with generally accepted governmental audit standards.

The Auditor General and staff express appreciation to the Superintendent and staff of the Arizona Pioneers' Home for their cooperation and assistance during the course of our audit.

SUNSET FACTORS

In accordance with Arizona Revised Statutes (A.R.S.) §41-2354, the Legislature should consider the following 12 factors in determining whether the Arizona Pioneers' Home (APH) and the Hospital for Disabled Miners should be continued or terminated.

The Hospital for Disabled Miners, which was originally intended to be a separate institution, was never built. APH staff, however, consider the Hospital to be an integral part of APH.

1. The objective and purpose in establishing APH and the Hospital for Disabled Miners

   APH was set up to provide a home for Arizona pioneers. The 1909 Act establishing APH provided that people who met age and residency requirements, and had "been active in the development of Arizona" were entitled to become residents of APH. Thus, the original intent in establishing APH was to provide a pioneers' home in which the needs of people who had lived in and contributed to the development of the Territory could be met. The statutes have since been modified and the requirement that people be involved in the development of the State has been deleted. Additionally, the number of people who came to Arizona prior to statehood has been decreasing. This has resulted in a shift in APH population to long-time Arizona residents, rather than actual pioneers who came to a frontier territory.

   In 1929 the State Legislature statutorily established a State Hospital for Disabled Miners to provide care for miners who had sustained injuries while working in the mining industry or who were financially unable to support themselves. The Hospital was to be located adjacent to APH with the APH superintendent overseeing both facilities. A hospital was never built, however. Instead, miners who meet admittance criteria for the hospital are admitted to APH, although APH cannot provide many hospital services.

2. The effectiveness with which APH has met its objective and purpose and the efficiency with which it has operated

APH provides quality care for its residents at a reasonable cost to the State. APH officials indicate that they have met their objectives by meeting safety and sanitary requirements and maintaining a home-like environment for their residents. APH provides personal, intermediate and skilled nursing care, and has been commended by the Arizona Department of Health Services for the excellent care and loving, caring environment it provides for its residents. APH provides its services at a cost comparable to other nursing care providers in Yavapai County, in which APH is located.

The resident population of APH, however, is shifting away from the State's pioneers to long-time Arizona residents. The changing population indicates that the objective of the Pioneers' Home has largely been met. As the number of pioneers from Arizona's early years diminishes, the original purpose for APH decreases.

The intent of establishing a hospital for disabled miners is not being met. Since a hospital for disabled miners was never built, APH has admitted miners who qualify under hospital admissions criteria. However, APH does not provide the levels of care generally considered essential to a hospital, such as surgery. Because Arizona has never established a miners' hospital it may be liable for inappropriately using several million dollars from the Miners' Hospital Endowment Fund, contrary to the terms of the trust established by the Arizona Enabling Act.

APH payment for care determinations are not always based on residents' full financial ability as required by law. APH staff exclude some assets in determining ability to pay, and APH lacks policies regarding asset disposition prior to and during residency at APH. Also, APH does not use verified resident financial information, as required by statute. Furthermore, policy application has resulted in inconsistent payments among residents.

3. The extent to which APH has operated within the public interest

The public served by APH consists largely of its residents and their families. In this sense, APH is operating within the public interest since it satisfactorily cares for these residents, having been commended by the Department of Health Services for the quality care it provides.

APH's use of the Miners' Hospital Endowment Fund, however, may not be in the interest of the general public. Although a hospital for disabled miners is required by the Enabling Act and Arizona Revised Statutes, one has never existed. As a result, the State may be in violation of the trust established in the Enabling Act and may be liable for several million dollars in inappropriate expenditures. Continued use of this Fund increases the State's potential liability.

4. The extent to which rules and regulations promulgated by APH are consistent with the legislative mandate

According to APH staff, no rules or regulations have been promulgated since the need for them has not been established.

5. The extent to which APH has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public

Since APH has not promulgated any rules and regulations, this factor does not apply.

6. The extent to which APH has been able to investigate and resolve complaints within its jurisdiction

Since APH is not a regulatory agency, this factor does not apply. However, APH does have an informal complaint procedure to address residents' complaints.

7. The extent to which the Attorney General or any other applicable agency of State government has the authority to prosecute actions under enabling legislation

APH's statutes appear to be adequate. According to APH staff, the only violation addressed in the statutes is that if a resident refuses to pay the determined payment for care, he shall be required to leave APH. The Home's Attorney General representative indicated that current statutes would be sufficient to prosecute any such case.

8. The extent to which APH has addressed deficiencies in the enabling statutes which prevent it from fulfilling its statutory mandate

APH staff indicated that the statutes are sufficient to allow them to fulfill their duties. No legislation has been proposed by APH in the last five years and none is contemplated.

9. The extent to which changes are necessary in the laws of APH to adequately comply with the factors listed in the Sunset Laws

Since the composition of the APH is changing, the Legislature needs to determine whether State supported care for the elderly is an appropriate policy. Additionally, if the Legislature decides to continue to become more involved in providing long-term care for the elderly, consideration should be given to defining what population should be served.

10. The extent to which the termination of APH would significantly harm the public health, safety or welfare

Termination of APH would not significantly harm the public health, safety or welfare, since services provided at APH are available from counties or private health care providers. If APH is closed, however, the State may have a continuing commitment to the pioneers and other residents currently in the Home. All of the residents entered APH

with the understanding that they would receive care for the remainder of their lives.

Additionally, some concern may exist over whether the current resources of other care providers could handle the sudden influx of residents should the Home close. For example, Yavapai County may need to expend nearly one-third more than it presently does to provide for county residents currently cared for at APH.

11. The extent to which the level of regulation exercised by APH is appropriate and whether less or more stringent levels of regulation would be appropriate

Since APH is not a regulatory agency, this factor does not apply.

12. The extent to which APH has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished

APH currently uses private contractors for service delivery, some housekeeping and maintenance, and has identified areas in which further contracting may be possible. Home officials indicate that APH uses private contractors chiefly in the medical field, with various physicians, laboratories and a hospital. Total expenditures for these contracts, after recovery of insurance claims, was $47,132 in fiscal year 1984-85. APH also contracts for laundry services, for which it expended $50,831 in fiscal year 1984-85. In addition, it uses private contractors for various maintenance services, such as for an elevator, an alarm system, office equipment and pest control services.

APH staff identified areas where further contracting may be possible, although such uses have not been thoroughly investigated. Some areas include additional work in maintenance and housekeeping, as well as security, yard upkeep, food services and accounting.

FINDING I

THE NEED FOR THE PIONEERS' HOME IS CHANGING

The objective of the Arizona Pioneers' Home (APH) has changed since the Home's construction. The original purpose of the Home was to provide for elderly Arizona pioneers. Currently, only 31 percent of the residents are pioneers, and the percentage will continue to decrease. The State should review the need for the Pioneers' Home and evaluate the alternatives for its role in caring for Arizona's elderly.

Purpose Of The Home Has Changed

The Arizona Pioneers' Home is no longer exclusively a home for individuals who assisted in the founding and development of Arizona. The Home was established in 1909 to provide for Arizona's early settlers, but in recent years admission requirements have been expanded to include other Arizona citizens. Although the Home's current population includes some pioneers, they no longer represent a majority of the residents. The Home has met its original purpose, but its role is now shifting to a nursing home for long-time Arizona residents.

Admission requirements have changed - The provisions for entry into the Pioneers' Home have changed significantly since 1909. The original admission requirements were set forth in 1909 Arizona Territorial Statutes.

> Any person of good character who shall have been a resident of Arizona for not less than twenty five years and who shall have been active in the development of Arizona, and who shall have reached the age of sixty years or over, and who, because of adverse circumstances or failing health or other disability, shall be unable to properly provide himself with the necessities and ordinary comforts of life. . . . [Emphasis added.]

Legislative intent was to care for Arizona's early settlers. When the Home opened in 1911, individuals meeting the 25 year residency requirement were people who lived in a frontier society. Early newspaper articles about the Home refer to it as a way of rewarding early settlers for the

they faced. Currently, APH residents are required to live 30 Arizona, be 65 years of age and not require skilled nursing care me of admission.* The requirement that the applicant must have ed to Arizona's development was deleted by statute in 1970. person born in 1921, entering Arizona in 1956 and residing sly in the State would now be eligible to enter the Pioneers' Home.

