

**State of Arizona  
Office  
of the  
Auditor General**

**PERFORMANCE AUDIT**

**ARIZONA  
PIONEERS' HOME  
AND  
HOSPITAL FOR  
DISABLED MINERS**



**Report to the Arizona Legislature  
By Douglas R. Norton  
Auditor General  
April 1997  
Report No. 97-5**



DOUGLAS R. NORTON, CPA  
AUDITOR GENERAL

STATE OF ARIZONA  
OFFICE OF THE  
AUDITOR GENERAL

DEBRA K. DAVENPORT, CPA  
DEPUTY AUDITOR GENERAL

April 14, 1997

Members of the Arizona Legislature

The Honorable Fife Symington, Governor

Ms. Jeanine Dike, Superintendent  
Arizona Pioneers Home

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Arizona Pioneers Home and Hospital for Disabled Miners. This report is in response to a May 29, 1995, resolution of the Joint Legislative Audit Committee. The audit was conducted as part of the Sunset Review set forth in A.R.S. §§41-2951 through 41-2957.

The report addresses the need for the State to make critical decisions regarding the Pioneers Home. First, the Home has fire and building code violations, as well as structural and system problems, which will require an estimated \$7.9 million to correct. Second, a significant increase in revenues will be necessary to continue existing operations since some of the funds used to support the Home are being depleted. Third, the Home's operating costs will continue to rise due to the increasing number of residents requiring skilled care. We recommend the Legislature establish a special study committee to make recommendations regarding the Home's future. Options include refurbishing and continuing the Home, reducing the scope of the Home's operations, and phasing out and closing the Home.

The audit also found that the State continues to inappropriately expend monies in the Miners Hospital Endowment Fund to support the Home. In addition, the Home has not complied with statutory requirements in determining resident payments for care. Finally, the Home could reduce the costs of providing medical care to residents if residents join a Medicare Health Maintenance Organization.

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

This report will be released to the public on April 15, 1997.

Sincerely,

Douglas R. Norton  
Auditor General

Enclosure

# SUMMARY

The Office of the Auditor General has conducted a performance audit and Sunset review of the Arizona Pioneers' Home and Hospital for Disabled Miners, pursuant to a May 29, 1995, resolution of the Joint Legislative Audit Committee. The audit was conducted as part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

The Arizona Pioneers' Home (the Home), a state-funded, long-term care facility, was established by statute in 1909 and opened in Prescott in 1911. The Hospital for Disabled Miners was authorized by statute in 1929, as required by the Arizona Enabling Act; however, a hospital was never built. Instead, miners who meet statutory admission requirements for the Hospital for Disabled Miners are admitted to the Arizona Pioneers' Home. As of October 1, 1996, the Home had 155 residents, 13 of whom were miners. The Home is funded by General Fund appropriations, state trust land funds, and donations. Residents, except for disabled miners, are also required to contribute toward the cost of their care to help offset General Fund appropriations.

## **Critical Decisions Needed to Determine the Home's Future (See pages 9 through 19)**

Although the Arizona Pioneers' Home provides quality care for its residents, the State needs to make critical decisions regarding the Home. Three factors will soon make it difficult for the Home to continue its current activities:

- First, the Home is in disrepair, and an estimated \$7.9 million will be necessary to correct the problems. For example, a fire marshal inspection found that in the event of a fire, problems with the Home's stairwells and exit ramps would make it difficult to safely and quickly evacuate residents, and the Home's sprinkler system may not respond quickly enough to prevent fatalities. In addition, the Home does not meet numerous current building code requirements. Further, the Home has a number of problems with its external structure, as well as plumbing, heating, electrical, and interior problems. Finally, if repairs are made to the facility, asbestos and lead paint removal are required to comply with federal law.
- Second, a significant increase in revenues will be needed to continue existing operations. Monies from the State Charitable Earnings Fund and the Miner's Hospital Endowment Fund expendable account are being depleted. In fact, the State Charitable

Earnings Fund's balance has already been largely depleted. Further, use of the Miners' Hospital Endowment Fund to support the Home violates the Arizona Enabling Act and should be discontinued immediately. The State Charitable Earnings Fund and the Miners' Hospital Endowment Fund supported more than \$2.7 million of the Home's net expenditures in fiscal year 1996. Given these conditions, the Home will need additional revenues to continue its existing levels of service.

- Third, the Home's operating costs will continue to rise due to the increasing number of residents at the Home requiring skilled care. Specifically, in 1986, an average of 18 residents per month needed skilled care. As of October 1, 1996, 45 residents received skilled care. According to the Home's estimates for fiscal year 1996, providing skilled care cost an estimated \$3,589 per resident per month, compared to \$1,442 per month to care for a resident who needed only minimal assistance.

Consequently, the Legislature should establish a special committee of experts and interested parties to consider options and make a recommendation regarding the Home's future. Options include:

- **Refurbishing and continuing the Pioneers' Home** The Home could be refurbished at an estimated cost of \$7.9 million and continue to provide services to approximately 160 residents. In addition to remodeling or reconstruction costs, additional revenues will be needed to support increased operating expenses as the Home depletes current funding sources and the number of residents needing skilled care continues to increase.
- **Reducing the scope of operations** The Home could reduce the scope of its operations by limiting the care it provides to personal care only. Once a resident needed a higher level of care, he or she would be discharged to an appropriate nursing facility. Further, the Home could limit the number of personal care residents and staffing to correspond to available funding. Although the State would still need to pay for some necessary repairs to the facility, reducing the number of residents at the Home might decrease the amount of necessary repairs to the facility, thereby reducing repair costs.
- **Phasing out and closing the Home** The Pioneers' Home could be closed immediately or phased out. A phase-out would provide sufficient transition time for remaining residents to find new places to live and for staff to find new employment.

**State Continues to Expend Monies  
in Miners' Hospital Endowment Fund  
in Violation of Enabling Act  
(See pages 20 through 24)**

The State continues to expend Miners' Hospital Endowment Fund (Fund) monies in violation of the Arizona Enabling Act. The Fund was established to construct and operate a hospital for disabled miners, but Arizona has never established such a facility. Instead, the State has been using the Fund to care for a limited number of disabled miners and other residents of the Arizona Pioneers' Home. A 1986 audit of the Arizona Pioneers' Home, a 1987 Attorney General opinion, and a subsequent informal Attorney General opinion determined that expending monies in the Fund to support the Pioneers' Home is inappropriate, but these expenditures continue. Since these expenditures to support the Home are in violation of the Enabling Act, the State could be found liable for the improper use of the Miners' Hospital Endowment Fund and could be required to repay the Fund with interest, as occurred in New Mexico. Consequently, the State should discontinue using the Miners' Hospital Endowment Fund to support the Pioneers' Home. To resolve problems with future uses of the Fund, the State should petition Congress for a change in the Enabling Act.

**The Home Could Recover Additional  
Costs by Complying with Statutes  
and Improving Practices  
(See pages 26 through 31)**

The Home has not complied with the statutory requirement that residents' assets be included in determining payments for care. As a result, a review of 116 residents' financial files revealed that these residents would have paid approximately \$1 million more for their care if the Home had included the value of their assets in 1996 payment for care calculations. One resident, for example, owned assets worth approximately \$250,000. Because the Home did not calculate this resident's payment for care in accordance with statute, Arizona taxpayers subsidized approximately half of this resident's monthly fees for care. In another nursing home, this resident would not have been eligible to receive a financial subsidy, but instead would have used some personal assets to pay the full cost of care.

The Home also does not verify applicant- and resident-reported financial information as required by statute. In addition, several of the Home's payment for care calculations are inaccurate and result in inconsistent treatment of some residents. To ensure residents are treated equitably in the future, the Home needs to promulgate and adhere to administrative rules for determining resident payments for care.

**The Home Could Reduce Medical Expenses  
if Residents Join a Medicare HMO  
(See pages 32 through 36)**

The Home could reduce the costs of providing medical care to its residents by approximately \$190,000 annually if its residents join a Medicare Health Maintenance Organization (HMO). Unlike other nursing homes in Arizona, the Pioneers' Home is statutorily required to provide its residents with medical care. The Home attempts to recover medical expenses from Medicare and supplemental insurance companies, but its billing process is inefficient and ineffective. The Home could reduce medical costs and eliminate the need to bill medical insurers if residents were members of a Medicare HMO. The Home needs approval from the State Procurement Office and a statutory provision to enable it to select the most cost-effective means to provide medical care to its residents and realize the greatest savings.

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# INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit and Sunset review of the Arizona Pioneers' Home and Hospital for Disabled Miners, pursuant to a May 29, 1995, resolution of the Joint Legislative Audit Committee. The audit was conducted as part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

The Arizona Pioneers' Home (the Home), located in Prescott, is a state-funded, long-term care facility for the elderly. The Home was established in statute in 1909 and opened in 1911. The Hospital for Disabled Miners was authorized by statute in 1929, as required by the Arizona Enabling Act; however, a hospital was never built. Rather, the Pioneers' Home has designated a wing of the building as a miners' hospital and admits miners to the Home who qualify under the Hospital for Disabled Miners' statutes.

The mission of the Arizona Pioneers' Home is

*To provide a home that delivers the maximum physical, emotional and spiritual care to long term Arizona residents and disabled miners in order to protect dignity and honor personal directives of each resident in life as well as death. These services shall be provided in a manner that meets the highest standards for long term health care and state requirements.*

Annual reviews by the Department of Health Services have found that the Home provides residents quality care.

## Admission Requirements

Admission requirements for the Arizona Pioneers' Home have changed over the years. When the Home opened in 1911, individuals who had lived in Arizona for 25 years and had been active in the State's development were eligible for admission in accordance with the Home's intent to care for Arizona's early settlers. From 1921 to 1976, applicants to the Home were required to have lived in Arizona for 35 years. In 1976, the residency requirement was decreased to 30 years. Finally, in 1979, the requirement that the applicant must have been active in Arizona's development was deleted. Currently, A.R.S. §41-923 provides that a person shall be admitted to the Pioneers' Home who:

- Is and has been a citizen or legal resident of the United States for a period of 5 years prior to application for admission;
- Has been a resident of Arizona for not less than 30 years;

- Has reached the age of 65 or more years;
- At the time of admission, is ambulatory; has proper bowel and bladder control; and is able to bathe, clothe, and feed him- or herself without assistance; and,
- At the time of admission, does not require care in a hospital or in a skilled care or intermediate care nursing home.

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

- Has been a resident while working in the mining occupation in Arizona;
- Is a citizen or legal resident of the United States;
- Is 60 years old or older; and
- Is financially unable to support him- or herself, or has suffered incapacitating injuries arising from and in the course of mining.

Additionally, based on available space and funding, the Governor can approve a person for admission to the Hospital who has not yet reached age 60 but otherwise qualifies for admission.

As of October 1, 1996, there were 155 residents at the Pioneers' Home, 13 of whom were miners. Residents are primarily from Yavapai and Maricopa Counties. Yavapai County residents make up approximately 64 percent of the Home's population, while Maricopa County residents make up almost 20 percent of the Home's population. Residents' average age is 85.

## **Organization and Staffing**

The Arizona Pioneers' Home operates under the jurisdiction of the Governor's Office. However, for a short time in the 1970s, the Director of the Department of Health Services (DHS) was responsible for the Home. While overseen by DHS, the Home was maintained as a licensed long-term care facility. When the Governor's Office resumed oversight of the Home, the Home was no longer required to be a licensed long-term care facility; however, DHS must still inspect the Home annually and issue a report citing any deficiencies. The Arizona Pioneers' Home is managed by a Governor-appointed Superintendent. The Home was appropriated 107.4 full-time equivalents (FTE) in fiscal year 1996. Additionally,

the Home uses seasonal and part-time employees extensively. The Home is organized into the following eight functional departments: nursing, food service, housekeeping, activities, resident services, maintenance, accounting, and business office.

## **Budget**

The Arizona Pioneers' Home is funded by the General Fund, two state land trust funds, and a Donations Fund. Over the past ten years, the General Fund has supported a decreasing percentage of the Home's net expenditures.<sup>1</sup>

The federal government, in the Arizona Enabling Act, set aside trust lands to benefit various state institutions. Monies derived from the sale of these lands are held in trust funds for the institutions, and the institutions are allowed to expend the interest earned. In addition, the institutions are allowed to expend other earnings from the trust lands, such as lease income. The Pioneers' Home benefits from both the Miners' Hospital Endowment Fund and the State Charitable, Penal, and Reformatories Institutions Land Trust Fund. The Miners' Hospital Endowment Fund is a nonappropriated fund, although the Legislature has appropriated monies from this Fund's expendable account to the Home. The Pioneers' Home also receives 50 percent of the interest and other earnings of the State Charitable, Penal, and Reformatories Institutions Land Trust Fund. The Pioneers' Home's portion of those earnings is deposited into the State Charitable Earnings Fund from which the Pioneers' Home makes expenditures. The State Charitable Earnings Fund is a nonappropriated fund; however, it moves to appropriated status beginning in fiscal year 1998.

In fiscal year 1986, the General Fund supported approximately 76 percent of the Home's net expenditures. In contrast, the General Fund supported approximately 32 percent, or almost \$1.3 million, of the Home's net expenditures in fiscal year 1996. In that same fiscal year, the Pioneers' Home expended approximately \$1.6 million from the Miners' Hospital Endowment Fund, almost \$1.1 million from the State Charitable Earnings Fund, and approximately \$53,000 from the Donations Fund for operations. Table 1 (see page 4), presents the Home's expenditure detail for the years ended June 30, 1995 through 1997.

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<sup>1</sup> To help offset General Fund appropriations, residents entering the Pioneers' Home since August 11, 1970, are statutorily required to pay for the cost of their care to the extent they are financially able to do so. These payments for care are collected by the Home and deposited into the General Fund. Miners are not required to pay for their care.

