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COUNTERS

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BODY:

Medicaid provides the money to care for two-thirds of the nation's 1.8 million nursing home residents. On average, homes get \$115 each day for each resident who qualifies for the insurance program for low-income elderly.

The money must cover the rent or mortgage, utilities, food and supplies, salaries of administrators and bookkeepers and, most important, the around-the-clock services of nurses and aides.

The federal government picks up 60 percent of the costs of the \$44.4 billion Medicaid program. States pay the remainder.

The total paid for a Medicaid resident's daily care can differ dramatically among states, ranging from \$258.06 a day in Alaska to \$77.96 in Arkansas. Missouri pays \$96.03, while Illinois doles out \$90.06.

The nursing home industry and the federal official who oversees the Medicaid program say that, in most cases, it's too little.

"They are all operating on the edge," said Alan DeFend, a vice president of the American Health Care Association, the trade group for 12,000 nursing homes.

One industry estimate places the gap between the cost of providing Medicaid services and what homes receive in government reimbursement at \$3.5 billion a year - or \$10 per Medicaid resident per day.

But DeFend says the shortfall is \$20 per resident per day, adding, "This is why so many homes are operating on the edge."

To survive, the association says, nursing homes must rely on the higher amounts they get from the 24 percent of residents who pay for their own care and the 8 percent who qualify for Medicare, a federal insurance program that on average pays \$300 a day for those rehabilitating or recovering from illness or injury.

It is from these two revenue sources that investor-owned homes typically earn their profit. A home with only

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Medicaid patients would be in a precarious financial position, the association says.

"Some nursing homes are making great profits, and some of them are losing money," said Tom Scully, head of the U.S. Centers for Medicare and Medicaid Services. "While reimbursements for Medicare are more than sufficient to produce profits, those for Medicaid in most states are not."

The industry says the profit margin for most nursing homes is between 2 percent and 3 percent. The Health Care Association allows that "some facilities are doing better."

Still, some financial analysts warn that the industry is barely turning a profit.

The golden history

It wasn't always that way.

Throughout the late 1980s and into the mid-1990s, the nursing home industry shined as a bright star on Wall Street as new investors flocked to become nursing home owners.

The companies recognized an opportunity for new profits by cashing in on higher reimbursements paid for providing service that could be billed to Medicare.

As a result, the General Accounting Office reported, homes began moving far beyond traditional nursing care, offering various kinds of physical, occupational, respiratory and speech therapies, pharmacies, and intravenous and dialysis treatment for which they charged "enormous" fees.

Dazzled by the potential for unlimited profit, major chains took on large debt to gobble up mom and pop operations across the nation and open new homes.

The GAO said chains bought and built homes, which they rented back to themselves at "exorbitant" rates. They bought or started laundry and uniform supply companies and paid inflated charges, the GAO said.

The pot of gold seemed bottomless, constantly replenished by the federal government. Medicare expenditures soared an average of 25 percent a year. Congress, trying to balance the budget, pierced the bubble in 1997 by cracking down on what it determined to be abuses.

The golden days were over.

Soon afterward, five of the largest chains, operating 1,600 nursing homes, filed for Chapter 11 bankruptcy protection; the industry blamed the government for cutting the money it received for caring for the residents.

Government sought penalties

In some cases, government investigators sought penalties for fraud.

Beverly Enterprises Inc., which operates 500 homes in 30 states, agreed last year to repay the government \$175 million for fraudulent billings.

Kindred Healthcare Inc., formally known as Vencor Inc., operates 290 nursing homes in 32 states. The Justice Department demanded \$1.3 billion for what the department termed fraudulent billings. Eventually the parties settled for repayment of \$130 million.

In addition to the campaign against fraud, some local, state and federal prosecutors began a spotty but increasing effort to hold nursing homes accountable for dangerously bad care.

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Investigators in Kentucky entered Pavilion Health Care Center in Louisville and found that at least 24 patients were suffering from serious neglect.

Kentucky Attorney General Ben Chandler said: "Because of understaffing, patients were not being fed to the point that some were practically skeletal. They were going without fluids to the point of dehydration. Patients were lying in their own waste. And some patients had bedsores so severe, their bones could be seen through the wounds."

Last year, the home's owner, Diversified Health Services, agreed to pay a criminal penalty of \$1.2 million for patient neglect.

Chandler said nursing home corporations have been able to escape criminal charges "by pointing to their own employees as the scapegoats. But here, the corporation that stands to profit from understaffing these facilities is being held accountable for neglecting its patients."

Profitable or not?

Even in the tougher regulatory environment, some operators thrive.

Kindred HealthCare Inc., the nation's third-largest nursing home chain, emerged from bankruptcy in April of last year and immediately showed a profit. In fact, taking into consideration a one-time gain associated with elimination of debt in its bankruptcy, Kindred last year reported a profit of \$524 million on revenue of \$3.1 billion, or about 17 percent, according to company financial reports.

Other major chains aren't doing so well.

The second-largest chain, Manor Care Inc., reported a 2.5 percent profit on revenue of \$2.7 billion.