The population is changing - Pioneers now represent a small percentage of APH residents. The Arizona Historical Society defines a pioneer as one who entered Arizona in 1912 or earlier. Currently, only 45 APH residents (31 percent) were born in or entered the State in 1912 or earlier. The remaining 69 percent do not meet the Historical Society's definition of pioneer. In addition, of 146 residents of the Home, 32 (22 percent) entered Arizona in 1940 or later. Table 3 shows the years APH residents entered Arizona.

TABLE 3

YEAR APH RESIDENTS ENTERED ARIZONA(1)

Year	Number Entering Arizona	Percentage
1890 - 1912	45	31%
1913 - 1919	25	17
1920 - 1939	44	30
1940 - 1955	32	22
TOTAL	146	100%

(1) Total excludes miners.

Source: Arizona Pioneers' Home admission records for residents of the Home on June 1, 1986.

* According to the Arizona Legislative Council, any residency requirement may be unconstitutional. Legislative Council cited two cases - Shapiro v. Thompson, 394 U.S. 618 (1969) and Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974) - in which the courts ruled residency requirements to be unconstitutional. However, neither case gives a distinct direction pertaining to Pioneers' Home residency requirements. Until such standards are ruled unconstitutional the Pioneers' Home must abide by residency requirements.

APH purpose largely achieved - The changing population indicates that the original objective of the Pioneers' Home has largely been met. As the number of pioneers from Arizona's early years diminishes, the need for the Home decreases. APH has achieved its goal by providing high quality care at a reasonable cost. Recent Department of Health Services (DHS) semiannual inspections found only minor violations. Further, DHS concluded the Home "offers a caring and loving environment with excellent care provided for its residents." The Governor's Office and DHS receive few complaints from residents or families concerning APH, and residents generally had no complaints on care they received. In addition, care is provided at a reasonable cost. For fiscal year 1985-86 the cost of care, including all medical expenses, at APH was approximately $45 per day. This is comparable to private facilities in the vicinity, whose charges range from $23 to $65 a day, not including medical expenses.*

The Need For The Pioneers' Home Should Be Evaluated

The changing population of the Pioneers' Home raises questions about the continued need for the Home. Most publicly funded long-term care in Arizona is provided by the counties. The Home is the only form of State supported long-term care in Arizona, and serves only a small portion of the elderly in need of long-term care. The Legislature needs to determine whether the Pioneers' Home should be continued to serve a limited population. If the Home is continued, several critical issues need to be addressed.

Publicly funded long-term care in Arizona - Assisting individuals in meeting the costs of long-term care is largely a county function. With the exception of the Arizona Pioneers' Home, the State provides little funding for long-term care.** Each county appropriates funds to support

* APH provides medical care for its residents as required by A.R.S. §41-924 B. The Home receives some reimbursement for the cost of this care from resident insurance policies but does not receive any payments from the Arizona Health Care Cost Containment System (see Area for Further Audit Work, page 39).

** Limited State funding is now available for counties to provide long-term care. The 1986 Legislature appropriated $5.5 million to assist counties in meeting the cost of indigent long-term care for fiscal year 1986-87.

indigent residents who need long-term care. Financial criteria for determining eligibility differs from county to county. Arizona counties support approximately 5,500 indigents in long-term care facilities (see Table 4).

TABLE 4

INDIGENT PERSONS RECEIVING LONG-TERM CARE BY COUNTY

County	Number	Date
Apache	7	September 1986
Cochise	187	FY 1985-86
Coconino	45	September 1986
Gila	81	July 1986
Graham	44	September 1986
Greenlee	20(1)	September 1986
La Paz	13(1)	September 1986
Maricopa	3,000(1)	September 1986
Mohave	140	September 1986
Navajo	64	September 1986
Pima	1,175	FY 1984-85
Pinal	196	September 1986
Santa Cruz	57(1)	July 1986
Yavapai	206	August 1986
Yuma	200(1)	August 1986
TOTAL	5,435	

(1) Figures are estimated.

Source: Compiled by Auditor General staff from phone surveys of counties.

Compared with the counties, the Pioneers' Home serves a very small portion of the elderly population in need of long-term care. Pioneers' Home residents account for approximately 3 percent of the indigent population served by the counties.* If the State were to provide funding to meet the costs of long-term care now provided by the counties, the annual costs would significantly exceed the $2.5 million appropriated annually to the Pioneers' Home. For example, Yavapai County, with approximately 200 indigents receiving county long-term care, has budgeted $1.8 million for fiscal year 1986-87.

* Although no current APH residents pay the full cost of their care, most pay for some portion of the care. Assuming that all present residents are indigent, therefore, overestimates the extent to which the Pioneers' Home serves indigent Arizonans in need of long-term care.

Thus, the Pioneers' Home provides long-term care to a small portion of Arizona's elderly. Although the Home once had a unique purpose in providing care to early settlers, few current residents can be considered pioneers, and the number will inevitably decline. The Legislature addressed the changing population in 1970 when it deleted the requirement for applicants to demonstrate their active participation in the development of Arizona. However, the Legislature needs to determine whether there is a continuing need for a State supported long-term care facility that serves such a limited population. The Legislature could phase out the Pioneers' Home with little harm to the public or current residents. Even if the Pioneers' Home is terminated, the Legislature should consider whether the State has a continuing obligation to care for the residents inasmuch as all the current residents entered the Home with the expectation that they would receive care for the remainder of their lives.

If the Legislature determines it is in the State's best interest to maintain APH as a residence for the elderly, a number of issues should be addressed. These issues include the population to be served and the demands on an aging facility.

Population served - If the Legislature determines that the Pioneers' Home should be continued, the population to receive care should be more clearly defined. Generally, tax supported health care systems in Arizona determine eligibility based on indigency. However, APH does not care only for those who cannot afford to pay for care. According to an Arizona Legislative Council Opinion, current statutes do not require residents to be financially indigent to gain admission. Since admission criteria specify that elderly may need assistance in meeting daily needs, those who can afford to pay for care are not excluded from residing in the Home.* The Legislature may want to direct the Pioneers' Home to consider indigency in evaluating applications for admission.

* If the Home continues to admit financially secure residents, it should ensure that the monthly payment for care is based on ability to pay (see Finding III).

If the Home is continued, more emphasis should be placed on serving a statewide population. Yavapai County residents appear to benefit disproportionately from the Home. Presently, more residents enter from Yavapai County than any other county in Arizona (see Figure 2, page 21), although the County has a relatively small elderly population. To ensure that residents of all counties have equal access to APH, the Home needs to provide information to potential residents in all counties.

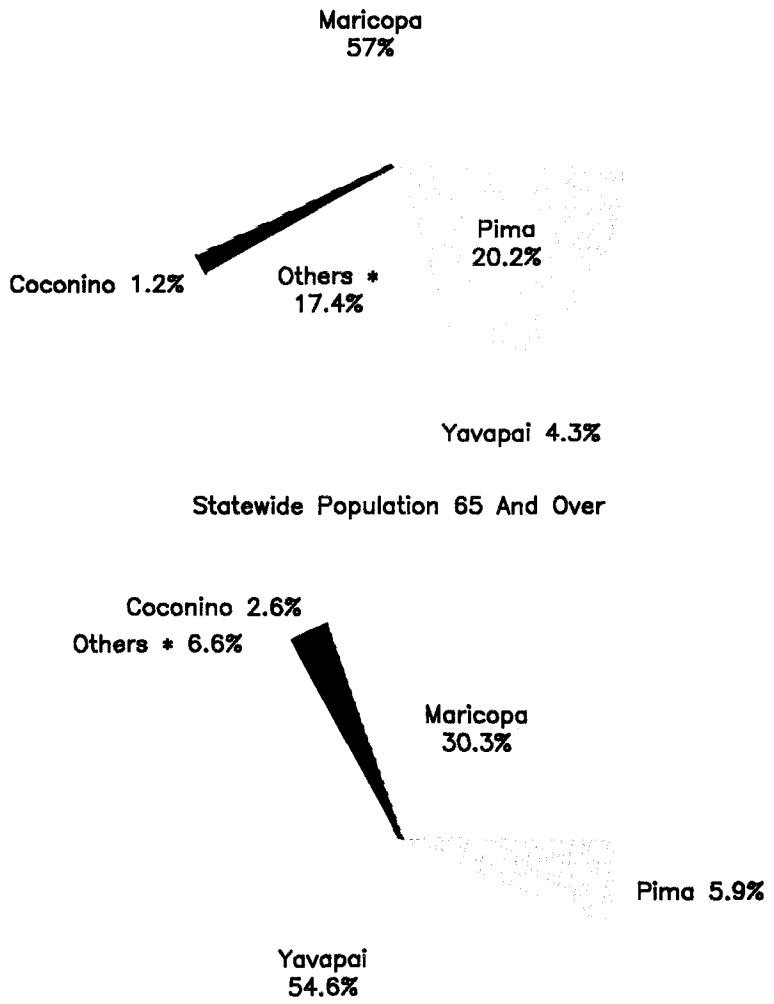
Facility - To continue to provide high quality care, APH needs to address two areas regarding the facility itself. These areas are the need for more skilled nursing care and maintenance of an aging facility.