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Table 1

Arizona Pioneers' Home  
Statement of Expenditures  
Years Ended or Ending June 30, 1995 through 1997  
(Unaudited)

	1995 (Actual)	1996 (Actual)	1997 (Budgeted) <sup>1</sup>
Personal services	\$2,415,465	\$2,453,794	\$2,418,600
Employee related	786,006	822,815	635,000
Professional and outside services	123,093	184,127	195,000
Travel	4,107	11,347	5,000
Food	229,273	166,856	225,000
Equipment	38,405	8,609	
Other operating	<u>884,921</u>	<u>1,124,208</u>	<u>760,000</u>
Total expenditures	4,481,270	4,771,756	4,238,600
Less residents' payments for care	<u>(837,244)</u>	<u>(740,821)</u>	<u>(857,759)</u>
Net total	<u>\$3,644,026</u>	<u>\$4,030,935</u>	<u>\$3,380,841</u>

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<sup>1</sup> Amounts are based on appropriations plus estimates of nonappropriated monies.

Source: The Uniform Statewide Accounting System *Revenues and Expenditures by Fund, Program, Organization, and Object* reports for the years ended June 30, 1991 through 1996; the *State of Arizona Appropriations Report* for the year ending June 30, 1997; and the *State of Arizona Proposed Budget FY 1996 and FY 1997 Non-Appropriated Funds*.

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## 1986 Report and Follow-up

As part of the current audit, concerns previously identified in the Auditor General's 1986 performance audit of the Pioneers' Home and Hospital for Disabled Miners (Report 86-6) were reviewed.

- **Need for the Pioneers' Home is changing** The 1986 audit found that the Pioneers' Home had fulfilled its original purpose of caring for residents who were active in Arizona's early development. Persons meeting the original residency requirements no longer represented the majority of residents. Rather, statutory admissions requirements had been modified to allow the Home to become a nursing home for long-time Arizona

residents. Also, Yavapai County residents were disproportionately represented in the Home. Almost 55 percent of the Home's population came from Yavapai County. Finally, the number of residents needing skilled care had increased, and questions were raised concerning the facility's adequacy in meeting these residents' needs. The report encouraged the Legislature to review the Home's role in providing long-term care to Arizona's elderly.

**Follow-up:** As of May 1996, 64 percent of the Home's residents were from Yavapai County. The Home's number of residents requiring skilled care has continued to increase. Finally, the facility has numerous deficiencies that threaten residents' safety and put the State legally and financially at risk (see Finding I, pages 9 through 19).

- **The Pioneers' Home has inappropriately expended money from the Miners' Hospital Endowment Fund** The 1986 audit found that the Home had expended monies in the Miners' Hospital Endowment Fund (Fund) in violation of the Arizona Enabling Act. The Fund is for the benefit of a disabled miners' hospital. However, the State never built a hospital but has instead allowed disabled miners to reside at the Home. The Home used the Miners' Hospital Endowment Fund to support the care of both miners and nonminers residing at the Home. The report pointed out that the State could be found liable for inappropriate use of the Fund because a miners' hospital did not exist and the Home did not provide hospital services. The report presented alternatives to resolve the problem, including building a miners' hospital or petitioning Congress to change the Enabling Act.

**Follow-up:** A miners' hospital has not yet been built, nor has the State petitioned Congress to change the Arizona Enabling Act. Monies in the Miners' Hospital Endowment Fund continue to support the Home's operations, benefiting both miners and nonminers. Since it is unknown if Arizona needs a miners' hospital, the State should petition Congress to change the Enabling Act (see Finding II, pages 20 through 24).

- **The Pioneers' Home needs to improve its payment for care determinations** The 1986 report recommended that the Home improve its payment for care determinations to comply with legislative intent. The Home did not include all assets in payment for care determinations as other long-term care programs did. As a result, costs for care were unnecessarily shifted to state taxpayers. In addition, the Home lacked a policy concerning the disposal of assets by residents. As a result, residents may have paid less for their care because they disposed of assets. Finally, the Home failed to verify financial information reported by potential residents.

**Follow-up:** The Home still needs to improve its payment for care determinations. The Home fails to include all resident assets in determining payments. Although the Home has adopted a policy concerning the disposal of assets by residents, it does not always comply with this policy; therefore, some residents are treated unfairly. Finally, the Home still does not verify all financial information (see Finding III, pages 26 through 31).

## **Audit Scope and Methodology**

The purpose of this audit was to evaluate the need for and adequacy of the Arizona Pioneers' Home. This report presents findings and recommendations in four areas:

- The need for critical decisions to be made about the Home's future;
- The State's inappropriate use of monies in the Miners' Hospital Endowment Fund to support the Home;
- The Home's failure to comply with state law concerning payment for care determinations and other improvements that can be made; and
- The reduced medical expenses that would result from residents joining a Medicare Health Maintenance Organization (HMO).

In addition to these audit areas, the report contains a response to the 12 Sunset Factors that should be considered in determining whether the Arizona Pioneers' Home and Hospital for Disabled Miners should be continued or terminated (see pages 41 through 43).

During the course of this audit, the Auditor General also conducted a detailed review of the Home's accounting system and financial policies and procedures. Problems disclosed by this review are reported separately in the report *Arizona Pioneers' Home Procedural Review as of November 8, 1996*.

This audit used a variety of methods to study the issues presented in this report. Pertinent information analyzed concerning the Pioneers' Home facility and practices includes:

- Department of Administration engineering, and lead and asbestos studies;
- DHS Fire and Life Safety Code review;
- DHS Nursing Home compliance reviews; and
- Industrial Commission of Arizona, Division of Safety & Health, Full Service Health survey and Full Service Safety survey.

One hundred and sixteen residents' financial files were analyzed to determine a) the Home's compliance with payment for care determination statutes and policies, and b) whether the Home could become more self-sufficient by revising its payment for care policies. A separate analysis of 143 residents' financial files was also performed to determine if some residents could qualify for financial assistance from the Arizona Long Term Care System (ALTCS). In

addition, state statutes and the Home's policies were reviewed. Finally, payment for care policies and procedures used by pioneers' homes in Alaska and Wyoming were analyzed.

To assess the Home's expenditures and appropriateness of revenue sources, this audit reviewed and analyzed state accounting reports from the fiscal years ended June 30, 1991 through 1996; the Arizona Enabling Act and Constitution; Arizona Attorneys' General opinions; and the Office of the Auditor General's 1986 Performance Audit of the Pioneers' Home and Hospital for Disabled Miners (Report 86-8).

Additionally, this audit reviewed and analyzed the Home's resident census data and other agency information and records.

Key persons interviewed include the Home's management, staff, and residents; state budgeting, accounting, and administration personnel; county assistance programs' personnel; representatives from a Medicare HMO; and the management of other nursing homes, Alaska's and Wyoming's pioneers' homes, and New Mexico's miners' hospital.

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the Superintendent, staff, and residents of the Arizona Pioneers' Home for their cooperation and assistance throughout the audit.



## FINDING I

### CRITICAL DECISIONS NEEDED TO DETERMINE THE HOME'S FUTURE

Three converging factors require that critical decisions be made now regarding the Home's future. First, over the years, the Home has fallen into disrepair, and millions of dollars will be necessary to correct its many building hazards. Second, future sources of funding for the Home are uncertain. Third, increasing numbers of residents needing skilled care at the Home contribute to increasing costs. As a result, important questions need to be answered and options considered concerning the Home's future.

The Arizona Pioneers' Home was built in Prescott in 1911. The Home is on the State and National Register of Historic Places and is the third oldest continually occupied state location. Additions to the original structure have been made over the years; however, the facility falls short of meeting today's regulatory requirements in many regards.

#### **Millions of Dollars Needed to Correct Building Hazards**

The first factor impacting the Home's future is the need for the State to spend millions of dollars to correct building hazards at the Home. Significant fire and building code violations as well as structural and systems problems exist and will be costly to fix. In addition, repair costs will increase with the required removal of asbestos and lead from the building. Until these hazards are addressed, residents' safety is questionable, and the State is legally and financially at risk.

The building hazards discussed in this audit report were identified by a number of state agencies. The Department of Administration contracted with engineering firms to review the Pioneers' Home facility in 1996. In addition, a Department of Health Services (DHS) deputy fire marshal performed a Life Safety Code (used by Medicare) and State Fire Code inspection of the Home at the request of the Office of the Auditor General. DHS also performed its annual nursing home compliance review of the Home during the course of this audit. Finally, a Full Service Health survey and Full Service Safety survey were conducted by the Industrial Commission of Arizona, Division of Occupational Safety & Health, in September 1996.

*Severe fire and code violations exist* The Pioneers' Home is in violation of state fire and current building codes and has numerous problems with its structure and internal systems, such as the plumbing, heating, and emergency electrical systems. Costs to remedy these problems are estimated at over \$7.9 million. Table 2 lists the activities by category that are needed to remedy building problems and their associated repair costs.

**Table 2**

**Arizona Pioneers' Home  
Estimated Cost of Repair**

<b>Category</b>	<b>Cost</b>
Preliminary planning <sup>a</sup>	\$ 55,500
Fire safety compliance	345,000
Building code and licensing compliance	2,351,500 <sup>b</sup>
External structure repairs	608,750
Plumbing, heating, emergency electrical, and interior repairs	<u>1,566,600</u>
Subtotal	4,927,350 <sup>c</sup>
Lead and asbestos removal	<u>3,000,000</u>
Total	<u><u>\$7,927,350</u></u>

<sup>a</sup> Preliminary planning includes such activities as preparation of individual floor plans and a master plan showing both the completed facility plan and individual phasing plans.

<sup>b</sup> This amount is an average of the low and high estimates provided by the engineering firm to make the necessary repairs.

<sup>c</sup> This engineer-provided estimate is intended to give an approximation of the costs. Actual costs will depend on many factors including the availability of contractors and materials, the final design, and the economic climate at the time of bidding.

Source: *Arizona Pioneers' Home Facility Evaluation Report*, TRK Architecture & Facilities Management, Inc., July 1, 1996. Lead and asbestos removal cost estimate provided by Department of Administration administrator.

**Fire Safety Problems**

Numerous State Fire Code violations have been identified at the Pioneers Home that would cost an estimated \$345,000 to remedy (see Table 2). Fire safety hazards were found by a Department of Health Services deputy fire marshal and by Department of Administration contracted engineers. A few of the Home's fire safety problems include:

- **Inadequate sprinkler system** The Home's sprinkler system takes an excessive amount of time to fully activate, which would allow a fire enough time to engulf the room of origin. According to a DHS deputy fire marshal, such a fire would be fatal for the rooms' occupants. Fire sprinklers are also lacking in the Home's elevator shaft, laundry chute, and storage areas under the stairs.
- **No smoke detectors** There are no smoke detectors in resident rooms and many of the smoke detectors in the hallways are too far apart. In addition, some of the smoke detectors may be obstructed by the recently installed cooling system duct work. Because of these problems, Home residents and staff will have reduced warning time should a fire occur.
- **Cooling system spreads smoke** The duct work of the Home's new cooling system provides paths for smoke to spread throughout the building. In addition, the evaporative coolers do not automatically shut down when the fire alarm system is activated. If the evaporative cooling system continued to operate during a fire it would aid the spread of smoke, potentially jeopardizing residents' and staff's lives.
- **Insufficient exiting system** The Home's exiting system is insufficient for the safe and timely evacuation of the elderly residents. Top-floor residents have a relatively long and difficult route to the outside. In addition, the stairwells do not offer shelter from smoke. Moreover, the exit ramps are exposed to the weather and could be covered with ice or snow during the winter. Finally, the hallways are not wide enough and are obstructed with carts, chairs, and oxygen fixtures.
- **Inadequate resident doors** Many of the residents' rooms have only hollow core wood doors, which are not adequate barriers to heat and smoke.

The Office of the State Fire Marshal stated that the Pioneers' Home facility would not meet the minimum State Fire Code requirements without major reconstruction or alterations. Compounding the building's physical fire hazards is the lack of fire drills and resident fire training conducted by the Home. For example, state-licensed nursing homes are required to conduct one fire drill per shift per calendar quarter, or a total of 12 drills a year. Although exempt from this licensure requirement, in 1995 the Home conducted only three planned fire drills. In addition, during DHS' group interview of residents in October 1996, residents voiced concerns about the minimal amount of emergency fire training provided to them.

**Building Code, ADA,  
and Other Problems**

The Home has numerous instances of noncompliance with the current building code and violations of the Americans with Disabilities Act (ADA). Further, although exempt from state nursing home licensure requirements, the Home's inability to meet those standards is another indication of risks to its residents and potential liability to

the State. To bring the Home into compliance with the current building code, to correct ADA violations, and to remedy other licensing issues, the State needs to invest an estimated \$2.3 million (see Table 2, page 10). The Home's multiple problems include:

**Nonconforming construction** According to the Life Safety Code and the Uniform Building Code, nursing home residents cannot be housed in a building with the Home's type of construction, Type III-N, which is masonry exterior walls, concrete structural frame, and wood floor joist and deck.

**Noncompliance with the building code** Numerous instances of noncompliance with the current building code have been identified at the Pioneers' Home. Although some of the instances of noncompliance are the same as the fire code violations, there are others that include the building's height exceeding the maximum allowable for nursing homes; travel distance to some of the exits exceeding the maximum allowable; and the width, landing, and handrails of the Home's stairways not complying with code.

**ADA violations** The Home is in substantial violation of the ADA. Areas of the Home that do not comply with ADA standards include the stairs, elevator, doors, main entrance, drinking fountains, bathrooms, and signs.

**Licensing issues** The Home has a number of deficiencies that would prevent it from being licensed using standards applicable to skilled care facilities. In addition to violations of the Uniform Building Code and the Fire Code, the Home is deficient when evaluated using nursing home guidelines. For example, some resident rooms exceed maximum per-room occupancy; resident bathing facilities are not of sufficient size; and the Home does not have a minimum of two elevators as is recommended for the number of residents living on floors other than the main floor.

**External Structure Problems**

There are a number of problems with the Home's external structure that would cost an estimated \$608,750 to repair (see Table 2, page 10). These external structure repairs include fixing the deteriorating mortar; repainting the building; providing proper support and reinforcement of the roof framing; fixing the corroded, rusted exterior ramps; and ensuring the posts that hold up the building are properly attached to the building.

