



that the Department did not ensure that counties comply with state requirements for collecting revenue from health insurers, with the result that counties were not billing insurers for the full cost of treatment. The 1985 report recommended that the Department take measures to ensure that counties obtain necessary billing information from clients at the time and place clients receive services, bill insurers, and follow up on unpaid claims.

Report No. P-715 involves an audit of the mental health programs of three counties for fiscal year 1985-86 to determine whether OAG recommendations have been implemented by the Department. The three counties included in the audit were Alameda, Los Angeles, and San Francisco.

OAG staff found that the Department has not implemented the recommendations. As a result of the Department's failure to enforce state requirements for billing health insurers for mental health treatment, OAG estimates that the state's mental health system lost \$653,000 in collectible revenue during fiscal year 1985-86 for the three audited counties alone.

Additionally, OAG staff report that in two of the three counties reviewed, the Department's information system, known as the Client Data System (CDS), contained inaccurate information about whether clients entering the mental health system have health insurance. For example, CDS reported that only 3.7% of clients entering mental health programs in Los Angeles County in fiscal year 1985-86 had health insurance. OAG staff estimate that 12.4% had insurance. Consequently, users of the CDS system, including the Governor and the legislature, base budget and other decisions on incorrect information.

The report concludes that the Department's information is inaccurate because of the lack of clear guidelines from the Department to the counties on reporting potential sources of payment for treatment. Staff also found no internal audit system to ensure that the information received by the Department accurately reflects the information in the counties' files.

Recommendations to the Department resulting from this most recent review include:

- Implementing OAG's March 1985 recommendations for monitoring the counties' billing practices;

- Monitoring counties to ensure compliance with established billing procedures for members of health maintenance organizations;

- Imposing administrative sanctions to enforce state requirements if counties do not comply with required billing procedures; and

- Ensuring that information in its Client Data System is correct.

In response to Report P-715, the Department states that it believes OAG failed to fully recognize the progress it has made in collecting revenue from sources other than private insurance. Additionally, the Department believes that its CDS is "still too new to play a major role in program management."

## COMMISSION ON CALIFORNIA STATE GOVERNMENT ORGANIZATION AND ECONOMY (LITTLE HOOVER COMMISSION)

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The Little Hoover Commission was created by the legislature in 1961 and became operational in the spring of 1962. (Government Code sections 8501 *et seq.*) Although considered to be within the executive branch of state government for budgetary purposes, the law states that "the Commission shall not be subject to the control or direction of any officer or employee of the executive branch except in connection with the appropriation of funds approved by the Legislature." (Government Code section 8502.)

Statute provides that no more than seven of the thirteen members of the Commission may be from the same political party. The Governor appoints five citizen members, and the legislature appoints four citizen members. The balance of the membership is comprised of two Senators and two Assemblymembers.

This unique formulation enables the Commission to be California's only real, independent watchdog agency. However, in spite of its statutory independence, the Commission remains a purely advisory entity only empowered to make recommendations.

The purpose and duties of the Commission are set forth in Government Code section 8521. The Code states: "It is the purpose of the Legislature in creating the Commission, to secure assistance for the Governor and itself in promoting economy, efficiency and improved service in the transaction of the public business in the various depart-

ments, agencies, and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies, and instrumentalities and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...."

The Commission seeks to achieve these ends by conducting studies and making recommendations as to the adoption of methods and procedures to reduce government expenditures, the elimination of functional and service duplication, the abolition of unnecessary services, programs and functions, the definition or redefinition of public officials' duties and responsibilities, and the reorganization and or restructuring of state entities and programs.

### MAJOR PROJECTS:

*Twenty-Fifth Year Anniversary Report.* The Commission recently released its annual report celebrating the 25th anniversary of its creation. The commemorative issue summarizes the Commission's role, responsibilities, and activities, and describes how the Commission carries out its business operations. The major accomplishments of the Commission are also highlighted.

*State Public Defender's Office.* On March 16, the Commission held a public hearing on the organization and operation of the Office of the State Public Defender. Testimony was presented by current and former members of the Office, as well as private legal counsel and administrators of the state and federal judiciary. The Commission will soon issue a report on the subject.

*Community Residential Care Facility.* The Commission met in Santa Ana on February 26 to conduct a public hearing to review the state's role in community residential care. Testimony at the hearing focused on the adequacy of care provided by residential care facilities and the state's enforcement of licensing requirements. A report will follow.

*Nursing Home Care.* In its continuing look at the quality of care provided to residents of nursing homes (see CRLR Vol. 7, No. 3 (Summer 1987) p. 51 and Vol. 7, No. 1 (Winter 1987) p. 29 for background information), the Commission is now reviewing the quality of medical care provided at these facilities.

The study will focus on the quality of care, or lack of care of any quality, provided in the facilities by physicians, registered nurses, nurse practitioners, and other medical professionals. Requirements for oversight of the facilities



and the system for reporting incidents to the proper authorities will also be examined.

The Commission will hold several hearings on these issues, including a May 20 hearing in Los Angeles, and a hearing on June 15 in Sacramento.