APH will need to increase its capacity to provide skilled nursing care. Skilled nursing care is required by patients who fit one or more of the following characteristics.

- Need assistance of one or more staff person to walk, move from bed, chairs or toilet, or are bedfast
- Require maximum assistance in bathing, dressing, grooming and feeding
- Are disoriented, confused, combative, withdrawn or depressed
- Require complex medications or treatments needing close monitoring

FIGURE 2

STATEWIDE DISTRIBUTION OF ELDERLY POPULATION BY COUNTY
COMPARED TO RESIDENCE OF APH RESIDENTS AT TIME OF ADMISSION



* Others represents the remaining counties in Arizona. Navajo county had five people enter APH, the counties of Apache, Gila, Graham, Mohave and Yuma had one person each enter the Home. The counties of Cochise, Greenlee, La Paz, Pinal and Santa Cruz did not have anyone enter the Home.

Source: Compiled by Auditor General staff from Pioneers' Home Admission records for 152 current residents of the Home as of June 1, 1986, and from Long-Term Care in Arizona, July 1984.

Skilled nursing care at APH has more than doubled over the past three years. In 1983 APH averaged eight individuals receiving skilled nursing care each month. In 1986 the monthly average increased to more than 18 people. The Director of Nursing believes that the Home needs to consider alternatives for increasing the number of skilled nursing beds. As more APH residents require skilled nursing care, additional staff, equipment and medical supplies will be necessary to meet the residents' needs. The Home will need to consider those future needs in allocating resources.

In addition, the facility itself may be inadequate to meet the future needs of residents. Although APH maintains the facility very well, it does not meet the current requirements for long-term care facilities in Arizona. The Department of Health Services conducted a special inspection of APH at the request of the Auditor General and found that it does not meet the requirements that would apply if the Home were a licensed institution. The major deficiencies involve failure to meet National Fire Protection standards for health care institutions. For example, all floors lack smoke partitions, all stairs do not meet exit access specifications, some first floor corridors dead end, and some office room doors are not smoke tight. The inspectors also found that toilet rooms, bathrooms, utility rooms and janitors' closets on all floors did not have mechanical ventilation as required by State regulations.*

A Joint Legislative Budget Committee (JLBC) staff study shows the Pioneers' Home to be the second oldest facility in the statewide building inventory. JLBC staff concluded that the maintenance needs of buildings increase as the building ages. For 1985, JLBC staff estimated that the Pioneers' Home would need $159,100 (3.8 percent of the building's value)

* APH structural deficiencies are even greater when compared to DHS construction standards for new facilities. To meet these standards DHS inspectors found that: all corridors in the Home would need to be widened to 8 feet, all exit doors would need to be widened, as would any patients' doors that have not already been modified, and each floor would need to have a nurses station. The inspectors also noted "many other mechanical, electrical and plumbing requirements that will add significantly to this list." Their report cites as examples additional electrical outlets, modification of mechanical systems and additional plumbing fixtures.

to properly maintain the structure. In contrast, JLBC staff's next highest estimate for other buildings on State inventory was 1.7 percent of the buildings' current value.

CONCLUSION

The Arizona Pioneers' Home is no longer needed to meet its original goal. The objective of the Home has been modified since it was constructed in 1911. The Legislature should evaluate the continued need for the Home. If APH is continued, the population to be served and the ability of the existing building to meet future needs should be considered.

RECOMMENDATIONS

1. The Legislature should review the role of the Arizona Pioneers' Home in providing long-term care to the elderly. The following should be considered.

   a. Whether the Pioneers' Home should be continued.

   b. If the Home is continued, what specific population group should be served:

      - indigents,
      - long-term residents of the State,
      - any other group.

   c. If the Home is not continued, how to provide appropriate care for the Home's current residents.

2. If the Pioneers' Home is continued, the Home should determine and utilize the best means of advertising its services to potential residents throughout Arizona.

3. The Arizona Pioneers' Home should develop a plan, in conjunction with the State's five-year land, building and improvements planning process, to ensure that the facility continues to adequately serve the needs of its residents.

FINDING II

THE ARIZONA PIONEERS' HOME HAS INAPPROPRIATELY EXPENDED MONEY FROM THE MINERS' HOSPITAL ENDOWMENT FUND

The Arizona Pioneers' Home (APH) has inappropriately expended money from the Miners' Hospital Endowment Fund. Although a hospital for disabled miners is required by the Enabling Act and Arizona statutes, one has never existed. As a result, the State may be in violation of the trust established in the Enabling Act, and may be liable for several million dollars of inappropriate expenditures.

Required Miners' Hospital Not Established

Although the Arizona Enabling Act and Arizona Revised Statutes (A.R.S.) direct the State to establish a hospital for disabled miners, one has never existed. The United States government, in bestowing Arizona statehood, set aside a certain portion of land to be held in trust by the State, proceeds from which are intended for named beneficiaries. The Enabling Act specifically provides 50,000 acres of land for a hospital for disabled miners. An additional grant of 50,000 acres of lands was made on February 20, 1929. The same year, the Arizona Legislature passed a bill calling for the establishment of a hospital for disabled miners to be built adjacent to APH. The Miners' Hospital Endowment Fund presently has an expendable balance of more than $1.2 million and a nonexpendable balance of nearly $842,000.* In fiscal years 1983-84 and 1984-85, the

* The Miners' Hospital Endowment Fund consists of three separate accounts, two of which are nonexpendable, i.e., not available for agency use, and are maintained solely by the State Treasurer. The Treasurer invests the money in the nonexpendable accounts and deposits earnings from these investments to the Hospital for Disabled Miners' expendable account.

expendable earnings of $514,679, and deposits of $41,463 to the nonexpendable account.*

stablishing a disabled miners' hospital, Arizona has allowed t requirements to be admitted to APH. This appears to be in the terms of the trust agreement set forth in the Enabling PH does not provide many services commonly thought to be a hospital. The courts have generally held that, at a minimum, a hospital provides surgical care. APH is not licensed or certified as either a nursing home or a hospital, and does not have facilities to provide surgical care for its residents.

Over the years, miners have comprised only a small portion of the APH resident population. For example, in the last ten years no more than ten miners have lived at APH in any one year. Presently, of the 158 residents at APH only five are miners. Such low numbers may partly be the result of Arizona statutes which establish restrictive admissions qualifications, particularly for residency, age and employment requirements.** The Enabling Act does not establish any entry requirements.