**Plumbing, Heating, Emergency Electrical, And Other Problems**

Several problems with the Home's plumbing, heating, and emergency electrical systems have been identified, as well as other problems inside the building. These internal system improvements would cost an estimated \$1,566,600 (see Table 2, page 10). These deficiencies include plumbing problems, heating problems, emergency electrical problems, and numerous miscellaneous repairs, including new flooring, carpeting, corridor handrails, and kitchen cabinets and countertops.

*Repairs would require expensive asbestos and lead paint removal* Repairing the Home would require costly hazardous material removal. Federal law requires that when remodeling takes place, all of the hazardous materials in the affected area must be removed. A DOA administrator estimates the Home's asbestos and lead paint removal costs would be approximately \$3 million if all necessary improvements were made (see Table 2, page 10). A 1995 DOA study evaluating asbestos and lead paint at the Pioneers' Home revealed that the building does contain these hazardous materials. Asbestos was found in the water tank insulation, floor tiles, and door putty. In addition, lead paint was found throughout the facility. The Pioneers' Home has no policy or plan for the removal of its hazardous materials. After an inspection of the Home, Industrial Commission of Arizona, Division of Occupational Safety & Health officials recommended that the Home develop an operations and management program to address its asbestos and lead problem for use when renovations are performed.

*Repairs must be made to avoid liability* The Home's residents and the State are at risk if necessary repairs are not made. In the event of a fire, fatalities may occur for which the State would be responsible. After completing an inspection of the Home, the DHS Deputy Fire Marshall concluded that "the facility does not provide its residents the minimum level of safety from fire associated with those occupants for a building of this size, height, and construction." In addition, DHS nursing home inspectors cited the Home for a lack of fire drills and resident fire training. A quote from DHS' recent report states, . . . *the ability of the facility to meet all potential disasters such as a fire threat is questionable.* Finally, DOA Risk Management reviewed these recent inspection reports and concluded that the Home poses a safety risk to its residents and a liability risk to the State.

## **Future Sources of Funding Uncertain**

The second factor impacting the Home's future is the uncertainty of funding sources for its continued operation. More than 40 percent of the Home's budget consisted of monies not legally available for its use in fiscal year 1996. In addition, to cover increasing costs, the non-General Fund accounts that support the Home have been depleted to low balances. As a result, a significant increase in additional funding sources is needed to continue the Home's operations.

*Significant portion of the Home's revenues consists of monies not legally available to the Home* The Home's revenues consist of some monies not legally available for its use. Currently, the Home receives monies from the General Fund, the Miners' Hospital Endowment Fund, the State Charitable Earnings Fund, and a Donations Fund. However, the Home cannot legally be supported by the Miners' Hospital Endowment Fund (see Finding II, pages 20 through 24, for further information on this issue). In fiscal year 1996, the Home's net expenditures were more than \$4 million, including approximately \$1.6 million

from the expendable account of the Miners' Hospital Endowment Fund. This accounts for more than 40 percent of the Home's net expenditures.<sup>1</sup>

*Additional revenues needed to support the Home* Because the expendable balances in the Miners' Hospital Endowment Fund and State Charitable Earnings Fund are being depleted, additional revenues will be needed to support the Home. As the Home's operating costs have increased over the years, more monies from the Miners' Hospital Endowment Fund and State Charitable Earnings Fund than these funds' annual revenues have been used to support the Home. As a result, these funds' year-end expendable balances are decreasing. For example, in fiscal year 1995, the Miners' Hospital Endowment Fund earned expendable monies of approximately \$1.3 million. However, in that same fiscal year, more than \$1.8 million from the expendable account of the Miners' Hospital Endowment Fund was expended and transferred out to another fund. The Fund's expendable balance has decreased from more than \$7 million at the end of fiscal year 1993 to less than \$5.5 million at the end of fiscal year 1996.

Likewise, the State Charitable Earnings Fund is being depleted. In the past two fiscal years, more monies from the State Charitable Earnings Fund than its annual revenues have been expended. For example, in fiscal year 1995, revenues to this Fund were almost \$550,000, but the Home's expenditures exceeded the Fund's earnings by \$273,000 that year. At the end of fiscal year 1994, the cash balance in the State Charitable Earnings Fund was approximately \$375,000. By the end of fiscal year 1996, the cash balance in this Fund was approximately \$45,000.

As the balances in other Pioneers' Home funds decrease, additional revenues will be required to continue operations at the Home's current level. Because the expendable cash balance in the State Charitable Earnings Fund is very low, the Pioneers' Home will be able to rely only on the annual revenues deposited into the Fund to help support operations. The median revenues deposited into the State Charitable Earnings Fund in recent years are approximately \$546,500. Without the use of the Miners' Hospital Endowment Fund, and with the depleted level of the State Charitable Earnings Fund and its limited annual revenue deposits, the Home will require additional revenues.

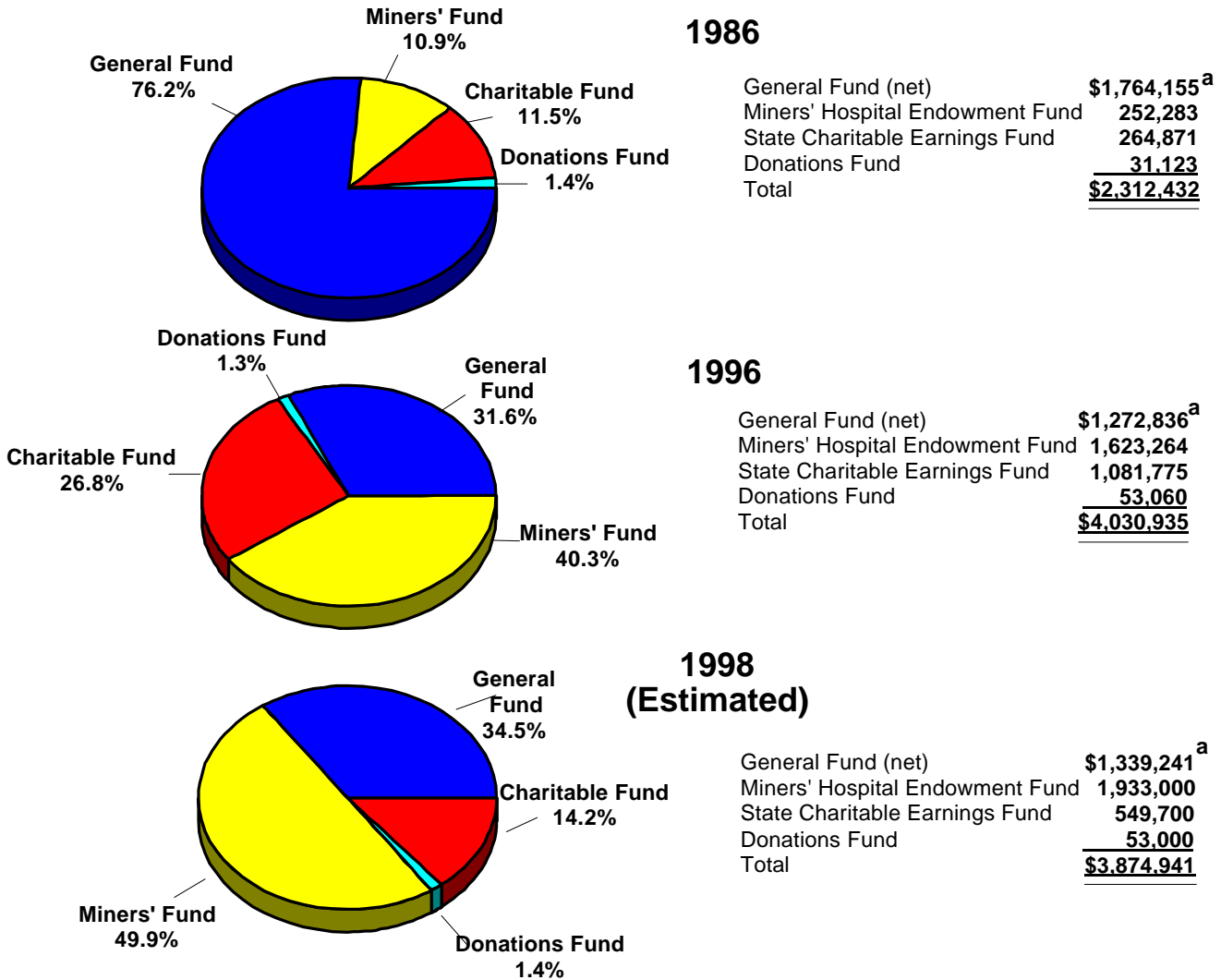
Figure 1 (see page 15), shows the Home's expenditures by fund source in fiscal years 1986 and 1996, as well as an estimate of expenditures by fund source for fiscal year 1998.

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<sup>1</sup> Net expenditures are the Home's gross expenditures less payment for care receipts deposited into the General Fund.

**Figure 1**

**Arizona Pioneers' Home  
Expenditures by Fund Source  
Years Ended or Ending June 30, 1986, 1996, and 1998  
(Unaudited)**



<sup>a</sup> The General Fund expenditures are reported net of residents' payments for care reimbursed to the General Fund.

Source: Auditor General staff analysis of information contained in the Office of the Auditor General Report #86-8, the Uniform Statewide Accounting System reports for the years ended June 30, 1991 through 1996; the *State of Arizona Proposed Budget FY 1998 and FY 1999*, Analysis and Recommendations; and the *State of Arizona Annual Budget FY 1998 and FY 1999 Non-Appropriated Funds*.

## **Increasing Number of Residents Needing Skilled Care Is Costly**

The third factor impacting the Home's future is the growing number of residents needing skilled care at the Home and the greater cost to provide this type of care. The number of residents needing skilled care has increased significantly.

There are three levels of care that are offered at the Home: personal, intermediate, and skilled. Personal and intermediate care levels are for more independent residents who require only minimal assistance with daily living activities, such as guidance to the dining room and assistance with bathing. In contrast, skilled care residents require complete care 24 hours a day.

*Number of skilled care residents is increasing and is costly* The number of Pioneers' Home residents requiring skilled care is increasing and is costly. In 1983, only 8 skilled care residents per month, on average, lived at the Home. In 1986, this number had increased to 18. As of October 1, 1996, 45 skilled care residents resided at the Home. The Home's nursing staff indicated that this trend will continue because the Home is admitting people who are in need of much more care upon admission than in the past. According to nursing staff, new residents are not as independent upon entry as new residents had been several years ago, and they move to the skilled care level much more quickly.

This growth in the number of skilled care residents is significant because of the higher costs to provide skilled care. The Pioneers' Home management estimated that for fiscal year 1996, it cost \$1,442 per month to provide services to one personal care resident, \$2,287 per month for an intermediate care resident, and \$3,589 per month for one skilled care resident. However, the maximum monthly amount residents can be charged is not based on level of care. Rather, A.R.S. §41-923(D) states that the charge cannot be in excess of the average monthly per capita cost of operating the Home. As a result, the Home establishes a maximum monthly amount residents can be charged regardless of the level of care they are receiving. For fiscal year 1996 the maximum monthly amount residents could be charged was \$2,205. Other nursing homes charge more to care for skilled care residents than intermediate and personal care residents.

## **Options Need to Be Considered**

Due to the serious problems facing the Arizona Pioneers' Home, important options need to be considered in determining the Home's future. A committee of experts and interested parties should assemble to consider various options and make a recommendation regarding the Home's future to the Legislature.



*Committee should be organized* Because decisions affecting whether the Home can, or should, continue as a health care facility are governed by many different organizations, the Legislature should establish a special committee to discuss the Home's future and develop recommendations. The following parties should be included on the committee:

- Legislators
- Department of Health Services
- Attorney General's Office
- Department of Administration  
(Risk Management and General Services)
- Residents
- Governor's Office
- Office of the State Fire Marshal
- Governor's Council on Aging
- Superintendent of the Arizona  
Pioneers' Home

Because of the Home's substantial safety problems, this committee should be established immediately to address current risks to the Home's residents and the potential liability to the State.

*Several options for consideration* Once the committee has been formed, there are several options for consideration, including:

- **Refurbish and continue the Pioneers' Home** The Home could be refurbished and continue operations. In order to do so, the State would need to expend an estimated \$7.9 million to improve the facility and make it safe for residents. The Legislature could also build a new facility, and DOA has estimated this would cost \$10 million. The Legislature would also need to identify additional revenues to replace monies currently being used from the Miners' Hospital Endowment Fund and the now-depleted State Charitable Earnings Fund to cover increasing costs.

There are a number of benefits to keeping the Home open. The long-time state tradition of a Pioneers' Home would continue. In addition, approximately 160 residents who have lived in the State for 30 years or more could continue to reside at the Home and need not be displaced. The Home could also continue to provide the three levels of care it currently offers.

- **Reduce scope of operations** The scope of the Home's operations could be reduced. The Home could limit the care it provides to only the personal care level. Through the use of exit criteria, the Home could discharge to other nursing homes those residents who need higher levels of care. Further, the Home could limit the number of personal care residents and staffing levels to correspond to available funding. Specifically, fewer nursing staff would be needed for personal care residents. Based on historical financial data, revenues deposited into the State Charitable Earnings Fund have supported approximately 32 personal care residents annually. If the Home wanted to serve

additional personal care residents, additional monies would be required at an estimated rate of more than \$17,000 annually per additional resident.

Even with a reduced scope of operations, the Legislature would still need to address building problems. However, by reducing the number of residents at the Home, the amount of necessary refurbishment to the facility may be less. For example, not using the third floor could eliminate repair costs for third-floor exit ramps and third-floor ADA compliance problems. Necessary improvements and their associated costs cannot be determined until decisions are made concerning the number of residents and level(s) of care to be provided.

There are a number of benefits to reducing the scope of the Home's operations. By limiting services to the personal care level, the Home's operations would better reflect its original intent to serve as a retirement home rather than a full-service nursing home. In addition, the Home's population and staffing would better correspond to available funding.

- **Phase out and close the Home** The Pioneers' Home could be closed immediately or phased out. A phase-out would provide transition time for residents to find new places to live and for staff to find new employment. The Home could stop accepting new admissions, and current residents could move elsewhere or choose to remain at the Home until it closed. If the Pioneers' Home were closed, the State would not be obligated to continue to care for residents currently living at the Home.

