

OPEGA Recommendation for Project Direction Medical Services in State Correctional Facilities

Background

This topic was first brought to the Government Oversight Committee (GOC) at its March 27, 2009 meeting as a result of two different requests for OPEGA reviews: one from a citizen, and one from a legislator. The GOC considered these requests, in addition to information from prior OPEGA reviews and the fact that the Governor's original proposed budget for 2010-2011 included \$16.5 million in General Fund each year for the Correctional Medical Services Fund (0286). The Committee subsequently voted unanimously to put the topic of medical services in State correctional facilities on OPEGA's Work Plan for 2009.

OPEGA conducted preliminary research over the summer and fall of 2009. To date that work has focused on gaining a fuller understanding of the types of health care services the State provides to inmates, not just medical services, and the contracts through which those services are procured. Our definition of health care services includes traditional medical care, dental care, mental health services, substance abuse services, and pharmaceutical services. Our work has included:

- conducting interviews with management of the Department of Corrections (DOC);
- soliciting perspectives of the chairs of the Criminal Justice and Public Safety Committee;
- identifying the quality control and cost saving measures already in place or under development by the Department;
- reviewing the Department's largest health care contract;
- reviewing Human Rights Commission and Court cases brought against the DOC or its contractors concerning medical care for inmates;
- gathering information about other efforts on this topic area within Maine and around the country;
- reviewing health care related grievances filed by inmates;
- reviewing statutes, rules, and policies about the provision of medical services; and
- identifying benchmarks or national standards related to provision of medical care to inmates.

Summary of Preliminary Research and Analysis

Health Care Services Provided in State-run Correctional Facilities

Maine's Department of Corrections operates 10 correctional facilities: 2 for juveniles, and 8 for adults. Each facility offers some health care services, and when a facility is not able to provide the level of care an inmate requires, the inmate may be transported off site to another correctional facility or health care facility to receive the necessary care.

Although a few State employees still participate in the delivery, most services are provided through contracts with third parties. A summary of the services provided at each facility, and by which contractor, is provided in Table 1.

Table 1. Summary of Health Care Services and Providers by Correctional Facility					
ADULT FACILITIES	MEDICAL	DENTAL	MENTAL HEALTH	SUBSTANCE ABUSE	PHARMACY SERVICES
Bolduc Correctional Facility	CMS / DOC	CMS	Psychiatry - CMS M.H. Counseling Services - CMS and DOC	DOC	Correct Rx
Central Maine Pre-Release Center	CMS	CMS	Psychiatry - CMS	Spectrum Health Systems	Correct Rx
Charleston Correctional Facility	CMS	CMS	Psychiatry - CMS M.H. Counseling Services - CMS	Wellspring	Correct Rx
Downeast Correctional Facility	CMS / DOC	CMS	Psychiatry - CMS M.H. Counseling Services - CMS	Aroostook Mental Health Center	Correct Rx
Maine Correctional Center	CMS	CMS	Psychiatry - CMS M.H. Counseling Services - CMS and DOC	Spectrum Health Systems	Correct Rx
Maine Correctional Center Women's Center	CMS	CMS	Psychiatry - CMS M.H. Counseling Services - CMS and DOC	Tri-County Mental Health Services	Correct Rx
Maine State Prison	CMS / DOC	CMS	Psychiatry - CMS M.H. Counseling Services - CMS and DOC	DOC and Spectrum Health Systems	Correct Rx
Women's Reentry Center	CMS	CMS	Psychiatry - CMS M.H. Counseling Services - CMS	Volunteers Of America	Correct Rx
JUVENILE FACILITIES	MEDICAL	DENTAL	MENTAL HEALTH	SUBSTANCE ABUSE	PHARMACY SERVICES
Long Creek Youth Development Center	CMS / DOC	CMS	Psychiatry - Stroudwater Associates M.H. Counseling Services - Youth Alternatives, Ingraham, DOC, DHHS	Day One	Correct Rx
Mountain View Youth Development Center	CMS	CMS	Psychiatry - Acadia Hospital M.H. Counseling Services - The Charlotte White Center, DOC, DHHS	Day One	Correct Rx
CMS = Correctional Medical Services; DOC = Department of Corrections; DHHS = Department of Health and Human Services					
Source: Information provided by the Department of Corrections.					

As shown in the summary, a number of different contractors are used, with Correctional Medical Services (sometimes supported by DOC staff) providing all medical, dental and adult mental health care and Correct Rx providing all pharmaceutical services. Contracts with these entities are supported only by General Fund resources and contracted amounts for FY09 were approximately \$12.5 million and \$2.8 million respectively. DOC has contracted with CMS since 2003 and Correct RX since 2007.

Maine statute states in part that an inmate has the right to adequate professional medical care and adequate professional mental health care. DOC has Agency Rules that describe inmate medical grievance procedures and standards for inmate health care in Maine counties and municipalities. DOC also has written policies regarding inmate health care. These policies state in part that it is the policy of the Department to assure necessary health care services are administered to inmates in accordance with nationally recognized standards of care for correctional facilities.