---

* Miners' Hospital Endowment Fund income includes monies received from earnings of trust lands, interest on invested money, and reimbursements from resident insurance policy payments for covered medical expenses. For fiscal years 1983-84 and 1984-85, average earnings were: from medical reimbursements, $77,900; from trust lands, $319,217; and from invested money, $159,053

** Arizona Revised Statutes (A.R.S.) §41-942 establishes qualifications for admission to the Hospital for Disabled Miners. A person is eligible who: (1) has followed the occupation of mining for 20 years in the State; (2) is a citizen of the United States and the State of Arizona; (3) has been a resident of Arizona for at least 35 years; and (4) is 60 years of age or older and is unable to support himself, or has suffered incapacitating injuries from and in the course of mining. The Arizona Legislative Council issued an opinion which said that since the Enabling Act does not specify any intent by Congress regarding admissions requirements for the hospital, it is apparently left up to the State to decide. Based on this reasoning, the opinion stated that A.R.S. §41-942 appears to be valid.

State May Be Liable For Inappropriate Use Of Funds And Noncompliance With Enabling Act

The State of Arizona may be liable for inappropriate use of the Miners' Hospital Endowment Fund because it has not complied with the terms of the Enabling Act. APH has continuously used the Miners' Hospital Endowment Fund inappropriately. Based on a miners' hospital case in the State of New Mexico, the courts may find Arizona in violation of the trust and order the State to comply with the intent of the Enabling Act. The State's alternatives to resolving this problem are somewhat limited.

APH uses Miners' Endowment Fund - Although APH does not provide many hospital services, it has continuously used the Miners' Hospital Endowment Fund to support its operations. Over the years the Legislature has appropriated and APH has expended money from the Miners' Hospital Endowment Fund to meet operational expenses. The Fund has been used consistently since at least 1941. APH currently uses the Fund to pay for medical expenses incurred by residents at the institution, regardless of whether or not they are miners. The Fund is also used for personnel expenses not funded in the general appropriation that APH receives each year. Furthermore, since July 1972 approximately 95 percent of the expenditures from this Fund may have been used for purposes other than for the care of miners. In the last 14 years alone, APH has expended more than $3 million from the Miners' Hospital Endowment Fund.* Expenditures from the Fund over that period ranged from $130,679 to $394,600 and averaged approximately $220,740 per year. For fiscal years 1983-84 through 1985-86, money spent from the Miners' Hospital Endowment Fund accounted for about 8 percent of APH's total expenditures.

* Miners' Hospital Endowment Fund expenditure records could be traced back only to 1941. Between 1941 and 1971 (1942 excluded because records were not available), more than $1.9 million was expended from the Endowment Fund. Records showing the number of miner residents at APH were available only from 1972.

A court ruling on a case in New Mexico suggests that APH's use of the Miners' Hospital Endowment Fund contradicts the terms of the trust established in the Enabling Act. The New Mexico case is especially pertinent because Arizona and New Mexico Enabling Act provisions concerning a hospital for disabled miners are identical.

New Mexico found liable - The State of New Mexico was found in violation of the trust established to provide a hospital for disabled miners. The New Mexico miners' hospital was opened for operation in 1905. In 1971 the State allowed the miners' hospital accreditation to lapse and closed the acute care portion of the hospital. Subsequently, the United States government and a group of disabled miners in New Mexico brought suit against the State. They claimed that the State's miners were not receiving the care intended by the terms of the trust agreement set forth in the New Mexico Enabling Act. The State contended that it was fulfilling the terms of the trust by providing hospital care for miners at other state and private institutions. The State paid miners' medical bills at these other institutions using Miners' Hospital Endowment Funds.

The Federal District Court found New Mexico guilty of a breach of trust in its handling of the miners' hospital. The Court ruled that since the purpose of trust provisions contained in the Enabling Act was to establish and maintain a miners' hospital, the State could not expend trust monies at other hospitals, even though the money was being used to provide health care to miners. The court further ruled that trust monies could only be used for the facility the State operated as a miners' hospital. As a result, the State of New Mexico was found guilty of a breach of trust in its handling of the miners' hospital. The court ordered the State to restore money inappropriately spent, with interest, to the Miners' Hospital Endowment Fund, and to construct a licensed and certified general hospital. The Tenth Circuit Court of Appeals affirmed the District Court's decision.*

* Officials in New Mexico indicated that because of the court ruling they were required to pay approximately $1.9 million to the Miners' Hospital Trust Fund. In addition, they estimated that nearly $3 million was expended from the Miners' Hospital Trust Fund to restore the miners' hospital to a licensed and certified general hospital for the care of miners.

Courts may find Arizona liable - The courts may similarly find Arizona liable for inappropriate use of funds and order the State to comply with the intent of the enabling act. Like New Mexico, Arizona has been using its Disabled Miners' Hospital Endowment Fund in an institution other than a miners' hospital, and for the care of non-miners. Therefore, based on the New Mexico ruling, the State of Arizona may likewise be found in violation of the terms of the trust. This conclusion is further supported by an Arizona Legislative Council opinion, which follows.

> The use of the Miners' Hospital Endowment Fund for any purpose other than the care of disabled miners in a miners' hospital is inappropriate. A separate certified hospital for disabled miners should be established in Arizona in accordance with the Enabling Act.

The State continues to increase potential liability from continued use of the Disabled Miners' Hospital Endowment Fund and the nonexistence of a hospital for disabled miners. The courts may, as they did in New Mexico, find all or part of the expenditures from this Fund to be inappropriate and order the State to reimburse, with interest, monies spent from the Fund. In addition, the courts may require that Arizona comply with the intent of the Enabling Act and establish a licensed and certified general hospital for disabled miners.

State's alternatives limited - The alternatives available to the State to resolve this problem are somewhat limited. Legislative Council staff indicated that three alternatives exist.

- The State could build a miners' hospital as required by the Enabling Act. This option may not be entirely feasible, however, since the number of people that may be eligible for care in such an institution is currently unknown. Furthermore, the State may not feel that the expense is warranted.

- The State could wait until the matter regarding a disabled miners' hospital is contested in court. There is some discussion as to whether the courts that have jurisdiction over Arizona might rule differently than the District Court for the District of New Mexico did in that case. This alternative could also be very time-consuming, taking several years before any resolution is achieved. For example, the New Mexico case took approximately ten years to resolve.

- The State, through its congressional representatives, could petition Congress for a change in the Enabling Act. Legislative Council staff indicated that this may prove to be a very time-consuming and difficult process. However, if the State wishes to use the Miners' Hospital Endowment Fund, it may be the only feasible solution. The preceding alternatives require Arizona to either construct a hospital which may not be justified by past or current use or refrain from using available funds during a long and uncertain legal process.

Regardless of which alternative the State elects to pursue, the Legislative Council Opinion points out that current and continued use of the Miners' Hospital Endowment Fund remains inappropriate until a hospital for disabled miners exists.

CONCLUSION

APH has inappropriately expended money from the Miners' Hospital Endowment Fund. Although a hospital for disabled miners is required by Arizona statutes, one has never existed. Funds earmarked for a hospital have instead been used by APH. As a result, the State of Arizona may be liable for use of funds in violation of the conditions of the trust and be in noncompliance with the Enabling Act.

RECOMMENDATIONS

1. The Arizona Legislature should discontinue appropriating, and APH should discontinue using, any money from the Disabled Miners' Hospital Endowment Fund.

2. The State should petition the United States Congress to amend the Arizona Enabling Act to allow the Miners' Hospital Endowment Fund to be used for other purposes.

FINDING III

THE ARIZONA PIONEERS' HOME NEEDS TO IMPROVE ITS PAYMENT FOR CARE DETERMINATIONS

The Arizona Pioneers' Home (APH) needs to improve its process for determining resident payments for care. Current APH policies and procedures do not conform with legislative intent. APH should strengthen its payment for care policies and process.

APH Does Not Adhere To State Law In Determining Residents' Ability To Pay For Care

The Arizona Pioneers' Home does not comply with legislative intent in determining resident payments for care. State law requires that residents pay based on their financial ability. However, APH payment for care determinations are not always based on residents' full financial ability and may result in inconsistent treatment of some residents.

Law requires payment based on ability - Arizona Revised Statutes (A.R.S.) §41-923 requires that people admitted to APH pay monthly fees for costs incurred by the State for their care based on their ability. The requirement became law in 1970. Requiring payment for care was a major change in APH policy and applies to all people entering the home since August 11, 1970.