There are a number of benefits to phasing out and closing the Pioneers' Home. Upon closure, the residents and the State would no longer face safety and liability risks due to the facility's poor condition. In addition, the current \$2.35 million of net General Fund monies and State Charitable Earnings Fund monies that are used to operate the Pioneers' Home could be used for other purposes. Finally, depending on how quickly the Home is phased out, fewer repairs would need to be made to the 85-year-old building. For example, an engineer who evaluated the building estimated that under a 5-year phase-out, only one-third of the fire, plumbing, heating, and electrical system repairs would be necessary. Again, specific cost estimates cannot be developed until policy decisions are made concerning the Home's future.

If the Home were closed, the State would have to decide what to do with the Pioneers' Home building and property on which it is located. The building is on the State and National Register of Historic Places; therefore, the State has to comply with Arizona's historic preservation statutes in remodeling the building or deciding what to do with it. The property on which the facility is located would remain the State's and would not revert to the heirs of the individuals who deeded it to the State.

## Recommendations

1. The Legislature should establish a special committee to make a recommendation regarding the Home's future. The committee should include the following parties: legislators, Governor's Office, Department of Health Services, Office of the State Fire Marshal, Attorney General's Office, Governor's Council on Aging, Department of Administration (Risk Management and General Services), and residents.
2. The Committee should consider such options as:
  - a. Refurbishing and continuing the Pioneers' Home;
  - b. Reducing scope of operations; and
  - c. Phasing out and closing the Home.

## FINDING II

### STATE CONTINUES TO EXPEND MONIES IN MINERS' HOSPITAL ENDOWMENT FUND IN VIOLATION OF ENABLING ACT

The State continues to expend monies in the Miners' Hospital Endowment Fund in violation of the Arizona Enabling Act. A 1986 Office of the Auditor General audit of the Arizona Pioneers' Home, an Attorney General opinion, and a subsequent informal Attorney General opinion determined that expenditures from this Fund to support the Home were inappropriate; however, these expenditures continue. As a result, the State could be found liable for the improper use of an increasing amount of monies. To resolve this issue, the Legislature should petition Congress to change the Arizona Enabling Act.

#### **Use of the Miners' Hospital Endowment Fund Remains Inappropriate**

Continued use of the Miners' Hospital Endowment Fund to support the Home is inappropriate. A 1986 audit found that the Home's use of this Fund violated the Enabling Act, and a 1988 statutory change failed to rectify the problem.

*Previous audit and Attorney General opinion found the Home's use of the Miners' Hospital Endowment Fund inappropriate* A 1986 Office of the Auditor General report on the Arizona Pioneers' Home (see Report 86-8) found that the Home had inappropriately expended monies in the Miners' Hospital Endowment Fund.<sup>1</sup> Additionally, a 1987 Attorney General opinion (I87-070) concluded that monies in the Miners' Hospital Endowment Fund cannot be used to support the Arizona Pioneers' Home. The opinion states in part:

*The clear language in the. . . Arizona Enabling Act restricts the use of funds from the [Miners' Hospital] Endowment Fund to support and maintain a separate hospital for disabled miners. Arizona has never built such a hospital, and the Arizona Pioneers' Home is neither a separate facility for miners, nor is it licensed as a hospital to provide both surgical and non-surgical care.*

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<sup>1</sup> This finding is based on Arizona Legislative Council opinion 86-5 that states in part: *The use of the Miners' Hospital Endowment Fund for any purpose other than the care of miners in a miners' hospital is inappropriate.*

Although the Arizona Enabling Act and A.R.S. direct the State to establish a hospital for disabled miners, such a hospital has never existed. The U.S. government, in the Arizona Enabling Act, set aside 50,000 acres of land for disabled miners' hospitals. On February 20, 1929, an additional grant of 50,000 acres was made for the same purpose. That same year, the Arizona Legislature passed a law to establish a miners' hospital adjacent to the Pioneers' Home; however, the hospital was never built.

Rather than building a hospital for disabled miners, the State has allowed the Pioneers' Home to admit and care for miners who meet the hospital's statutory admission requirements. The Miner's Hospital Endowment Fund expendable account is used to pay for the care of both miners and nonminers residing at the Home. These monies have paid for personal services, employee-related expenditures, food, and other operating expenses. Use of this Fund to support the Home violates the conditions of the Enabling Act because the Pioneers' Home does not provide many services commonly provided by a hospital, including surgical care.

***1988 law change did not rectify problem*** A 1988 law change failed to legally allow the Miners' Hospital Endowment Fund to support the Home. In an attempt to enable the Home to legally use the Miners' Hospital Endowment Fund, the Legislature passed Laws 1988, Chapter 90, §3, amending the statute (A.R.S. §41-941) related to the location of the Hospital for Disabled Miners. Formerly, the statute stated that the Hospital would be adjacent to the Pioneers' Home. The amendment provided:

*A. There shall be a state hospital for disabled miners as a separate facility for the benefit of disabled miners at the Arizona pioneers' home at Prescott. . . (emphasis added)*

A subsequent informal Attorney General opinion concluded that the change to the statutes did not enable the Home to use the Miners' Hospital Endowment Fund. In the 1989 letter, an Attorney General special counsel stated:

*Although the 1988 amendment to 41-941(A) provided that the hospital be a separate facility, this does not satisfy the requirement of the Arizona Enabling Act that money in the [Miners' Hospital] Endowment Fund be expended for only the construction, maintenance and operation of a general hospital for disabled miners. We are not aware of anything that would lead us to conclude that a licensed general hospital for disabled miners presently exists or will be constructed at the Arizona Pioneers' Home so that expenditures from the Disabled Miners' Endowment Fund would be authorized.*

Further, even if the Miners' Hospital Endowment Fund could be legally used to support the Home, the Fund supports a disproportionate percentage of the Home's budget when

compared to the number of miners residing at the Home. For example, in fiscal year 1995, 14 of the 177 residents living at the Home during the course of the fiscal year were miners; however, in that same fiscal year, the Miners' Hospital Endowment Fund expendable account supported \$1.8 million, or almost 50 percent, of the Home's net expenditures.

### **State Could Be Liable for Improper Use of Miners' Hospital Endowment Fund**

The State of Arizona could be found liable for the improper use of the Miners' Hospital Endowment Fund. A 1986 Office of the Auditor General report on the Arizona Pioneers' Home concluded that Arizona may be liable for inappropriate use of the Fund because it did not comply with the intent of the Enabling Act. Further, the Home has illegally transferred monies from the Miner's Hospital Endowment Fund expendable account.

*State could be liable for monies improperly expended* A 1986 Office of the Auditor General report on the Arizona Pioneers' Home (see Report 86-8) concluded that Arizona may be liable for inappropriate use of the Miners' Hospital Endowment Fund because it had not complied with the terms of the Enabling Act. The report's conclusion is based on a miners' hospital case in New Mexico. The state was found guilty of a breach of trust in handling its miners' hospital. It had operated a licensed and certified general hospital for miners from 1905 until 1971, and in 1971, when the hospital's accreditation was allowed to lapse, the state paid miners' medical bills at other institutions using the Miners' Hospital Endowment Fund. Subsequently, the U. S. government and a group of New Mexico disabled miners filed suit against the state, claiming the miners were not receiving the care intended by the terms of the trust agreement set forth in the New Mexico Enabling Act.

The Federal District Court found New Mexico in violation of the Enabling Act. The Court ruled that New Mexico 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 the trust monies could be used only for the facility the state operated as a miners' hospital. The Court ordered New Mexico 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. New Mexico officials indicated that because of the Court's ruling they were required to pay approximately \$1.9 million to the Miners' Hospital Endowment Fund. In addition, they estimated it cost an additional \$3 million from the Fund to restore the miners' hospital to a licensed and certified general hospital for the care of miners. Likewise, over \$11 million has been expended from the Miners' Hospital Endowment Fund to support the Arizona Pioneers' Home, and the State could be found liable for its inappropriate use and be made to repay the money with interest.

*Monies in Miners' Hospital Endowment Fund illegally transferred to another fund* The Pioneers' Home has transferred monies in the expendable Miner's Hospital Endowment Fund account to another fund in violation of the Constitution. In fiscal years 1991 through 1996, the Pioneers' Home has transferred monies from the Miner's Hospital Endowment Fund expendable account to the State Charitable Earnings Fund. These inappropriate transfers total more than \$1.9 million.

The Arizona Constitution prohibits commingling of funds associated with state trust lands. Article 10, §7, states in part:

*Section 7. A separate Fund shall be established for each of the several objects for which the said grants are made and confirmed by the said Enabling Act to the State, and whenever any moneys shall be in any manner derived from any of said lands, 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 said Enabling Act, conveyed or confirmed. No moneys shall ever be taken from one fund for deposit in any other, or for any object other than that for which the land producing the same was granted or confirmed . . .<sup>1</sup>*

## **The Legislature Should Petition Congress to Change the Enabling Act**

In order to legally use the Miners' Hospital Endowment Fund, the State could either build a hospital for disabled miners or petition Congress to change the Arizona Enabling Act. The State could fulfill the conditions of the Enabling Act by building a licensed and certified general hospital to care for disabled miners; however, the need for a disabled miners' hospital is unclear. Further, it would be costly to build and operate a hospital.

Additionally, it may be difficult for the Miners' Hospital Endowment Fund to afford the cost of building and supporting a hospital. At the end of fiscal year 1996, the Fund had an expendable balance of only approximately \$5.5 million. In addition, the nonexpendable accounts in the Fund and the lands set aside in trust for disabled miners' hospitals may not earn enough interest and revenues annually to support a hospital's ongoing operations.

A more realistic option may be to request that Congress change the Arizona Enabling Act to legally allow the State to use the Miners' Hospital Endowment Fund effective back to 1933, when the State began using the Fund. Arizona and New Mexico have successfully petitioned Congress to change their Enabling Acts in the past. In addition, New Mexico plans to petition Congress to change provisions in its Enabling Act in the spring of 1997. Arizona's Enabling Act could be changed to allow the Miners' Hospital Endowment Fund

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<sup>1</sup> This provision was taken from Section 28 of the original Enabling Act.

to be used to care for disabled miners wherever they reside, which would include the Pioneers' Home and other settings, such as private hospitals and nursing homes.

Alternatively, the Arizona Enabling Act could be changed to allow the Miners' Hospital Endowment Fund to be used for purposes other than the care of disabled miners. Other state land trust funds support such purposes as public education and corrections.

## **Recommendations**

1. The Legislature should discontinue appropriating, and the Arizona Pioneers' Home should discontinue using, monies from the Miners' Hospital Endowment Fund.
2. The Legislature should decide for what purposes it would like to use the Miners' Hospital Endowment Fund and consider a resolution requesting Congress to change the Arizona Enabling Act to legally allow the State to use the Miners' Hospital Endowment Fund for those purposes.



## FINDING III

### THE HOME COULD RECOVER ADDITIONAL COSTS BY COMPLYING WITH STATUTES AND IMPROVING PRACTICES

The Arizona Pioneers' Home needs to follow state statutes and improve existing practices to increase recovery of the General Fund costs and to ensure residents are treated equitably. Statutes require that residents contribute to the cost of their care to help offset the State's costs of operating the Home. By calculating resident payments for care in accordance with statute, the Home could recover as much as \$1 million more for the General Fund each year. In addition, the Home could better ensure payment for care determinations are accurate and equitable by improving current policies and procedures. Finally, the Home could recover approximately \$41,500 more for the General Fund by helping qualified residents enroll in financial assistance programs.

A.R.S. §41-923 requires residents to pay the costs incurred by the State for their care. As required by statute, the Home determines an average cost of care by dividing the total costs to operate the Home by the average number of residents. The amount is recalculated each fiscal year. The amount was \$2,205 per resident per month for fiscal year 1996. For fiscal year 1997, the amount increased to \$2,497 per resident per month.

Residents pay for their care based on their financial ability. Each February, the Home calculates residents' monthly payments by totaling their income from all sources and subtracting expenses for items such as supplemental health insurance and a monthly \$140 personal allowance. In fiscal year 1996, the Home's residents paid a total of \$816,461 for their care. A.R.S. §41-924(D) requires the Home to deposit these monies into the General Fund, and these payments offset a portion of the approximately \$2 million appropriated from the General Fund to operate the Home in fiscal year 1996.

#### **The Home Should Determine Resident Payment for Care in Accordance with Statute**

The Home should change how it determines payments for care to comply with state law by including all residents' resources. Currently, the Home's method of determining resident payments does not conform with state law. Consequently, the State subsidizes the care of some residents who would not otherwise qualify for financial assistance.

*The Home does not determine resident payments for care according to statute* The Home does not comply with legislative intent in determining payments for care since it does not include the full value of residents' assets. A.R.S. §41-923(D) requires residents to pay for their care based on their ability. According to statute, the Home is to include income and the full value of assets in determining the amount residents will pay. However, in payment for care calculations, the Home includes income only from sources such as Social Security and pensions, and any income, such as interest, that assets may produce. Since the Home does not take into account the full value of residents' assets, residents are allowed to keep assets such as bank accounts and certificates of deposit (CDs), which would otherwise be used to pay for their care. As a result, some residents of the Pioneers' Home have maintained large estates while receiving state-subsidized care.

*The State subsidizes the care of some residents who would not qualify for assistance elsewhere* Currently, the State subsidizes the costs of providing care to the Home's residents; however, many residents own substantial assets and would not be eligible for financial assistance if they lived elsewhere. Specifically, a review of 116 resident financial files found that these residents received estimated state subsidies of \$2.5 million between February 1, 1996, and January 31, 1997.<sup>1</sup> These residents contributed an estimated \$758,000 toward their care. However, if the Pioneers' Home had included the full value of assets in payment for care calculations, as required by law, these residents could have contributed an estimated \$1.8 million toward their care, reducing state subsidies by approximately \$1 million. Table 3 (see page 28), illustrates the actual subsidies three residents received in February 1996. The three residents paid \$2,979 for their care, and received state subsidies of \$3,636. These residents, however, should have paid \$6,615, the full cost of care. To comply with statute, the Home should include the value of assets in payment for care determinations for current and incoming residents.