OPEGA reviewed the CMS contract in detail, and noted the contract includes provisions concerning expected quality of care, qualifications of staff, performance expectations, and penalties that may be applied for noncompliance. This includes stated expectations that the care must satisfy the National Commission on Correctional Health Care (NCCHC) and American Correctional Association (ACA) standards, and Department of Corrections (DOC) policy.

DOC believes that although the costs of providing inmate health care have risen, the level of service has also increased, resulting in better service for the money expended. The Department described efforts they had undertaken or had on-going to try to reduce costs including an assessment of emergency room use for inmates, reducing pharmaceutical expenses and conducting utilization reviews. Efforts to improve quality of care mentioned by DOC include performance expectations specified in the contracts and internal and external peer review processes.

According to the Department, there are several challenges related to inmate health care. These include:

- difficulties presented by the prison/patient population such as poor previous health care, addictions, higher incidence of disease, etc.;
- difficulties in recruitment and retention of health care workers; and
- challenges in working with outside medical specialists and hospitals when their use is needed.

Avenues for Inmates' Health Care Complaints

There are procedures for inmates to file grievances regarding their health care, as outlined in DOC Agency Rules. In FY2009, inmates filed about 120 health care related grievances. OPEGA noted that most were complaints alleging inadequate care and issues with medications. There were also some grievances about dental care and many of these noted a very long wait time to receive dental care. At the time of our review, the majority of the grievances had been denied.

OPEGA researched cases that had been filed with the Human Rights Commission (HRC) over the last three years and reviewed the final reports on 7 that related to health care - filed by 3 different inmates. The cases mainly alleged denial of adequate medical treatment and/or retaliation for filing previous health care complaints. All cases were dismissed by the HRC as having "no reasonable grounds." OPEGA also sought information on completed court cases filed by inmates involving the Department's provision of health care services. The decisions on 3 cases alleging inadequate or untimely care were reviewed. The courts did not find any of these cases in favor of the inmate.

Past or Current Efforts to Review Health Care in Correctional Facilities

Much effort has gone into studying costs of health care for inmates in Maine (including mental health) and potential ways to reduce those costs. In addition to efforts internal to the Department and the Legislature's Criminal Justice and Public Safety Committee, other recent efforts have included those listed below.

- In 2006, after 17 months of study, the legislatively established Corrections Alternative Advisory Council released its final report. The report covered a wide range of correctional topics including recommendations and action already taken to reduce medical care and pharmacy costs.
- In 2008 LD 2231 was passed, requiring the Department of Corrections to convene a working group to identify opportunities to provide prescription drugs through Section 340B of the federal Public Health Service Act to inmates and employees in

youth correctional facilities, county jails and state prisons, where cost effective and practicable. DOC must provide a final report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters by January 15, 2010.

- OPEGA also understands that cost savings opportunities may be a critical component of the work the State Board of Corrections currently has underway concerning consolidation of correctional services.

The quality of care provided to inmates in Maine has also been studied in most of the efforts detailed above. In addition, in 2004 the Muskie School undertook a survey of inmates to identify their perspectives about their overall health and about the quality of health care provided by DOC. Then in 2007, NAMI of Maine published a report highlighting key findings from reports published over the past 10 years about mental health services in Maine correctional facilities. We also understand from DOC that ACA Accreditation, which several of their facilities have received, includes a review by that national organization of measures designed to assess the quality of health care provided to inmates.

Although both the cost and quality of medical services in correctional facilities have clearly been the focus of study within Maine in recent years, there has not yet been a review of DOC's management of the contracts through which these health care services are procured. Such contract management reviews have been done in other states (some of which use the same contractors as Maine) and have identified opportunities for improvement. These improvements can be critical, because contract management is the mechanism by which efforts to reduce costs and achieve acceptable quality are monitored and enforced. In effect, when services are outsourced, contract management is the best way to make sure the State gets what it desires and is paying for.

OPEGA Recommendation

OPEGA recommends continuing this review with a focus on the Department of Corrections' management of contracts with the two vendors that provide the majority of the Department's medical services. Such a review would address the question:

How well does the Department of Corrections manage its contracts for medical, dental, pharmaceutical, and adult mental health services to ensure compliance with contract terms, conditions and expectations with regard to performance, quality and cost?

The scope of this question would include most of the health services the Department procures for inmates, but would not include any substance abuse services or juvenile mental health services. Those services are provided by a number of different contractors under potentially different contracts and could significantly increase the resources required to complete this project.

Focusing on this question would allow OPEGA to opine on whether DOC has processes in place that should ensure contractors are in compliance with their contracts. However, it would not necessarily result in independent verification by OPEGA as to the contractors' level of actual compliance with the contracts. The state of the contract management

system currently in place, as well as any time and resource considerations for OPEGA, would impact the level of detail it would be reasonable for OPEGA to pursue.

In addition, focusing on this question would not produce an OPEGA opinion on whether services provided are of high quality or reasonable cost and may not address all of the varied concerns that prompted a review of this topic. However, OPEGA is recommending this approach because DOC's contract management is foundational to the other concerns raised and any necessary improvements would need to begin there in order to be sustained.