Although the statutes do not define what constitutes a person's ability to pay, other public long-term care programs consider all net assets and net income in determining an applicant's financial ability to pay. Because the majority of the Home's residents are from Yavapai and Maricopa Counties, we reviewed the long-term care programs of these counties. They include all assets as well as income in determining applicants' ability to pay for their own long-term health care. If an applicant's total assets or income exceed a specified amount, the county considers the applicant able to pay for his own long-term care, and thus will not provide

financial assistance.* In addition, both Alaska and Wyoming pioneer homes consider total assets and income in determining whether an applicant should pay less than the maximum monthly fees. Only residents whose income and assets are below specified amounts pay less than the full cost of their care.**

APH does not include all assets in determining ability to pay - APH staff generally exclude some assets in determining ability to pay. Although written policy requires the Home to include all assets in calculating a resident's ability to pay, staff generally exclude certain assets that do not produce income. Often excluded nonincome-producing assets include real property and personal property such as automobiles. APH staff feel that residents should not pay for care based on assets that produce no actual income. Including nonincome-producing assets would require some residents to use their liquid assets to pay for care, resulting in smaller estates. However, because APH does not include these assets in the calculation, costs of supporting some residents unnecessarily shifts to State taxpayers. According to the Attorney General's staff, all assets should be included in determining payment for care amounts. The potential resident must then determine how to pay the amount.

Including all assets as required by APH policy would increase some payment for care amounts. As prescribed by policy, applying an annuity factor to

---

* Yavapai County limits assets to $30,000 ($5,000 may be cash) and yearly income to $3,420. Maricopa County allows $9,855 of income yearly and up to $35,600 in assets. Individual assets are limited to: home, $30,000; cash, $1,600; vehicle, $1,500; and life insurance cash value, $2,500.

** Furthermore, the two states routinely file claims on prior residents' estates for unpaid amounts. These unpaid or past due amounts are the cumulative amounts not paid by a resident when the resident did not pay either the determined payment for care amount or the monthly maximum cost of care.

nonincome-producing assets would, in some cases, increase monthly assessments.* In nine of the 18 resident recent admission files we reviewed, including such assets would have increased the residents' individual monthly payment for care amounts between $12 and $573, for a total of $2,269. Most of the payment increases resulted from including residents' homes in the calculation.

In some cases, APH staff have included these assets in determining resident payments. However, inconsistent policy application has resulted in inequitable payments among residents. For example, five of the 18 recently admitted resident files we reviewed listed a home as an asset on the financial statement. In all but one case, payment for care amounts did not include an assessment on the home, based on the idea that the residents should not or could not pay the additional assessed income on their homes until they were sold or rented. In one case, however, the resident's payment did include such an assessment, increasing her monthly payment by $449. The resident had $57,520 in liquid assets which enabled her to pay the amount. However, two other homeowners who had liquid assets of $36,800 and $64,500 were not assessed for their homes.

APH Needs To Strengthen Its Policies And Adhere To Them

The Arizona Pioneers' Home needs to strengthen its payment for care policies and improve adherence to them. The Home lacks policies regarding asset disposition prior to and during residency at APH. In addition, APH does not verify resident financial information.

APH lacks policy over asset disposition - Policies do not address assets disposed of prior to and during residency at APH. When a potential

* APH uses life insurance annuity factors to determine income on nonincome-producing assets. This method assumes that the value of nonincome assets remaining after allowances of $2,000 for burial and $2,000 for personal property have been deducted are handled as if converted to cash and invested in a life annuity, thereby providing the resident a monthly income.

resident gives away or sells an asset at unrealistically low amounts, this results in a lower payment for care. According to the Attorney General's staff, assets sold or disposed of at less than 75 to 80 percent of fair market value should still be included as an asset in determining payment for care. Our review of some resident files shows that the lack of a policy addressing this has, in fact, resulted in lost payment for care revenues to APH.

Two recent examples illustrate our concerns.

- One resident's initial financial statement included a home and other assets valued at $72,400. Based on the reported values, APH could have added $582 to the payment for care amount. Including this amount and other income listed on the financial statement would have increased her monthly payments from $224 to $987. However, at the time of her entrance into APH approximately one year after applying, the resident excluded the home from an updated financial statement. The resident did not report any increase in other assets or income based on selling or renting the home.

- More recently, another resident gave $20,000 of savings to a relative, which reduced her monthly payments by $177.

Other states' pioneer homes have developed policies to address this problem. In Alaska, policy reads as follows.

> . . . In determining assets . . . [the Department] will include the value of any assets or interest owned by the applicant within 24 months preceding the date of application if the applicant gave away the asset or interest, or sold or assigned the asset or interest at less than fair market value. . . . This standard also applies in determining continued residency [at the facility.]

Wyoming also includes assets disposed of within 24 months prior to application in determining a resident's monthly care fee. In addition, both Maricopa and Yavapai Counties' long-term care programs consider assets disposed of three years prior to application in determining eligibility. The APH Superintendent agrees that controls are needed in this area.

Financial information not verified - Unlike other public long-term care programs, APH does not verify financial information. Although Arizona

Revised Statutes (A.R.S.) §41-923.C require verification, APH staff do not attempt to verify the accuracy of financial information reported by potential residents. Rather, APH staff rely on the applicants' statements. Payments for care calculated using unverified financial information may result in incomplete or incorrect assessments.

The practice of verifying financial information is widely accepted in other public long-term care programs. Pioneer home staff in Alaska and Wyoming verify financial information of residents who pay less than the full cost of care. In addition, long-term care programs in Maricopa and Yavapai Counties require applicants to provide specific documentation of financial data reported on applications. For example, confirmation letters from pension organizations, banks and insurance agencies stating pension amounts, savings and checking accounts and amounts, and the cash value of insurance policies are necessary. An applicant must also obtain property value statements from the County Assessor's Office.

CONCLUSION

APH needs to more accurately determine resident payments for care. Current APH policies and procedures do not conform with legislative intent. To comply, the Pioneers' Home should strengthen and adhere to its payment for care policies and process.

RECOMMENDATIONS

1. The Pioneers' Home should revise it's current policy to clearly define the assets to be included in payment for care determinations. Once developed, APH staff should adhere to this policy.

2. APH should comply with A.R.S. §41-923 by developing and following procedures for verifying applicant financial information.

3. APH should establish a policy of including in payment for care determinations the fair market value of assets disposed of within a specified period of time prior to admission or during residency at APH.

OTHER PERTINENT INFORMATION

During our audit, we developed other information pertinent to the personal allowance deduction used in determining resident payment for care amounts.

Arizona Pioneers' Home (APH) policy allows residents to keep $140* of their monthly income for personal expenses. In calculating payment for care, APH staff deduct this amount from a resident's total available income. Residents spend this allowance as they choose, generally for items like toiletries, clothing and hair care.

In comparison to other long-term care programs, APH's deduction may be high. Both the Yavapai and Maricopa County long-term care assistance program allowances are $50.40 a month, based on current Federal Social Security amounts. In addition, both Alaska and Wyoming pioneer home allowances are less than that of APH: Wyoming residents keep $65 of the first $75 of monthly income and 15 percent of income above $75. Alaska provides a $100 personal allowance for its pioneer home residents.

The Home could increase payment for care receipts, and thus General Fund revenues, by reducing the personal allowance deduction. For example, if APH reduced its allowance to $100, payment for care receipts would increase by approximately $71,000 a year.** This amount would increase payment for care receipts to the General Fund by 13 percent. This amount is equal to approximately 2.5 percent of APH operating expenditures during fiscal year 1986.

---

* A $100 allowance was first established and later increased to $135 by the Department of Health Services (DHS) while APH was under DHS during the mid-1970s. The current $140 amount was established in the late 1970s.

** Auditor General staff calculated this amount by multiplying the estimated average resident population by the increase of $40 a month for a one-year period. This estimate excludes miners and residents with no income.

AREA FOR FURTHER AUDIT WORK

Should the Pioneer's Home Seek AHCCCS Reimbursement for Pesident Medical Care?