Residents of other nursing homes in Arizona must pay the full cost of their care using any means available. Elderly residents of other nursing care facilities become eligible for public financial assistance only after expending their assets to a minimum level. In addition, Alaska and Wyoming, the only other states with pioneers' homes, require residents of their pioneers' homes to pay the full cost of care using both assets and income. Only residents whose income and assets are below specified amounts pay less than the maximum rates these homes charge.

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<sup>1</sup> Files reviewed were for those residents who were admitted to the Home prior to February 1, 1996, and who still resided there as of October 1, 1996. Assets were valued as of February 1996. The analysis was performed in October 1996 and any projected estimates are based on the assumption that these residents continued to reside at the Home through January 31, 1997.

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**Table 3**

**Arizona Pioneers' Home  
Monthly Fee for Care, Payments for Care,  
State Subsidies, and Assets  
for Three Residents  
February 1996  
(Unaudited)**

Resident	Monthly Fee for Care	Residents' Payments	State Subsidies	Residents' Assets <sup>1</sup>
A	\$2,205	\$1,164	\$ 1,041	\$250,000
B	2,205	1,041	1,164	223,000
C	<u>2,205</u>	<u>774</u>	<u>1,431</u>	<u>224,000</u>
Total	<u>\$6,615</u>	<u>\$2,979</u>	<u>\$3,636</u>	<u>\$697,000</u>

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<sup>1</sup> Assets were valued as of February 1996.

Source: Auditor General staff analysis of three residents' financial statements submitted to the Home for the February 1996 payment for care determination.

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### **Many Problems Exist with the Home's Payment for Care Determinations**

In addition to following statute, the Home needs to improve the consistency and accuracy of its payment for care determinations. A review of financial files for 116 residents showed that the Home's management does not consistently follow its written policies, and does not always accurately calculate assessments. To help ensure residents are treated consistently and equitably, the Home needs to draft administrative rules for determining payments for care.

*The Home fails to adhere to its payment for care policies* The Home fails to follow its current policies for determining how much residents will pay for their care. Consistent policy application could reduce the amount the State must pay to support residents. Specifically, the Home needs to improve its efforts in the following areas:

- **Verification of financial information** Because the Home's management does not verify residents' financial information in accordance with statute, the Home may incorrectly charge some residents. As previously reported in the 1986 Sunset review of the Home, A.R.S. §41-923 requires the Home's Superintendent to verify all applicant and resident financial information. However, no verification is done. The Home's management relies on financial information self-reported by applicants and residents to calculate payment for care amounts. In addition, when residents have not reported the interest rates earned by some assets, the Home's management has estimated interest earnings to calculate payments for care.
- **Disposition of assets** According to the Home's policies, residents' payment for care determinations consider assets residents dispose of after being accepted into the Home. Residents are also required to report any assets disposed of two years prior to entering the Home. If residents dispose of assets while residing at the Home or during the two years prior to admission, their payment for care determinations should continue to include the assets' potential income based on the assets' original values. However, a review of residents' financial files showed that the assets residents listed upon admission to the Home were not always reported on subsequent financial statements. For example, one resident listed bank accounts and CDs worth approximately \$19,000 upon admission to the Home in 1994. On this resident's 1996 financial statement, only a checking account worth \$1,300 was reported. The Home's management did not include the original assets' value of \$19,000, or the interest earned, in the 1996 payment for care calculation.

In other instances, when previously reported assets do not reappear on updated financial statements, the Home's management appears to inconsistently use information from previous financial statements to calculate payments for care. For example, one resident reported two CDs worth approximately \$10,000 and \$3,200 on her 1994 financial statement but did not include them on her 1996 financial statement. The Home's management included only the \$10,000 CD in the resident's 1996 payment for care calculation.

- **Nonpayment of assessments** According to written policy, if residents lack sufficient liquid assets to pay for their care, the Home may suspend monthly payments and require residents to repay these charges once assets are sold. However, the Home does not enforce this policy. For example, one resident has substantial real estate holdings but lacks the liquid assets needed to pay for care at the Home. The Home's management agreed to suspend this resident's monthly payments beginning in January 1996. The Home's management does not plan to recover these payments once assets are sold. The suspended payments total approximately \$25,715 for 11 months of care.
- **Deductions from payments for care** The Pioneers' Home does not consistently apply its policies regarding deductions from resident payments for care. The Home's policies allow residents the following deductions from their payments for care: expenses incurred in generating income, a medical insurance policy premium, and a \$140 monthly personal living allowance. However, the Home treats residents inequitably by allowing

some residents to deduct additional expenses, such as credit card bills and storage unit rental fees. Financial files sampled for 116 residents showed that the Home's staff allowed 6 residents and 1 couple to deduct nonallowable expenses from their payments for care. These deductions reduced monies the Home remitted to the General Fund by an estimated \$7,100 between February 1, 1996, and February 1, 1997. Other residents reported similar expenses, but they were not allowed the deductions.

*The Home does not properly calculate payments for care* The Arizona Pioneers' Home fails to accurately calculate resident payments for care. The Home's policies state that income, such as interest earnings, will be included in determining a resident's ability to pay; however, the Home's management sometimes ignores interest earnings. Moreover, these omissions, along with other errors, make several of the Home's payment for care calculations inaccurate. For example, based on information contained in resident financial files:

- The Home undercharged one resident approximately \$47 per month because management did not include interest earnings in this resident's payment for care calculation. Between February 1, 1996, and January 31, 1997, the Home could have collected as much as an additional \$560 if the payment had been calculated correctly.
- The Home overcharged one resident approximately \$35 per month because management incorrectly calculated the resident's payment for care amount. The resident overpaid the Home an estimated \$420 between February 1, 1996, and January 31, 1997.

*The Home needs to establish administrative rules for determining payments for care* The Home has not promulgated rules to ensure it is recovering as much of the State's costs as possible and to ensure that residents are treated equally. A.R.S. §41-1003 requires state agencies to adopt rules detailing requirements of all formal procedures that impact the public. According to Attorney General staff, the Home must establish administrative rules for its payment for care determinations. The Home has been aware that rules were necessary since the 1986 Sunset review by the Office of the Auditor General (see Report 86-8). At that time, the Home's Superintendent indicated that the Home planned to propose rules for determining resident payments for care, but no rules have been promulgated.

In addition to codifying some existing payment for care policies, the Home should write additional rules as needed to collect monies. For instance, the Home should draft a rule enabling the State to recover all monies spent toward residents' care. Currently, none of the Home's residents are required to pay the Home's monthly rate of \$2,497; therefore, the State is subsidizing the costs of providing care to residents. When elderly residents at other nursing homes receive similar public financial assistance, federal law requires the State to attempt to recover these monies from the individuals' estates.

## **The Home Could Further Increase Revenues to the General Fund**

The Home's management could recover an estimated \$41,500 more each year by assisting qualified residents to obtain financial assistance from the Arizona Long Term Care System (ALTCS) to pay health insurance costs.<sup>1</sup> The Home requires residents to purchase Medicare Part B insurance, which cost \$42.50 per month in 1996. Residents must also purchase supplemental health insurance policies to pay expenses such as Medicare deductibles and related costs. Residents deduct both of these insurance premiums from their monthly payments for care to the Home. Based on a review of financial files for 143 residents, as many as 38 residents may be eligible to have ALTCS pay their Medicare Part B premiums. This financial assistance could enable the Home to recover an additional \$19,380 from residents per year. In addition, 21 of these residents may qualify for additional ALTCS assistance to pay Medicare deductibles and related costs. These residents would no longer need to purchase supplemental health insurance, which could further increase the amount these residents pay for their care by an estimated \$22,151 each year.

### **Recommendations**

1. The Home should comply with A.R.S. §41-923(D) by including the full value of residents' assets as well as income in payment for care determinations.
2. The Home needs to ensure that resident-provided financial information is documented and verified in compliance with A.R.S. §41-923. In addition, if verification reveals residents have spent or otherwise disposed of assets for purposes other than to pay for their care, the Home should continue to include the value of these assets in payment for care calculations.
3. The Home should ensure resident payment for care determinations are calculated accurately and that payment for care policies are applied consistently to all residents.
4. The Home needs to establish payment for care policies in rule to comply with A.R.S. §41-1003. Further, the Home should draft additional rules as necessary to enable the Home to attempt to recover all state monies paid toward a resident's care from the resident's estate.
5. The Home should assist qualified residents to obtain financial assistance from the Arizona Long Term Care System (ALTCS) to pay health insurance costs.

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<sup>1</sup> ALTCS is administered through the Arizona Health Care Cost Containment System (AHCCCS) to provide long-term care services to financially and medically eligible Arizona residents. ALTCS is funded by federal, county, and state monies.

## FINDING IV

### THE HOME COULD REDUCE MEDICAL EXPENSES IF RESIDENTS JOIN A MEDICARE HMO

The Arizona Pioneers' Home should select a more efficient method of providing medical care to its residents. The Home is required to furnish residents with necessary medical care, but its current practices are not cost-effective. A viable alternative would be to pursue services through a Medicare Health Maintenance Organization (HMO). The Home needs approval from the State Procurement Office and a statutory provision to enable it to select the most cost-effective means to provide medical care to its residents and to realize the greatest cost savings.

#### **Current Medical Provisions Are Costly**

The Home provides its residents with medical care, which cost more than \$600,000 in fiscal year 1996. The Pioneers' Home, unlike other nursing homes in the State, must pay for any necessary medical treatments its residents receive. To meet its statutory obligation, the Home furnishes residents with access to physicians, medications, and other medical services, and pays the associated expenses.

*The Home must provide medical care* Unlike other private and nonprofit nursing homes in the State, the Arizona Pioneers' Home is statutorily required to provide its residents with medical care. A.R.S. §41-924(B) states:

*The superintendent shall admit persons to the home and shall see that persons admitted to the home are comfortably cared for, fed, clothed and furnished with necessary medical treatment.*

Other private and nonprofit facilities provide nursing care but are not financially responsible for other medical costs, such as medications and special therapies. Residents of these other facilities must pay for any additional necessary medical services themselves. If a resident is unable to pay for needed medical care, he or she may receive assistance from the Arizona Long Term Care System (ALTCS).

*The Home's current method of providing medical care is expensive* To fulfill its statutory mandate, the Home furnishes residents with free access to physicians, medications, and other medical services, which are costly. To provide most of the medical attention residents need, the Home contracts with doctors to serve residents twice each week at an in-house

clinic. The clinic doctors, with the assistance of the Home's nursing staff, provide routine medical care to residents. If residents need additional services, such as those offered by specialists or hospitals, the Home transports residents to the service providers and assumes responsibility for the costs. The Home also pays for any prescription drugs or other medical supplies residents need.

The Pioneers' Home spent more than \$600,000 to provide necessary medical care to residents in fiscal year 1996, not including nursing care costs. The Home paid doctors approximately \$100,000 to staff its in-house clinic. The Home also paid approximately \$355,000 for items such as medical supplies and prescription drugs, and for the services of laboratories and specialists. In addition, residents were allowed to deduct approximately \$209,000 from their monthly payments for care for Medicare and supplemental health insurance coverage, which are required by the Home.<sup>1</sup>

The Home has attempted to recover some of its medical costs by billing Medicare and secondary insurance companies, but these efforts have produced limited results. Accounting staff estimate that they spend 20 to 30 hours per week performing medical billing activities; however, the Home received only about \$69,000 in reimbursements in fiscal year 1996. The Home potentially could have recovered approximately \$91,000 more, but staff indicated they currently lack the equipment, training, and personnel needed to ensure the Home is receiving all insurance reimbursements. The Home maintains all medical billing files manually, and accounting staff stated the current system makes it difficult to determine which bills have been reimbursed. According to staff, the Home needs to computerize its medical billing activities and hire a qualified medical billing clerk to ensure the Home recovers as much as possible from insurance companies. The Home's management expects to implement a computerized billing system in 1997.

### **Savings of \$190,000 Possible with Medicare HMO**

Although improved billing could recover additional monies, using a Medicare HMO would eliminate medical billing activities and, at the same time, save the Home more than it could collect from insurance companies. With the Medicare HMO currently available in Prescott, residents would have access to medical services the Home currently provides. These services, however, would be obtained at a reduced cost, saving the Home as much as \$190,000 each year.

*Residents would continue to receive medical care* As Medicare HMO members, residents would continue to receive medical services that the Pioneers' Home currently provides. For instance, residents would receive services from specialists such as chiropractors,

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<sup>1</sup> Fiscal year 1996 insurance premiums included Medicare Part B premiums of approximately \$72,930 and premiums of approximately \$136,000 paid to supplemental insurance companies. These premiums are deducted from residents' monthly payments for care, which are remitted to the General Fund.



psychiatrists, and radiologists when necessary. Residents would also receive preventative health care, such as routine physical examinations, cancer screenings, and immunizations. In addition, residents may be able to continue seeing their current physicians since the Home's in-house clinic doctors are affiliated with the Medicare HMO.

***Medicare HMO-provided services are less costly*** If residents join a Medicare HMO, the Pioneers' Home could reduce its medical costs by approximately \$190,000 each year and still provide the same level of care to residents.<sup>1</sup> The Medicare HMO currently available in Prescott does not require applicants to receive physical examinations or fill out health questionnaires to enroll, and the premium charged to members is \$65 per month regardless of age or health problems.<sup>2</sup> The Medicare HMO would provide physicians' services, which could save the Home more than \$29,000 each year. The Medicare HMO also pays for some prescription drugs, ambulance and radiology services, and hospitalization, which could save the Home an estimated \$137,000 annually. In addition, since the Medicare HMO's premiums are lower than what most residents currently pay for supplemental insurance, the Home could collect approximately \$24,000 more in payments for care annually.<sup>3</sup> Table 4 (see page 35), details the medical services provided to residents and related costs, the estimated costs of these same services if all residents were Medicare HMO members, and the estimated savings.

Requiring residents to join the Medicare HMO would also enable the Home to operate more efficiently. For instance, nursing staff currently assist doctors at the in-house clinic. Eliminating the clinic would enable these nurses to spend this time each week serving residents. In addition, accounting staff would no longer need to process bills to Medicare and supplemental insurance companies. Rather, the Home would pay \$10 each time a resident receives services from his or her primary care physician, and not receive any additional paperwork or bills. Since the Medicare HMO would eliminate medical billing activities, accounting staff would have time to correct the deficiencies in the Home's accounting processes noted in the Office of the Auditor General 1996 procedural review of the Arizona Pioneers' Home (see *Arizona Pioneers' Home Procedural Review as of November 8, 1996*).