*A Review of the Current Problems in California's Workers' Compensation System (March 1988)* looks at the system's escalating costs, the expansion of liability into new and subjective areas of benefits, and the perceived negative effects of the increasing cost of the system upon workers, employers, and the state's business climate.

The Commission concluded that the increase in the costs of the system may be "threatening the system's viability." It reported that the amount of direct written premiums increased 83% from 1982 to 1986, although the weekly benefit rates paid to injured workers remained among the lowest of all urban industrialized states. Additionally, from 1979 through 1986, the number of injuries reported per 1,000 workers decreased 8.4%. The study revealed that the increase in costs is primarily due to an increase in the number of people in the workforce and an increase in the average cost per claim, and not to an increase in the rate of claims filed. Claims relating to soft tissue, stress, and employer liability are among the areas of the system experiencing rapid escalation in cost and size.

More specifically, the Commission reported the following conclusions:

- The cost of California's system is among the nation's highest;

- Insurers and the Department of Insurance are not "actively encouraging the investigation and prosecution of fraud and abuse";

- Delays in the adjudicatory process have slowed payments to workers and increased administrative costs;

- Inaccurate reporting of wages by some employers is forcing other employers to pay higher premiums;

- The increase in stress-related claims has exacerbated administrative hearing backlog and has delayed payments to workers, because although these claims comprised less than 2% of all injury claims filed in 1986, they accounted for more than 7% of all claims litigated; and

- The effectiveness of and cost-control measures in vocational rehabilitation programs have not been adequately assessed.

The Commission offered thirteen recommendations to the Governor and legislature, including the following:

- Procedures for disposing of fraud and abuse cases should be established, and the reporting and prosecuting of such cases should be encouraged;

- A procedure to identify employers who intentionally fail to report wages or misclassify employees in order to reduce their own workers' compensation premiums should be established;

- Insurance carriers with poor benefit payment performance should be audited;

- The use of professional court administrators to assess and manage the ongoing administrative systems and calendars of the Appeals Board Officers should be considered;

- A single and final "agreed-upon third party" medical report should be required when the results of two previous reports do not provide agreement on the nature or extent of the injury;

- A provision in the law which bars workers injured by power presses from filing claims should be repealed;

- The impact of recently-implemented regulatory examination protocols on the evaluation of claims for psychological and stress-related injuries should be reviewed; and

- Employers should be required to provide newly-hired employees with a thorough description of the benefits available through workers' compensation.

## DEPARTMENT OF CONSUMER AFFAIRS

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In addition to its functions relating to its forty boards, bureaus and commissions, the Department of Consumer Affairs (DCA) is charged with the responsibility of carrying out the provisions of the Consumer Affairs Act of 1970. In this regard, the Department educates consumers, assists them in complaint mediation, advocates their interests in the legislature, and represents them before the state's administrative agencies and courts.

### MAJOR PROJECTS:

*Annual Report.* DCA recently issued its annual report for fiscal year 1986-87. The report details activities of DCA's general divisions, as well as the projects and accomplishments of its forty licensing and regulatory agencies. Copies of the annual report are free to those who write to: ANNUAL REPORT, P.O. Box 310, Sacramento, CA 95802.

*Dispute Resolution Program.* In 1987, DCA began to implement the Dispute Resolution Program, which was

created by legislation authored by Senator Garamendi (see CRLR Vol. 7, No. 2 (Spring 1987) p. 34). The program consists of a network of informal and affordable county-based mediation centers throughout the state, based on the idea that an impartial mediator can often help adversaries reach a mutually satisfactory settlement. It is hoped that the program will defuse many disagreements which might otherwise end up in the state's already crowded court system.

Optional for counties, the program is to be partially funded through \$1-\$3 increases in civil filing fees in the municipal and superior courts of those counties which choose to participate. Funds will be distributed to support existing mediation programs or to staff new programs for the individual counties. DCA believes the program promises unique benefits to consumers because the most common consumer complaints, e.g., landlord-tenant and customer-merchant disputes, appear to be well-suited to informal resolution.

The enabling legislation set up a seven-member Dispute Resolution Council to initially govern the program. Five members were appointed by the Governor; one member was appointed by the Senate Rules Committee; and the final member was named by the Speaker of the Assembly. Mary Alice Coleman, a staff member of DCA's Legal Services Unit, was designated Executive Director of the Council.

Before it sunsets in 1989, the Council is required to determine the program's funding and develop its organizational guidelines. On January 29, the Council adopted temporary guidelines which will be applied by the counties in awarding grants. These guidelines were specifically exempted from the state's Administrative Procedure Act (APA), and thus were not approved by the Office of Administrative Law (OAL).

The Council will now, through the APA's formal regulatory process, develop operating regulations to supersede the temporary guidelines. Public hearings on the proposed regulations will be held on June 3 in Los Angeles. A DCA spokesperson stated recently that the Council expects to submit the regulatory package to OAL by October. After the Council expires in 1989, DCA will assume regulatory responsibility.

Ten counties have been accepted for the program to date, and although these counties have already instituted the required increases in civil filing fees, none are receiving funds yet. According to Executive Director Coleman, some of