The Arizona Pioneers' Home does not receive reimbursement from the Arizona Health Care Cost Containment System (AHCCCS) for medical care provided to residents. When AHCCCS was instituted, APH sent a test case to assess the resident's AHCCCS eligibility. According to an APH administrator, AHCCCS determined that APH residents were not eligible because they were already receiving a State subsidy. AHCCCS staff recently indicated that this informal policy still applies. Furthermore, determining eligibility of current residents would be difficult because of unverified financial information and unavailable medical expense records. Further audit work is needed to determine whether the informal policy is appropriate, how many residents may qualify for AHCCCS, what procedures APH would need to develop to obtain payment and the cost-benefit of seeking AHCCCS reimbursement.

Arizona Pioneers' Home

Prescott, Arizona 86301

Bruce Babbitt
Governor

Merle L. Farmer
Superintendent

November 20, 1986

NOV 1986
RECEIVED
AUDITOR
GENERAL

Douglas R. Norton
Auditor General
Office of the Auditor General
2700 N. Central Avenue, Suite 700
Phoenix, Arizona 85004

Dear Mr. Norton:

Enclosed is our response to the Revised Draft Report of the Performance Audit of the Arizona Pioneers' Home conducted by your department.

I sincerely appreciate the cooperation from your staff, should you or they have any questions on the response please do not hesitate to contact me.

Sincerely,

Merle L. Farmer

Merle L. Farmer
Superintendent

MLF:jf

Enclosure

Reponse
to the Performance Audit of the
Arizona Pioneers' Home
Conducted by the Office of the Auditor General

We are in agreement with the basic idea in each of the three findings of the study:

(1) The concept of the Arizona Pioneers' Home should be reviewed by the Legislature. However, there are several reasons why we feel there is justification to continue the Home.

(2) Proper use of the Disabled Miners' Hospital Endowment Fund needs to be clarified. Congressional change of the Enabling Act is the best approach so that we may come into compliance with requirements.

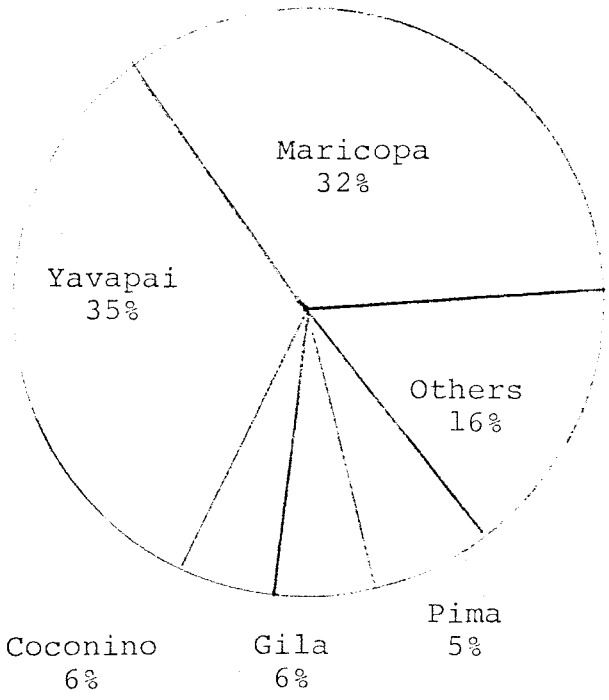
(3) There is need to improve payment for care determinations and disposition of assets by applicants and residents. We are in the process of proposing Rules to establish these guidelines.

FINDING I: The Need for the Pioneers' Home Is Changing

The definition of a pioneer used in the report is that used by the Arizona Historical Society, which restricts a pioneer to an individual who arrived in the State before 1912. The original statute establishing the Pioneers' Home required an applicant to "have been active in the development of Arizona." Although this wording was dropped in 1970, original legislative intent does not indicate that contributions to the development of Arizona will likely cease at a particular date and did not anticipate the need for arranging to close the Home after a certain generation had expired.

When the town of Prescott welcomed the building of the Pioneers' Home in 1910 and its citizens donated the land upon which it was to be built, no one foresaw a day when any use other than this would be made of the land or the building other than as a real home for citizens of Arizona in their sunset years. In fact, the deed for the land upon which the Pioneers' Home stands contains a restriction that it is "to be used by the said Territory as a location upon which to construct a Home for the Pioneers of said Territory, and for no other purpose." If they had known that some other use for it would eventually develop, they might have reconsidered their generosity. If the Home were to be discontinued, a similar change in the Enabling Act would have to be made as that anticipated for the Disabled Miners' Hospital since lands and funds were set aside in the Enabling Act for the establishment and operation of the Pioneers' Home.

It is true that there are always more residents in the Home from Yavapai County than from any other one county, as would be true no matter what its location. People who grow up being more familiar with its presence are naturally more likely to think of applying for entrance in later years. However, if one considers the county of residence to which the individual came when he or she originally entered Arizona, and in which he is more likely to have spent his productive years, the distribution of the present population at the Pioneers' Home shows a different result to that showing only the county in which the resident lived at time of retirement just prior to entering the Home. As Figure 1 indicates, Yavapai then has 35% of the residents, Maricopa 32%, 6% each for Coconino and for Gila, 5% for Pima, and 16% for the remaining counties. Also, considering overall need, if the population of elderly within each county is compared to the county's total population, it is found that one of every 4.4 individuals (22.5%) of Yavapai's population consists of individuals 65 years or older; one of every 8.2 (12.2%) of Maricopa's total population; one of every 7.6 (13.1%) of Pima's total population; one of every 19.2 (5.2%) of Coconino's total population; and one of every 8.4 (11.9%) of the remaining counties' total population.



Residence at Time of Entrance to Arizona

FIGURE I

Information regarding the Pioneers' Home is equally available to all counties and to all legislators, but if desired an advertising method to keep the availability of the Home before all residents of the State could be devised. There is always a fairly lengthy waiting list of applicants, and this would also have to be included in the advertising since the waiting list could conceiveably grow still longer. If carefully monitored, a priority list by county according to elderly population distribution could be developed for processing the waiting list. Direction to do this should come from the Legislature.

Yavapai County and especailly the Prescott area would naturally feel the closing of the Home very deeply. Approximately 300 people would be affected if the 136 individuals employed there were to be dismissed and enter the job market in an area in which jobs are almost non-existent. Their support of the local economy affects an additional circle of businesses and people. The Home itself does the major part of its purchasing through other than local sources, however, due to State Purchasing contracts, but the 153 residents and their families would be most directly affected. As the report indicates, their release would certainly over-tax the resources of Yavapai County to support, even if all were returned to the counties from which they entered. The State has a definite commitment to the current residents, as the report also states, since they entered with the understanding that they had a "home for life." At the request of the auditors, we developed a break-down of our expenses per day for a resident in personal care and for a resident in skilled care. These compared favorably with similar charges in private facilities ($39.35 in personal care and $58.18 in skilled care), although our costs also included those for doctors and drugs which were additional expenses to the individual at private facilities.* Using these figures, plus our average loss per year of 25 residents by death, it is easy to see that there would likely be a substantial financial obligation for at least another six or seven years for this current population. Arrangements would also have to be made to care properly for the miners now here during the years involved to get the Enabling Act changed as suggested for the Miners' Hospital.

---

* If only the money appropriated from the General Fund, less the money returned to it from Payment for Care, divided by the number of residents, the cost to the State per resident per month averages $965.00.

The Pioneers' Home is not required by statute to be licensed but is required to be surveyed every six months by the Department of Health Services and a response to any deficiences noted sent to the Health Department, the Governor, and the Legislature with plans to correct the deficiencies. These surveys consistently praise the Home and its staff for their care of the residents and their compliance with regulations. As with any older structure, comparison with requirements for new construction puts the older structure in a very bad light. However, not all old structures are abandoned because of this. Constant maintenance and renewal projects are underway at the Home for its safety, sanitation, and comfort. During this current year the oldest portions of the brick walls have had the mortar repointed, and the fire ramps have been widened to facilitate residents' exiting of the structure during an emergency. The example of the bathrooms not all having mechanical ventilation (as required in new structures) fails to mention that all which lack mechanical ventilation have an outside window.