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<sup>1</sup> Residents may need to leave the Home to see their Medicare HMO physicians, and the Pioneers' Home Superintendent estimates that the Home would need an additional van and driver to support the increased transportation needs. The estimated savings do not include these potential transportation costs.

<sup>2</sup> To be eligible to join the Medicare HMO, an individual typically must be at least age 65; enrolled in Medicare Part A and Part B; and must not have kidney failure, be on dialysis, or have had a kidney transplant within the past 36 months.

<sup>3</sup> Residents deduct premiums for supplemental health insurance from their monthly payments for care. Since the HMO premiums are lower than what most residents currently pay, monthly deductions would be less, and payments for care higher if residents are Medicare HMO members.

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**Table 4**

**Arizona Pioneers' Home  
Comparison of Annual Actual Medical Expenditures  
to Estimated HMO Medical Costs  
Year Ended June 30, 1996  
(Unaudited)**

<b>Type of Service <sup>1</sup></b>	<b>Actual Net Expenditures <sup>2</sup></b>	<b>Estimated HMO Costs</b>	<b>Estimated Annual Savings</b>
Prescription drugs/medical supplies	\$322,917	\$217,467	\$105,450
Insurance premiums	208,934	184,470	24,464
Physicians and medical director	58,843	29,400	29,443
Radiological services	19,205		19,205
Hospital services	7,509	1,200	6,309
Ambulance services	<u>6,446</u>	<u>450</u>	<u>5,996</u>
Total	<u>\$623,854</u>	<u>\$432,987</u>	<u>\$190,867</u>

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<sup>1</sup> Services listed include only those that would be provided by the Medicare HMO at a cost savings. The Medicare HMO would not impact other services such as skilled nursing, dental, and eye care that the Home would continue to provide to residents through agreements with other providers.

<sup>2</sup> Expenditures listed have been reduced by Medicare and supplemental insurance reimbursements for doctors' services and prescription drugs.

Source: Auditor General staff analysis of medical expenditures and reimbursements for the year ended June 30, 1996, and estimated costs for the same services if delivered by a Medicare HMO.

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### **Approval and Statutory Provision Are Necessary**

The Home's management needs approval from the State Procurement Office to enable it to select the most cost-effective means to provide medical care to its residents, and a statutory provision to realize the greatest cost savings. Currently, a Medicare HMO appears to be the most cost-effective means of providing most of the medical care the Home's residents need. To select a Medicare HMO to provide medical services to residents, and to use state monies to pay for the services provided, the Home's management needs to work with the State

Procurement Office to obtain an acceptable agreement with a Medicare HMO. In addition, since the Home is required to furnish necessary medical care to its residents, it needs to request a statutory provision allowing the Home to pay for only those services residents receive from the Home's approved providers. Residents could choose to obtain medical services from any provider. However, this statutory provision would limit the Home to paying for only those services rendered by its selected medical providers, thereby resulting in the greatest cost savings to the Home. AHCCCS has a similar statutory provision that allows for payment of medical costs only if the services are rendered by an approved AHCCCS provider.

## **Recommendations**

1. The Home's management should seek approval from the State Procurement Office to obtain an acceptable agreement with a Medicare Health Maintenance Organization to provide medical care to the Home's residents.
2. The Legislature should consider amending A.R.S. §41-924 to enable the Home to pay for only those services residents receive from the Home's selected medical service providers.

# SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether the Arizona Pioneers' Home and Hospital for Disabled Miners should be continued or terminated.

## **1. The objective and purpose in establishing the agency.**

The Arizona Pioneers' Home (the Home) was established to provide a home for Arizona pioneers. The 1909 Act establishing the Home provided that people who met age and residency requirements, and had "been active in the development of Arizona," were entitled to become residents of the Home. Thus, the original intent in establishing the Home was to provide a pioneers' home in which the needs of people who had lived in and contributed to Arizona's development could be met. The statutes have since been modified and the requirement that people be involved in the State's development has been deleted. Additionally, the number of people who came to Arizona prior to statehood has been decreasing, which has resulted in a shift in the Home's 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 the Pioneers' Home with the Home's Superintendent overseeing both facilities. However, a hospital was never built. Instead, miners who meet admittance criteria for the hospital are admitted to the Pioneers' Home, although the Home does not provide many hospital services.

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

The Arizona Pioneers' Home provides quality care for its residents at a cost comparable to other nursing homes in Prescott. The Home's management indicates the Home has successfully met its objectives for over 86 years. Management feels each resident receives kind attention and secure life and health care for the last years of their lives. In addition, the Department of Health Services (DHS) has commended the Pioneers' Home for the care it provides, commenting that *[s]taff interactions with the residents were appropriate, pleasant and demonstrated sensitivity to the resident as an individual.*" DHS also commented that many of the residents and their family members shared positive comments about the care and quality-of-life experiences at the Home.

The resident population of the Pioneers' Home is largely made up of long-time Arizona residents rather than pioneers. The changing population indicates that the Home's original objective to be a retirement home for Arizona pioneers has largely been met. As the number of pioneers diminish, the original purpose for the Home decreases.

Further, the intent of establishing a hospital for disabled miners is not being met. Since a hospital for disabled miners was never built, the Home has admitted miners who qualify under hospital admissions criteria. However, the Home does not provide the services generally considered essential to a hospital, such as surgery. Because Arizona has never established a miners' hospital, it may be liable for inappropriately using millions of dollars in the Miner's Hospital Endowment Fund, contrary to the terms of the trust established by the Arizona Enabling Act (see Finding II, pages 20 through 24).

In order to improve the efficiency of the Home's operation, the Home's management needs to comply with statutes concerning resident payments for care. Statutes require the Home to include residents' incomes and the full value of residents' assets in determining their monthly payment for care contributions. However, the Home only includes income from such sources as Social Security and pensions, and the income residents' assets earn. By complying with the statutes, the Home would collect more payment for care monies to deposit into the General Fund and residents would pay as much for their care at the Home as they would elsewhere (see Finding III, pages 26 through 31). Additionally, the Home could become more efficient by assisting qualified residents to apply for financial assistance to help pay for their care. This, too, would increase monies to be deposited into the General Fund (see Finding III, pages 26 through 31).

Finally, the Home's management could also select a more efficient method of providing medical care to its residents. Statutes require the Home to provide its residents with necessary medical care, but current practices are not cost-effective. If the Home changes how residents receive medical services, staff could be reallocated and annual medical expenses reduced. For example, if medical services were provided by a Medicare Health Maintenance Organization (HMO), the Home could save approximately \$190,000 annually (see Finding IV, pages 32 through 36).

### **3. The extent to which the agency has operated within the public interest.**

The public served by the Arizona Pioneers' Home consists largely of long-time Arizona residents and their families. The Home 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. However, because the Home serves a limited number of residents and most residents are from Yavapai County, the interests of the greater public may not be met.

Use of the Miners' Hospital Endowment Fund to support the Home is not in the interest of the general public. The State could be found liable for the improper use of an increasing amount of monies (see Finding II, pages 20 through 24).

Additionally, the State is not operating in the best interest of the Home's residents for two reasons. First, the Home does not comply with state law concerning payment for resident medical expenses. Although the Home is statutorily required to provide residents with medical care, the Home currently pays only 50 percent of medically necessary dental and eye care expenses. The Home further limits its payments for dental care to a maximum of \$1,000 during a resident's lifetime.

Second, the Home does not always manage resident funds in the best interest of the residents. Statute allows residents to voluntarily deposit monies with the Home for safekeeping. However, the Home does not allow residents to earn interest on their guest accounts in accordance with Department of Health Services (DHS) administrative rules. Specifically, R9-10-902(C) requires licensed nursing homes to deposit resident funds of more than \$50 into interest bearing accounts. The Pioneers' Home is not licensed by DHS and therefore does not have to comply with this rule. However, to ensure residents are treated equitably, the Home should follow DHS rules for managing residents' personal funds.

**4. The extent to which rules adopted by the agency are consistent with the legislative mandate.**

The Home has not adopted rules to implement its legislative mandates. The Home needs to adopt rules regarding resident payments for care. Payment for care policies must be established in rule to comply with A.R.S. §41-1003 and to ensure residents are treated equitably. In addition, the Home should establish rules allowing it to attempt to recover any monies paid toward a resident's care from his or her estate (see Finding III, pages 26 through 31).

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

Since the Home has not adopted any rules, this factor does not apply.

**6. The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction.**

The Home does not have regulatory authority. However, formal complaints may be filed with other agencies such as the Department of Economic Security, Adult Protective Services; the Governor's Office; and the Northern Arizona Council of Government's Ombudsman Program. From January 1995 through July 1996, Adult Protective Services received one complaint. Adult Protective Services investigated the complaint, which was subsequently resolved. Additionally, the Governor's Office received two written complaints between January 1995 and mid-December 1996. The Pioneers' Home responded to the Governor's Office regarding these complaints as directed. Finally, a representative from the Northern Arizona Council of Government's Ombudsman Program visits the Home weekly. The representative informs the Home's management of any resident complaints as well as her observations. If the complaints and/or observations are not resolved, the representative informs the DHS.

**7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.**

This factor is not applicable to the Arizona Pioneers' Home.

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

Few changes have been made to agency statutes in recent years. In 1988, A.R.S. §41-941 was amended, changing the location of the Hospital for Disabled Miners from adjacent to the Pioneers' Home to a separate facility at the Home. This change attempted to enable the Miners' Hospital Endowment Fund to legally support the Pioneers' Home. However, a subsequent informal Attorney General opinion concluded this statutory wording change does not enable the Miners' Hospital Endowment Fund to support the Home (see Finding III, pages 26 through 31).

In 1989, A.R.S. §41-923 was amended to include the requirement that at the time of admission to the Pioneers' Home the person is ambulatory; has proper bowel and bladder control; and is able to bathe, clothe, and feed him- or herself without assistance.

Finally, in 1991, A.R.S. §41-942(B) was added, permitting the Governor to approve a person for admission to the hospital for disabled miners who has not yet reached 60 years of age. Legislation has been introduced to require miners to pay for the cost of their care to the extent they are financially able to do so.

**9. The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in the Sunset Law.**

The Legislature should consider the following statutory and other changes related to the Arizona Pioneers' Home and Hospital for Disabled Miners:

- Petition the U.S. Congress to change the Enabling Act to allow the Miners' Hospital Endowment Fund to be used for purposes decided by the Legislature.
- Add a statutory provision to enable the Pioneers' Home to pay for only those medical services residents receive from the Home's selected medical providers.

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

Termination of the Arizona Pioneers' Home would not significantly harm the public health, safety, or welfare since services provided by the Home are available from counties or private health care providers. The opening of the Arizona Pioneers' Home in 1911 enabled the State to care for those pioneers who contributed to the State's development. Since then, federal law has enabled elderly people to receive medical care through Medicare. In addition the State offers health care services to Arizona seniors who cannot afford to pay for necessary care. The Arizona Long Term Care System under AHCCCS was established to provide health care services to eligible elderly persons. Additionally, there is an established network of nursing homes throughout the State. Finally, there are alternative settings available to the elderly such as day care centers, assisted living facilities, and group homes.

Because of concerns with the building and residents' safety, the Home's financial situation, and the growing number of residents requiring increased care, the Legislature should establish a special committee to develop a recommendation regarding the Home's future. This audit presents three options for the committee's consideration: continuing the Arizona Pioneers' Home; reducing the scope of its operations; or phasing it out (see Finding I, pages 9 through 19).

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

Since the Arizona Pioneers' Home is not a regulatory body, this factor does not apply.



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

According to the Home's management, the Home uses private contractors for medical services including medical doctors, physical therapy, respiratory therapy, pharmacy services, and dietary and nutrition consulting. The Home also contracts for laundry services and computer services. In addition, it uses private contractors for various maintenance services such as pest control, vehicle rental/leasing, office equipment, and elevator inspection and service.

At this time, the Home has no further plans to expand private, outside services. However, the Home should identify the most cost-effective means by which most medical services can be provided, which currently appears to be a Medicare HMO (see Finding IV, pages 32 through 36).

# Arizona Pioneers' Home

Mike Symington  
Governor

Prescott, Arizona 86303

(520) 445-2181  
FAX (520) 778-1148

Jeanine Dike  
Superintendent

April 8, 1997

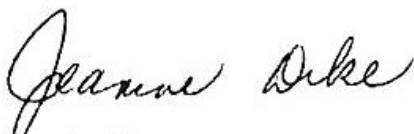
Douglas R. Norton  
Auditor General  
Office of the Auditor General  
2910 N 44th St., Suite 410  
Phoenix, AZ 85018

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 have any questions concerning the response, please do not hesitate to contact me.

Sincerely,



Jeanine Dike  
Superintendent

ID.ds

## ***RESPONSE & COMMENTS TO SUNSET AUDIT REVIEW DRAFT***

### **SUMMARY**

#### **Finding I - Critical Decisions Needed to Determine the Home's Future**

The Pioneers' Home building is 86 years old and showing signs of age. Per Thomas Knapp, Registered Architect and President of the architectural firm TRK, the term "disrepair" is inappropriate as applied to the Pioneers' Home. The Home is not in "disrepair" but is well maintained. However, it is in non-compliance with various codes.

Funds have been expended to support the Arizona Pioneers' Home and Miners' Hospital as appropriated by the legislature. The State Trust sources have been used in preference to the General Fund. This practice will continue unless the legislature changes the manner in which it appropriates.

We agree operating costs have increased due to increased medical technology and longevity of residents.

There are several options open to the legislature. We feel the most viable option is to refurbish and continue the Pioneers' Home. Both the mission of the Home and the building itself are of great value and should be preserved.

#### **Finding II - State Continues to Expend Monies in Miners' Hospital Endowment Fund**

It has been the decision of the legislative branch to appropriate funds from the Miners Fund. The executive branch has approved the budget and there has not been a challenge in the judicial branch. Therefore, the use of monies from the Miners Fund is not in violation of any current laws.