A long-range plan for renewal and maintenance of the building is under way with the State's new building renewal program. If the Department of Health Services wishes the Pioneers' Home to establish an additional program to meet any specific standards they set, we will be glad to comply with all reasonable and possible requests. The environment of the Pioneers' Home has always been more "homey" than "sterile" and has seemed in this regard to be more comfortable for those seeking residency here. All standards of safety and sanitation must most assuredly be met, but kind and loving care by the best trained personnel will continue to receive the greatest emphasis. There are numerous instances in which the doctor treating a resident at the hospital has released the resident to return "Home" so he or she could receive the best care available instead of remaining in the hospital for the usual period of recuperation. The Pioneers' Home was not established as a nursing home but as a retirement home for the pioneers. It is true that an abundance of applications for admission are from individuals who really require a nursing home at that time. Acceptance of these individuals at this stage of decline would swiftly turn the Pioneers' Home into a nursing home, but careful regulation of entrance requirements will prevent this so that the 64 bed skilled care infirmary will accommodate those residents who have been relatively independent upon entering but eventually develop the need for skilled nursing care.

FINDING II: The Arizona Pioneers' Home Inappropriately Expended Money from the Miners' Hospital Endownment Fund

It has long been a known fact that Arizona did not construct a separate hospital facility for miners as directed in the statutes in 1929, although as the report explains, the miners have been cared for in every way in the Arizona Pioneers' Home except for actual hospital (usually surgical) procedures, at which time their care was provided and paid for at the Yavapai Regional Medical Center. Since an actual hospital was never built, the results of the New Mexico court decision have placed a somber light on the Arizona situation. There are, however, a few notable differences between the two cases.

In New Mexico a hospital for miners was constructed but was later discontinued, whereas in Arizona there has never been a change in how the miners have been cared for since the first legislation concerning them. When the hospital in New Mexico lost its surgical status, it was dropped to a facility providing only intermediate care, not skilled care as APH provides. The funds provided in the Enabling Act to establish the hospital and care for the miners were combined with other New Mexico State health care funds, and money for the care of miners then was taken from this general fund. The Enabling Act give specific instructions to both States that the miners' money is to be kept in a separate fund. In Arizona the funds provided for the care of miners has always been kept as a separate endowment fund, and expenditures from this fund can therefore be more easily traced and accounted for.

As apparently was the case in New Mexico, there have been relatively few miners to apply for residency over the years. If the Enabling Act had been complied with "to the letter," it is interesting to speculate on the amount that would have been expended to have built a "complete" surgical hospital and to have staffed it for full services from 1929 until the present, regardless of how few were served by it. There has never been a guideline to follow for specific expenditures from the Miners' Hospital Endowment Fund, and each Superintendent has tended to follow the tradition of what was done in the past.*

In recent years, this has meant that all medical expenses for either miners or pioneers were taken from the fund, as well as any expenses for personal services or employee related expenses which exceeded the funds appropriated from the General Fund. All remaining expenses for the care of the miners was taken from the Pioneers' Home Endowment Fund.

---

* All expenditures from this fund, however, have been appropriated by the Legislature by a footnote in the Appropriations Bill.

At present we are attempting to develop a cost allocation per miner to be applied to each miner's care at the Pioneers' Home and to use this as a rationale for total expenditures from the Miners' Hospital Endowment Fund. If no funds at all are to be spent from this fund, it will be necessary to request that additional funds be appropriated from the General Fund by the Legislature for the operation of the Pioneers' Home for the miners and the other residents.

FINDING III: The Arizona Pioneers' Home Needs to Improve Its Payment For Care Determinations

From the beginning of the Pioneers' Home in 1911 until 1970 no resident paid for his care at the Home. There was no indication, either, that the Home was established for the indigent but more as a retirement home where the pioneers could enter with dignity. In 1970 the Statutes were changed to require that each resident pay "according to his ability to pay." The details to implement this have never been addressed formally or the extent of authority determined. Rule making authority is not directly delegated in the Statutes and, therefore, has never been pursued. Recent advice from the Attorney General, however, is that the Arizona Pioneers' Home does have implied authority to propose and adopt Rules. Therefore, the staff of the Home is currently in the process of constructing Rules which we believe will assure consistency and fairness as they define procedures in each area.

These proposed Rules will attempt to define clearly the assets to be included in payment for care determinations and the method of assessing them; the disposition of assets by residents prior to admission and during residency at APH; and procedures for verifying applicant financial information. As soon as possible, these Rules will be proposed and, hopefully, adopted so they can be made a part of the routine admissions procedure. If all the financial information provided by each applicant and each resident is to be thoroughly verified, it appears that additonal staff will be required to accomplish this.

ARIZONA LEGISLATIVE COUNCIL

RECEIVED
JUL 1986
AUDITOR
GENERAL

MEMO

July 15, 1986

TO: Douglas R. Norton, Auditor General

FROM: Arizona Legislative Council

RE: Request for Research and Statutory Intrepretation (O-86-5)

This memo is sent in response to a request made on your behalf by William Thomson in a memo dated July 3, 1986.

FIRST FACT SITUATION:

Arizona Revised Statutes, (A.R.S.) section 41-941, subsection A provides that:

> There shall be a state hospital for disabled miners adjacent to the Arizona pioneers' home at Prescott which shall be managed by the governor.

The State of Arizona Enabling Act (Act June 20, 1910, c. 310, 36 U.S. Stat. 557, 568-579, section 25) provides for lands to be held in trust "for miners' hospitals for disabled miners, fifty thousand acres. . . ." An additional grant of fifty thousand acres was made by Act February 20, 1929, c. 280, section 2, 45 U.S. Stat. 1252 for the same purpose.

Section 28 of the Enabling Act states that lands granted by the United States to the State of Arizona are held in trust and are "to be disposed of in whole in or in part only in manner as herein provided and for the several objects specified". (Emphasis added.) Furthermore, this section states that disposition of any of these lands, or of any money or thing of value derived therefrom, for any object other than for that which has been provided is considered to be a breach of trust.

Arizona has never established a miners' hospital. Miners have been and continue to be admitted to the Pioneers' Home instead. The Pioneers' Home is not licensed or certified as a nursing home nor is it licensed or certified as a hospital. Monies from the Miners' Hospital Endowment Fund have been expended for the care of all residents at the Pioneers' Home. The fund is presently used for all medical expenses incurred by residents of the Home, as well as for personal services and Employee Related Expenses (ERE) not otherwise provided for in the general state appropriation.

In the past the fund was primarily used for personal services and ERE; however, it was also used for capital improvement projects and other operating expenses. The Home currently has one hundred fifty-three residents, six of whom are miners.

Arizona's Enabling Act is similar to the Enabling Act for the State of New Mexico which also provides "for miners' hospitals for disabled miners, fifty thousand acres. . . " of trust land. An additional grant of fifty thousand acres of land was also made. In 1971 the United States of America sued the State of New Mexico over its Hospital for Disabled Miners. The United States District Court for the District of New Mexico ruled that the

State had inappropriately used monies from its Disabled Miners Endowment Fund and ordered that the fund be restored. Memorandum Opinion No. 9484 Civil, 1974. In addition, in a ruling on a motion for clarification of judgment, the Court ruled that New Mexico had to establish a certified hospital ward for the care of miners in the Miners' Hospital.

QUESTIONS PRESENTED:

1. Is the use of the Miners' Hospital Endowment Fund, as described in the fact situation, inappropriate?

2. Based upon the Enabling Act and the Court's reading of the intent of that Act as evidenced in the New Mexico case, should there be a certified hospital facility for disabled miners in Arizona?

ANSWERS:

1. Yes.

2. Yes.

DISCUSSION:

In addition to the limitations on the use of monies derived from the land grant as stated in the fact situation, section 28 of the Enabling Act also provides that:

> A separate fund shall be established for each of the several objects for which the said grants are hereby made or confirmed, and whenever any monies shall be in any manner derived from any of said land the same shall be deposited by the state treasurer in the fund corresponding to the grant under which the particular land producing such moneys was by this Act conveyed or confirmed. No money shall ever be taken from one fund for deposit in any other, <u>or for any object other than that for which the land producing the same was granted or confirmed</u>. (Emphasis added.)