#### **Finding III - The Home Could Recover Additional Costs by Complying with Statutes and Improving Practices**

The Home has complied with statutes as interpreted in previous decades by administration. The Home is strengthening policies and implementing the process of writing administrative rules to clarify areas in question. After considering the intent of the legislation creating payments for care and the competency of the residents at the time of admission, the payment for care policy has not been rewritten to state that all assets must be spent, but the policy has been tightened up so that there is consistency and payments for care policies will be applied as if their properties were income producing, whether or not that is a fact.

#### **Finding IV - The Home Could Reduce Medical Expenses if Residents Join a Medicare HMO**

The Home could reduce medical expenses if residents join a Medicare HMO; however this would require statutory change and that change is not forthcoming in the 1997 legislative session. Unless

this legislation passes in a future session, the Home will be required to continue providing medical care in a manner similar to what has been done historically.

## INTRODUCTION & BACKGROUND

### 1986 Report and Follow-up

- **Need for the Pioneers' Home is changing** -- Page 4 states that the Home had an "...original purpose of caring for residents who were active in Arizona's early development." The Home continues to serve the purpose of caring for individuals that have helped in the development of the State of Arizona in one way or another. Additionally, nowhere in statutes does it say residents cannot primarily come from one county or another. The follow-up finding makes an editorial comment regarding the many residents of the Home have from Yavapai County. As noted in the 1986 Sunset Audit Response, when one considered the county of residence to which individuals came when he/she originally entered Arizona and in which he is more likely to expend his productive years, the percentages change dramatically. Many of the residents, both in Yavapai County and in the Home have come to that county for retirement. Even in the year 1986, Yavapai County had the highest percentage (22.5%) of individuals who were of retirement age. Today the percentage of retirees in Yavapai County is estimated at 35% by the Prescott Chamber of Commerce. It is doubtful that any other county in the state has such a high percentage.
- **The Pioneers' Home has inappropriately expended money from the Miners' Hospital Endowment fund** -- The Home was instructed by the legislature to support the Home through the use of these funds. Indeed, appropriations are now being made from the Miners Fund and monies from other funding sources have been decreased in recent years.
- **The Pioneers' home needs to improve its payment for care determinations** -- This concern has been addressed by the Home's new administration. The specifics are addressed in the text of the current response.

## FINDING I - CRITICAL DECISIONS NEEDED TO DETERMINE THE HOME'S FUTURE

### Millions of Dollars Needed to Correct Building Hazards

The Arizona Department of Administration requested an architectural evaluation of the Home which was completed July 1, 1996. This report is cited in Table 2 by the Auditor General. This report is rather lengthy but is available upon request to legislators or other review bodies. It was prepared specifically to:

1. Provide a general overview of the existing condition of the facility.
2. Advise the State of any observed condition(s) which do not comply with *current building codes*.

3. Advise the State of any observed condition(s) which do not comply with current *Department of Health Services licensing requirements*.
4. Advise the State of any observed condition(s) which do not comply with the *Americans with Disabilities Act Accessibility Guidelines*.
5. Recommend to the State suggested changes and physical *improvements*.
6. Provide order of *magnitude cost estimates for all recommended changes or improvements*. (*Italics added by the Home*)

▶ All of the recommended improvements or repairs are fully justified and if completed would greatly increase the appearance and overall well-being of the facility. We have met with Kent Bosworth, ADOA General Services Division Assistant Director. Subsequent to this discussion we will be including in our capital budget the recommended monies to bring the building into compliance with all appropriate codes. The Home is a landmark building, owned by the State of Arizona, and should be seriously considered for preservation as an historic building and brought into compliance with all life and safety codes for the protection of it's residents. However, we would like to point out that we believe that some estimates cited in Table 2 by TRK are overstated. For example, in Section 2, page 6, the recommendation is to replace awnings at the estimated cost of \$7,350. The Home's staff replaced the awnings in Fall 1996, at a cost of \$1,100.

- ▶ Additional references will be made to the TRK report throughout our response to the auditors' comments regarding monies needed to correct building hazards.
- ▶ The TRK report included comments made by DOA Risk Management. "...overall this facility and agency are administered and managed superbly considering the age of the facility and the unique character of their operational mission.... innovation, professionalism, and practicality seem to be the main reasons this agency survives so well... overall this agency presents a lower risk to the State, barring any unforeseen catastrophic events, than any agency that has been assessed up to this point. The lasting image is one of efficiency and quality service to their clients and this agency lives up to it's name as a Home'." (Risk Management Report dated 8/20/90)
- ▶ The Executive Summary in the TRK Report, Section 1, pages 2-3, included the following comments.

***General overview***

For a facility of this type and age, the building is in good condition. We attribute this to the personal interest and care of the Home's administration, staff and residents.

***General Recommendations***

**Preservation :** The Home is a significant part of Arizona History. Whether it continues to serve the State in its present capacity or in some future capacity ***preservation of the Home should be top priority.***

**Continued Use:** “The facility falls short of meeting today’s regulatory requirements in many regards. But the personal interest and care of the Home’s administration and staff appears to mitigate these issues such that the residents are probably not aware of the facility’s shortcomings. Whether or not this compensates for not meeting regulatory requirements is beyond our expertise. However, if the State changed the eligibility criteria for residents, regulatory requirements would be reduced... Due to the natural aging process, the Home has many residents who are not ambulatory, do not have bowel and bladder control, cannot bathe, clothe or feed themselves without assistance and should be in a skilled nursing care facility. The cost to bring this facility into substantial compliance with the requirements for a skilled nursing care facility will be great (*we don’t think it’s practical to bring the facility into full compliance*).

**(TRK’s words)** An alternative may be to change resident’s eligibility requirements and convert this facility into an assisted living center.” (**Underline by TRK**)

- The Home concurs with the TRK opinion that it is not practical to bring the facility into full compliance with licensure requirements. By making an executive decision to address only those building related concerns that are health and safety issues could reduce the cost dramatically from the all inclusive figure of seven million. The stakeholders recommended by the TRK report should have input into this process.
- Fire Safety Problems - We concur with some of these problems and find them of great concern also.
  - ▶ We have requested the funds to upgrade the sprinkler system which has been deemed inadequate.
  - ▶ Recently over 75 smoke detectors were installed in resident rooms. Therefore, we are currently in compliance with this recommendation.
  - ▶ The cooling system was put in according to plans drawn and administered by ADOA.

We have requested a review from that Department and from the Fire Marshall to determine what is necessary to have the evaporative coolers automatically shut down when the fire alarm system is activated. It is unacceptable to have smoke spread throughout the building. We appreciate receiving the information regarding this risk.

- Insufficient Exiting System and Inadequate Resident Doors - We will request appropriated funds for investigation and correction of these problems.

Fire drills are currently scheduled on a regular basis and are held according to the recommendations of DHS. This finding has been corrected.

### **Building code, ADA, and Other Problems**

The Registered Architect for TRK, Thomas Knapp, who was the project manager of the Facility Evaluation Report states that the use of the term “disrepair” is inappropriate as applied to the Pioneers’ Home. The Home is not in “disrepair” but is well maintained. It is however in non-compliance with various codes.

- Indeed, according to today’s building codes, the Home does not meet the required standards. The Home did, however meet the codes of yesteryear and has met the test of time. It is the belief of the administration that most of the standards are met, however, on the second floor, where most of our business is conducted. There has not been funding provided to facilitate the Home making a priority of the high dollar project to become compliant with the building requirements of ADA.
- Licensing Issues - We do not disagree that there are deficiencies that would prevent the Home from being licensed under DHS. We are concerned about fire and safety codes but not about codes that do not directly impact quality of life for the residents. (i.e., some residents bathing facilities are not of sufficient size. This is indeed a licensure issue, however the staff at that Home is far more concerned with frequency of bathing for each resident rather than the size of the facility in which they are bathed . Also, the auditors mentioned residents room exceed maximum per room occupancy. The Home does have a mens and a womens ward for total care residents. In spite of the fact that this is not the current trend in health care facilities, we have found that it provides much greater stimulation, closer observation and continual hands on care for residents who need it. And we find that it requires less staff to provide quality care to the most dependent residents at the Home.)

### **External Structure Problems**

- These are general maintenance problems that have been addressed through building renewal requests to the legislature for the past several years. Adequate funds have not been forthcoming but we will continue to request appropriations for the highest priority items. The Pioneers’ Home received a State Historical Preservation Grant in 1996, which is making

an estimate on external necessary repairs. The report is in its final stages of preparation. The structure seems to be in good repair, however the deteriorating paint, gutters, roof and ramps will all be addressed in budget requests for normal maintenance of the building. Depending upon the availability of funds and the extensiveness of the work, most of the needed repairs can be done at decreased cost. The General Structural evaluation provided by Gervasio & Associates, Inc., on July 10, 1996, shows an itemized "Rough Cost Estimate" of \$120,000, as follows:

<u>Building Area</u>	<u>Subtotal Cost</u>
Basement	\$ 0
First Floor	5,450
Second Floor	6,500
Third Floor	13,000
Roof	63,000
Exterior Ramps	21,000
Balcony & Bridge Walkways	11,250
	<hr/>
TOTAL	\$ 120,350

### **Plumbing, Heating, Emergency Electrical, and Other Problems**

The TRK report cited by the auditors recommends the formation of a committee of stakeholders to develop a consensus on a plan that the legislature and state building department can follow to bring the building up to higher standards of life safety and health concerns. We strongly support this recommendation and will be preparing budgetary plans and priorities as we have previously discussed.

- We agree that the emergency electrical system must be upgraded as soon as funds are available. A report specifying costs and recommendations is available upon request.
- The heating system was addressed in the report from Lowry-Sorensen-Willcoxson Engineers Inc., dated May 31, 1996, Job #96102.00, as follows:

Retain present boilers	
Provide automation control, re-work & re-test	\$26,000
Replace condensate pump	8,000
Replace horizontal condensate piping and insulate	48,000
Re-insulate all steam piping	46,000
Replace steam sectioning valves	6,000
Replace radiator and steam main traps	29,000
Provide radiator temperature control valves	32,200
Provide water softener	7,000



Refurbish and relocate Level 3 steam to hot water converter	8,000
Provide safety shields/guards over 128 radiators	25,600
Remove Kewanee boiler and fuel oil tank (Assuming no fuel contamination of soil)	30,000
Remove old hot water storage tank and piping	10,000
Allowance for new radiators in corridors if heating study indicates need (10 units)	10,000
Toilet make-up air and exhaust system	103,500
Contingency 16.8%	67,000
Design and documentation preparation	<u>56,000</u>
TOTAL	\$512,300

By prioritizing and planning some of the projects recommended in the TRK report could be done in phases and could be done without addressing every issue that does not effect quality of life and safety issues for the residents.

- Upgrading could be done to the level recommended by the auditors, which is referred to in Table 2, at the cost of \$1,566,600, or at the more minimal expenditure as cited above, or somewhere in between, depending on the funding available.
- Flooring, carpeting, handrails are being addressed as the needs arise and are being paid for out of current monies available. Kitchen cabinets and countertops were replaced in February 1997.
- Hazardous materials must be removed, as per Federal law, when remodeling takes place. Without major remodeling the dollar figure for removal of hazardous material is grossly overstated. If the work is done, that request will be included in our capital budget request for bringing the building into compliance with code. Removal of hazardous materials would be included in all plans to upgrade the building. This is already clearly understood with the administration of the Home and the General Services Division of the Department of Administration, and would follow Federal guidelines.
- We concur that repairs must be made to insure safety. The approach in the past has been to work with DOA when we have had unsafe situations arise. In recent years a wing of the Pioneers' Home was completely remodeled with total removal of asbestos and lead paint with the full cooperation and funding of the DOA Building Department. They continue to support the Pioneers' Home as problem areas are identified as either life threatening or hazardous to the health and safety of our residents.

#### **Future Sources of Funding Uncertain**

- As long as the legislature continues to appropriate from the Miners Fund it is legally available to the Home's administration for the support of the Home. The Attorney General has written

**opinions** stating that this money is being used inappropriately, however, that has never been challenged in court and the legislative branch of the government has continued to appropriate from this fund. Therefore, use of the monies is by design, not by default. It is the intent to use these monies rather than the General Fund because no other agency in the State can use this money. When these sources are depleted, appropriations from the General Fund will have to be increased.

- The Enabling Act, Section 25, states that the Pioneers' Home has been designated as the recipient of fifty percent of the State Charitable Fund. Without legislative change, these funds cannot be transferred and can only be used by the Home. Using this funding source ahead of the General Fund has been a prudent decision by previous legislators and it has been an intentional choice. As the available funds are spent, the source for appropriations will again be shifted to the General Fund.

### **Increasing Number of Residents Needing Skilled Care is Costly**

- We concur that acuity has increased, as has the age of the residents. This has increased the cost of providing care. However, A.R.S. 41.924 states, "...the Superintendent shall see that residents are furnished with the necessary medical treatment..." It is currently the statutory requirement that we continue to provide the necessities of life and care, regardless of the resident's level of care throughout their stay in the Home. We are currently investigating options to increase Medicare and insurance reimbursement. Some of these options will not become available without statutory change.

### **Options Need to Be Considered**

- We would not be opposed to the formation of a committee of experts and interested parties assembling to consider various options. **However, we are of the opinion that the legislative review committee is competent to evaluate the options and make a decision without going to the expense in both time and money of organizing a committee.** We would request that **if** this committee is formed, the majority, if not all of the meetings, be held on the premises of the Home. This would provide committee members an opportunity to experience firsthand the atmosphere and lifestyle the residents are enjoying. We would also like the committee members to view the building firsthand so that they might see that the state of "disrepair" is not of a nature that is creating an immediate hazard to the health or welfare of residents and employees in a way that affects their daily life. A representative from the community of Prescott should also be included in the list of potential stakeholders to be convened because Prescott would be adversely affected by some of the suggested options. The Home contributes greatly to the economy of Yavapai County through it's 140 employees and four million dollar budget. Also included should be representatives from our current waiting list who are anticipating admission into the Home as it currently functions.