The language of the Enabling Act is clear and direct in restricting use of the trust fund to the Miners' Hospital. Monies derived from the land trust that have been and are currently used for the Pioneers' Home and its residents appear to be inappropriate expenditures in violation of the trust. This interpretation of the Enabling Act is supported by the judgment in the New Mexico case, affirmed on June 22, 1976 by the Tenth Circuit Court of Appeals in <u>United States v. State of New Mexico</u>, 536 F.2d 1324, in which the Court stated:

> Since the purpose of the trust was to establish and to maintain a "miners' hospital," the provisions requiring that the trust funds only be expended for the trust purpose are to be literally construed. This literal construction means that trust funds cannot be spent at other hospitals even though such money is being used to provide health care for miners.

The Enabling Act is not as clear as to whether a certified hospital facility for disabled miners is required in Arizona. The Act does set aside land whose proceeds are to be used for that purpose. Neither the Act nor the Arizona Constitution, however, requires specifically that a miners' hospital be established. The State Hospital for Disabled Miners was established by the Legislature in 1929 "to be built adjacent to the Pioneers' Home" at the time of the second land grant by Congress for the hospital, but that was nineteen years after the Enabling Act.

Despite this apparent lack of a mandate to actually establish a facility, the District Court in the New Mexico opinion cited above (based on identical language in the Enabling Act of that State) found that "/t/he plain meaning of the words requires the establishment and maintenance of a separate hospital facility for the benefit of resident miners of the state." Furthermore, the Court held that such a facility must be a certified, fully accredited general hospital providing surgical care.

Absent any other law or opinion on this issue, this case (affirmed by the Tenth Circuit Court of Appeals) would lead to the conclusion that a certified hospital facility should be established for disabled miners in Arizona. It should be noted, however, that a court challenge on this issue in Arizona would be appealed to the Ninth Circuit Court of Appeals with potentially different results.

SECOND FACT SITUATION:

A.R.S. section 41-942 establishes qualifications for admission to the Miners' Hopsital which require that the person:

> 1. Has followed the occupation of mining for twenty years in the state.
>
> * * *
>
> 3. Has been a resident of the state for not less than thirty-five years.
>
> 4. Has reached the age of sixty years or more, and is financially unable to support himself, or has suffered incapacitating injuries arising from and in the course of mining.

A.R.S. section 41-923, subsection A establishes qualifications for admission to the Arizona Pioneers' Home which require that the person:

> 1. Is and has been for a period of five years prior to his application for admission, a citizen of the United States and of this state.
>
> 2. Has been a continuous resident of this state for not less than thirty years.

QUESTIONS PRESENTED:

1. Does A.R.S. section 41-942, paragraph 4 conform to the intent of the Enabling Act of Arizona, which provides trust lands for a miners' hospital for disabled miners, by limiting admission to the hospital to miners over sixty years of age?

2. Does A.R.S. section 41-942, paragraph 1 conform to the intent of the Enabling Act of Arizona by limiting admission to persons who have "followed the occupation of mining for twenty years in the state"?

3. Are residency requirements set forth in admission qualifications for the Arizona Pioneers' Home (A.R.S. section 41-923, subsection A, paragraphs 1 and 2) and the Hospital for Disabled Miners (A.R.S. section 41-942, paragraph 3) constitutional?

ANSWERS:

See discussion.

DISCUSSION:

The Enabling Act providing trust land "for miners' hospitals for disabled miners" does not appear to create any intent by Congress regarding admission requirements for the hospitals other than disability. Apparently, the hospital admission criteria were left to the State to decide. The Arizona Constitution and case law are also silent on this issue. Arguably, disability could include age as well as physical incapacity. Therefore, the answer to the first two questions of this fact situation is that the admission criteria established by the Legislature in A.R.S. section 41-941 appear to be valid absent other legal restrictions.

As for the citizenship and residency requirements for admission to the Home or Hospital, several United States Supreme Court decisions cast some doubt on their constitutionality.

Shapiro v. Thompson, 394 U.S. 618 (1969), involved a residency requirement and a one-year waiting period for welfare assistance in Connecticut, Pennsylvania and the District of Columbia. The Court observed that these requirements created two classes of needy citizens which were indistinguishable except for the amount of time they had been residents. When a state distributes benefits unequally, the courts examine the law under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution which provides that no state may deny any person the equal protection of the laws. A law may be valid even if it distinguishes among residents, if it promotes a "compelling governmental interest". The Court in Shapiro concluded that a waiting period for welfare assistance constituted discrimination and denied citizens equal protection of the laws.

Similarly, in the case of Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974), an Arizona law requiring a year of residency for eligibility for county medical assistance was invalidated by the Court as a violation of the Equal Protection Clause and as impinging on the right of interstate travel by denying newcomers the right to basic necessities of life.

Both Shapiro and Memorial Hospital, however, involved needy or indigent citizens' rights. A distinction in the Arizona Pioneers' Home and Miners' Hospital situation is that admission is not limited to needy people but is limited to those who have resided in this State for a long time.

The United States Supreme Court has invalidated a law of Alaska that allowed a greater dividend from state oil income to be given to citizens who had lived in that State a longer time. Zobel v. Williams, 457 U.S. 55 (1982). The Court ruled that providing greater benefits to people based on length of residency was violative of the Equal Protection Clause. This case is closer to the situation regarding the Pioneers' Home and Miners' Hospital because indigency is not a factor. However, a significant distinction in all the Supreme Court cases to date from our fact situation is that neither the Pioneers' Home nor the Miners' Hospital is the only source for care in this State. Arizona citizens have many care and hospital facilities to choose from. The complainants in the cases above had no alternatives.

As questionable as the residency requirements for admission to the Pioneers' Home or Miners' Hospital may be under the foregoing decisions, it is impossible to second-guess a court as to the constitutionality of our requirements under the unique facts as presented in Arizona. Until a court determines whether our residency requirements further a legitimate state interest, the statutes must be complied with.

THIRD FACT SITUATION:

A.R.S. section 41-923, subsection A, paragraph 4, which concerns admission qualifications to the Arizona Pioneers' Home, provides that:

> Because of adverse circumstances, failing health or other disability is unable to provide himself with the necessities and ordinary comforts of life. (Emphasis added.)

Presently a number of residents at the Home have the financial means and ability to provide for themselves.

QUESTION PRESENTED:

Does A.R.S. section 41-923, subsection A, paragraph 4 mean that persons financially able to provide for themselves do not qualify for admittance to the Home?

ANSWER:

No.

DISCUSSION:

In determining legislative intent, it has been stated that the meaning which naturally attaches to the words used and best harmonizes with the context should be adopted. State v. Miller, 100 Ariz. 288, 413 P.2d 757 (1966). The language used in this paragraph requiring a resident of the Home to be "unable to provide himself with the necessities and ordinary comforts of life" does not appear to be limited to being financially unable to do so. If the Legislature had intended to restrict admission to the Home to indigents they could have easily set up financial standards to be applied for admission. The language here is broader.

"/A/dverse circumstances, failing health or other disability" could also involve, for example, provision of help to overcome a physical disability. This interpretation of the statute is supported by the language of A.R.S. section 41-923, subsection D which requires a person who is admitted to the Home to pay the State for the cost of his care to the extent possible. If financial inability to care for oneself is a requirement for admission, this provision would not be included in the law.

CONCLUSION:

The use of the Miners' Hospital Endowment Fund for any purpose other than care of disabled miners in a miners' hospital is inappropriate. A separate certified hospital for disabled miners should be established in Arizona in accordance with the Enabling Act. However, admission requirements for such a hospital, other than the requirement of being a disabled miner in this State, are left to the Legislature to determine.

Although residency requirements for admission to the Pioneers' Home and Miners' Hospital may be questioned under constitutional doctrines enunciated in recent United States Supreme Court decisions, it is not possible to predict a court decision on this issue with certainty.

Finally, A.R.S. section 41-923, subsection A, paragraph 4 does not limit admission to the Pioneers' Home to those who do not have the financial ability to provide for themselves.

cc: William Thomson, Manager
Performance Audit Division