- **Refurbish and continue the Pioneers' Home** -- We appreciate the observation from the Auditors stating "There are a number of benefits to keeping the Home open." Among the reasons are the following:

  - ▶ Doing so continues the long time state tradition of caring for it's own. This was the vision of the founding fathers of Arizona, to take care of the citizens who had been the founders of the state. The facility was built on land donated for this purpose and has functioned since 1911. The Home has been recognized throughout the state and nation as unique in it's mission.
  - ▶ The Home honors those who have developed the state and provides a service during their declining years that is the exception, not the rule, for the geriatric population of this country. Because residents move into the Pioneers' Home while they are still capable, competent and functioning adults, the dynamics of residency are far different than in the traditional nursing home environment. Residents come because they have made the decision to do so, not because they have been discharged from the hospital following illness or committed to a nursing home or because of inability to function independently on their own. The dynamics are then much more like a family environment where the more capable lend assistance and support to those who are in greater need. The longevity of the residents and the longevity of the staff creates a loving environment that is the goal for most of the citizens of Arizona, both for their parents and themselves when they reach their declining years.
  - ▶ The Pioneers' Home building has been recognized as a national historic site and has been placed on the National Historic Registry. It is important that the State recognize this and maintain the facility as part of the state's heritage. This is indicative of the importance of the preservation of this state building. Because of this status we have been able to apply for and obtain one grant to assist in maintaining it's historic value and we intend to apply for additional grants to help defray costs.
  - ▶ More than four million dollars is fed into the local community of Prescott due to the operation of the Pioneers' Home. The Home is a very important employer in the rural county of Yavapai and supplies employment to approximately 140 individuals.
  - ▶ The 160 residents who have lived in the state for thirty years or more could continue to reside at the Home and not be displaced. Most of these residents have given up their previous place of residence and would be unable to establish other residency without great trauma. These residents could also continue to anticipate receiving care in all three levels, personal, intermediate and skilled as is currently offered. The current residents would not become a burden to the state for provision of health care through other state operated programs.
  
- **Reduce scope of operations** --Because the statute currently says The Home has to provide health care, reducing the scope of operations would require a statutory change. The statutes do not limit who can apply and it is unknown after they become a permanent resident what health problem they might face and what skilled care they might need. It was per A.R.S. 42-4545, from 1913, the Home was intended to provide for those, "...who have been active in

the development of Arizona... and who because of *adverse circumstances or failing health or other disability* shall be entitled to become an inmate of said Home at the expense of Arizona.” (*Italics added*) Providing complete care has always been the mission of the Home, as envisioned by our founding fathers.

- **Phase out and close the Home** -- Immediate closure of the Home is not an option that should be given any consideration due to the fact that the state has basically entered into a contractual agreement with the current residents; in essence saying we would provide a home and medical care throughout their life if they choose to remain. Immediate closure would violate this agreement with them and create an unspeakable hardship to many of them who have disposed of their home and any other option for living. It would also place a burden on the Yavapai County facilities.

#### FINDING II - STATE CONTINUES TO EXPEND MONIES IN MINERS' HOSPITAL ENDOWMENT FUND IN VIOLATION OF ENABLING ACT

- **The Home's Use of the Miners' Hospital Endowment Fund Remains Inappropriate --** Our state government, patterned after the Federal government, has three branches with power; the executive, legislative and judicial. It has been the decision of the legislative branch to appropriate funds from the Miners Fund. The executive branch has approved the budget and there has not been a challenge in the judicial branch. Therefore, the use of monies from the Miners Fund is not in violation of any current laws.

#### FINDING III - THE HOME COULD RECOVER ADDITIONAL COSTS BY COMPLYING WITH STATUTES AND IMPROVING PRACTICES

- **The Home Should Determine Resident Payment for Care in Accordance with Statute** -- The auditors have cited A.R.S. 41-923.D, however they have omitted the part that states, “... to the extent that he is financially able to do so...” The Home has made every effort to be in compliance with this statute. However, there have been some inconsistencies which will be addressed later.
- The statute regarding payment for care is very broad and does not give specific guidelines. In the past when determining payment for care, administration has not only included assets but outstanding debts of residents because that impacted on their ability to pay. However, the Home's payment for care policy has recently been rewritten and will be implemented through the Arizona Rule Making process so that the inconsistencies will be eliminated.
- The Home's administration has been applying the statute as it was understood by them for a number of years. If it is the intent of the legislature for residents to spend their assets or to

liquidate their assets and pay their full payment for care for as long as possible, this would need legislative statute change or at minimum an Attorney General opinion. The auditors state, "Residents at other nursing homes in Arizona must pay the full cost for their care using any means available." The home, is not in this same category and to follow those same guidelines would require statutory change. In the past it has been the policy to grant some a grace period for the disposition of assets. Many The Home's residents, however, have had great difficulty in disposing of assets in the time allowed. Under our new policy, when the time period has elapsed the payment for care will be adjusted as if they were no longer incurring the cost for the home. Since it will increase their payment for care amount, they may be forced to move out of the Home.

- Verification of Financial Information - The Home's current pre-admission policy requires individuals to supply a credit report and authorize the Home to verify bank accounts for the applicant. This was implemented by the current administration in February 1997.
- Disposition of Assets - From 1911 to 1970 there were no payments for care required. In 1970 the statute was changed to require that each resident pay "according to his ability to pay." It was the intent of the legislature when this legislation was passed (per former Arizona Senator Boyd Tenney) that it was unnecessary for applicants to dispose of all property since this would prevent them from leaving the Pioneers' Home and returning to the private sector if they chose to do so. Because the residents come into the Pioneers' Home while they are still competent and contributing members in the community, this is an option that should be left open to them. In the private sector when residents enter a nursing home, it is generally because they have no other options open and are not physically or mentally capable of remaining independent in the community and do not have other resources for care. It was the feeling of the legislature at that time that it would be a disservice to the pioneers of Arizona to deny them access to properties they had acquired during the time they were contributing to the advancement and improvement of the state. It was also the paradigm of prior administrations that the details to implement this had never been addressed formerly or the extent of authority determined.
- Regarding nonpayment of assessments, the Home has a new policy which requires the responsible party for a resident to sign an agreement to make payments for care out of the estate of the resident if they are unable to make the payment any other way. This situation has only occurred with one resident in the last several years and was the exception rather than the rule.
- Deductions from payment for care - In the past we concur that credits were given in the payment for care calculation. It was the interpretation of the administration that indebtedness should be factored in determining the ability to pay. We recognize that this created an unfair situation for those residents who entered the Home in a state of solvency. Therefore, we have rewritten the policy and are now requiring credit reports and we will no longer allow additional credits or deductions from the payment for care for outstanding indebtedness or

expenses. Previously in most cases the indebtedness was not known until the individual established residency in the Home.

- The Home does not properly calculate - Under the Home's new policy there will be at least two people who review payment for care calculations. Financial software is also being implemented to aid with this task.
- Administrative Rules - The first step is to write an internal policy. Rule making authority is not directly delegated in the statutes and had never been pursued. The current administration is pursuing the process of administrative rule making. This process is lengthy but should be done within the next eighteen months to two years.
- The Home could further increase revenues to the General Fund - Prior to 1996, it was the administration's understanding that when residents entered the home their medical care was to be provided out of the Home's funds and that charging other state programs would be "robbing Peter to pay Paul." Recently, however, when new residents that qualified for AHCCCS have entered the Home, we have attempted to maintain insurance through either the QMB or SLMB plans. Because of lack of staff time we have not gone back to determine eligibility of residents who moved in prior to 1996. As staff time becomes available we will process additional paperwork and applications to these programs for current residents.

#### FINDING IV - THE HOME COULD REDUCE MEDICAL EXPENSES IF RESIDENTS JOIN A MEDICARE HMO

- The Home's Administration requested legislative changes in the Spring 1997, session of the legislature. Unfortunately, these changes failed in committee hearings because of part of the bill that would have required miners to make a payment for care. The Miners Union, however, lobbied against it. Without the passing of new legislation, this would be a moot point. We do concur, however, that an HMO could reduce the costs of the Home if all residents were participants in the plan..
- Many of the Home's medical costs are not reimbursable under the plan of an HMO or under any other Medicare of supplemental insurance program. For instance, oxygen for residents in the skilled care area is not reimbursable under Medicare and therefore no supplemental insurance will cover it either as they base reimbursement on Medicare. Many of the dental costs and durable medical equipment costs are not reimbursable. Beginning 1996, we began to bill for reimbursement of prescription drugs. We succeeded in collecting \$29,250. Because the statutory change has not been forthcoming we have met with State Procurement to determine how we might better receive reimbursement from insurance. It is our plan at this time to use education and individual requests to residents to upgrade their insurance coverage so that we can increase reimbursement for medical services, including prescription drugs. This

will decrease their payment for care which goes to the General Fund because their insurance premium will be higher, however the end result will be a lower cost for medical expenses.

In Prescott there is currently a PHO, whom we have met with three times to discuss the potential of providing services to our residents, should the statutory authority ever be forthcoming. In these meetings we have determined that there is some question about whether the physicians in the PHO organization would be willing or able to absorb the number of residents currently residing at the Home. The program cannot deny the residents but most referrals with consultations would require additional trips to the Phoenix area and incur great cost. Also, the current PHO plan pays a maximum of \$750 per year for

prescriptions. According to our contract pharmacist, most of our residents would exceed the maximum by the end of the first quarter of the year and all medications thereafter for the year would have to be paid for by the State. Because of this, the administration of the Home is currently researching other alternative insurance plans as well as the HMO plan to determine the most cost effective manner to provide medical care within the limits of the statutes of the State of Arizona.

- As we have been investigating the one available PHO in the Prescott area, reports are not favorable about the ability of the PHO to meet the needs of the Home's amount of residents or to possibly succeed in this community. It would be detrimental to enroll them in a plan that could not provide the care they need. Attached is a copy of the legislation we recommended. As previously stated, it addressed a miners payment for care which the Miners Union opposed.
- In an effort to increase reimbursement from Medicare and/or supplemental insurance carriers, the administration will be investigating and pursuing the possibility of nursing staff becoming licensed as Home Health Providers. This would enable the Home to bill Medicare for some services which meet the criteria for Medicare reimbursement and are currently being provided by staff at the Home.

#### SUNSET FACTORS

1. The objective and purpose of establishing the agency - To provide a home for people who have been active in the development of Arizona. Development is ongoing. Nowhere do we find in the statutes that this had to be linked to territorial days. It is being assumed that those who have come in later days have not contributed to the development of the state.
2. The Home has had an ongoing reputation for some time of providing exceptional care to the residents. The new administrative team at the home is pro-actively moving towards compliance with the requests of the auditors. Financial software has recently been purchased and the Home has recently entered into a contractual agreement with the state comptrollers office to upgrade the Home's general accounting system.
3. As stated before, many of the residents who move into the home from Yavapai County

previously lived in many other parts of the state. Additionally, in recent years the home has made an effort to market in areas where there is a high population of miners to heighten awareness of this resource available to them.

The use of the Miners' Fund is in the best interest of the public because it decreases the demand on the General Fund for support. To the degree that the Home utilizes the Miners' Fund, the General Fund monies can then be appropriated for other public interests.

In regards to public funds, in the past there were situations where resident would move into the Pioneers' Home, having neglected personal eye or dental care throughout their adult life. It was then their expectation that the state would absorb all responsibility for optimizing their dental or eye care. Administration felt that this was not the best use of public funds. However, when a medical situation, such as malnutrition occurred due to a lack of good dentition, then dentures became a medical expense covered by the Home. Many times the desire for dentures is cosmetic rather than medical. Also, when a medical condition occurs, such as cataract surgery that requires residents to obtain new prescription lenses, the Home does absorb that cost as a medical expense. Without implementing this restriction it would also be very easy for residents to order and obtain glasses with increased frequency due to personal preference. With the statutory changes requested, the home would be able to provide medical care as deemed appropriate by Medicare and/or insurance coverage in the health care industry.

In the management of residents' funds, R9-10-902(C) is a requirement for licensed nursing homes. The Home is not licensed and therefore is not responsible to this rule, however is responsible to the statute 41-925 which says, "...the superintendent is authorized to accept from residents of the Home private funds of residents for safekeeping, to be held in trust for such residents. Such funds shall be disbursed by the superintendent only upon instruction of the residents or by order of a court of competent jurisdiction." In all of the audit process by DHS, DOA and the Auditor General's office there have been no findings of misappropriations of any of these funds. The funds are accounted for, the residents appreciate the service provided by having the funds available and having incidental costs they incur provided through the use of these funds. The reason for establishing this account is to serve the residents. The funds in the account belong to the resident and do not belong to the state of Arizona. The owners of the account, i.e. the residents, are happy with the system as it now stands. Without additional staff it is impracticable, if not impossible, to change the system when it is already working to meet the residents' needs.

4. Prior to this time no rules or regulations have been promulgated since the need for them had not been established (see Sunset Report 1986). We will be pursuing implementation of administrative rules after our internal policy is reviewed by the Governor's office and the Attorney General.



5. N/A
6. No comment
7. N/A
8. Recent changes have been accurately cited. In addition we have attempted to initiate statutory change. Due to failure in committee it will have to be reintroduced in the next legislative session.
9. As previously cited we have requested legislative changes for the Home. If other changes are required they would need to be addressed by Congress or the Arizona State Legislature.
10. We are not opposed to the formation of a special committee, developed to recommend options for the future mission of the Pioneers' Home. However, we feel the legislative body is competent to review the recommended options for the future mission of the Pioneers' Home.

The auditor general did not include in the concern about a possible closing of the home the \$4 million budget of the home that contributes greatly to the economy of Yavapai County through its 140 employees. Secondly, the residents of the home have sold or given up all of their homes to become residents and as far as they're concerned this is their ultimate residence and there is no place to go back to if the home was phased out.

We feel extra consideration should be given to the fact that the physical structure of the home is not in as much deterioration and in need of as much repair as stated by the auditors. We encourage legislators and any interested parties to visit the Pioneers' Home before making any critical decisions about its future.

11. N/A
12. The home is willing to identify the most cost effective means that medical services can be provided if the statutory right to change is forthcoming.