Beverly Enterprises, which has the largest number of beds, last year reported a net loss of \$301 million (including the \$175 million in criminal penalties and civil fines) on revenue of \$2.7 billion.

Regardless of performance, many executives do well.

Last year, for example, Edward Kuntz, Kindred's CEO, was paid \$4.9 million in salary and other compensation as well as restricted stock and options valued at \$7.9 million, a company filing shows.

Paul Ormond, who runs Manor Care Inc., took home \$2.5 million in salary and other compensation as well as stock options valued at \$5.6 million.

Beverly's CEO, William Floyd, got \$1.3 million plus stock options worth \$2.3 million more.

Profit-making versus nonprofit homes

More than 65 percent of the nation's 17,000 nursing homes are investor-owned and are run as for-profit businesses.

Of the remaining homes, 28 percent are nonprofits run by churches and social and fraternal groups, and about 6.5 percent are operated by state, county or local governments.

"There is a significant difference in the staffing and quality of care provided in for-profit and not-for-profit homes," observes Charlene Harrington, a professor of sociology and nursing at the University of California at San Francisco School of Nursing and a nationally recognized authority in evaluating nursing home care.

In a peer-review study published in September of last year by the American Journal of Public Health, Harrington and four other experts concluded: "Investor owned (for-profit) nursing homes provide worse care and less nursing care

than do not-for-profit or public homes."

The study found that for-profit homes employ about one-third fewer licensed nurses than nonprofit homes. The authors also reported that government inspectors found 46.5 percent more care deficiencies at for-profit homes than nonprofit facilities.

Many involved in investigating and prosecuting negligence in nursing homes say an ongoing conflict between staff size and corporate profit is the underlying cause of preventable deaths they say number in the tens of thousands each year.

"Reduce the staff. Increase the profits. If you're a corporation, it's good business sense. If you're a nursing home patient, it's obscene greed that could kill you," says Catherine Hawes, a professor at Texas A&M University's Department of Health Policy and Management and the senior investigator on several government research projects.

Her view is typical of many people who study the industry.

The American Health Care Association disputes the notion of greed, saying it is simplistic and unfair.

"The problem of insufficient staffing at some homes would be relieved immediately if Medicaid reimbursements were fair," said Dr. Charles H. Roadman II, president of the association.

"Government must now step forward and invest the proper level of resources not only to ensure we provide quality care today, but also to ensure quality care is provided to the imminent wave of baby boomers just now entering the system," Roadman said.

Lawsuits tell a story

The preoccupation with profits is detailed in hundreds of suits filed against nursing homes each year by the federal government and families who believe their loved ones were killed because of poor care. The court files are filled with documents and depositions that cite repeated orders from corporate headquarters or the home's owners to reduce staff.

Tim Dollar, a Kansas City lawyer whose firm handles many wrongful death claims against Missouri nursing homes, filed 17 suits against a single company - American Healthcare Management, which once operated a dozen nursing homes in the state.

Twelve of those suits centered on alleged negligence at Claywest, American Healthcare Management's nursing home in St. Charles. Ten of the cases involved alleged negligent deaths. Nine of these cases have been settled; one is pending.

In a deposition taken by Dollar on Sept. 17, 2001, Charles Kaiser, American Healthcare Management's president, acknowledged that state regulators had repeatedly cited Claywest for having too few nurses and aides to provide good care.

A memo that Kaiser said he sent to all American Healthcare Management nursing home administrators read: "We have a policy that states payroll costs shall NEVER EXCEED 40 PERCENT OF REVENUE."

Kaiser said he capitalized the letters for emphasis.

The company's 40 percent figure is well below the industry average for staffing costs, which is between 55 percent and 60 percent, according to Credit Suisse First Boston, an international investment bank.

Claywest's director of nursing pleaded to headquarters for more staff, saying her nurses were "continuously" working back-to-back mandatory overtime and it had to stop, according to another deposition in the same case.

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Thirty days after Kaiser's capitalized memo, American Healthcare's chief executive officer sent a memo specifically to Claywest demanding more patients and low payroll, the deposition said.

Soon after, the home's administrator was fired, Kaiser testified, because "she spent money (on staffing) above what she was authorized to spend."

American Healthcare Management now operates only one home - in Lexington, Mo. - where Kaiser continues to spend about 40 percent of revenue on staff.

"At 60 percent of revenue I don't know how you're going to operate without pushing yourself into red ink pretty seriously," Kaiser said.

Claywest has since been sold to new operators.

Some homes emphasize appearance

Industry critics and those who investigate the deaths say some homes spend a disproportionate amount trying to fill empty beds rather than treating the residents who lie in them.

"They claim poverty and say there's no money for patient care, but they pour it into marketing," said Randy Hey, a deputy district attorney from Santa Clara, Calif., who has prosecuted several nursing home chains for neglect. "The big chains fill their entrances with statues, spurting fountains and imported marble tiles to convince the families that this is a great place to leave Mom. You've got to get past the glitz and into the patient's rooms and see if the stench of urine burns your eyes.

"The really unimpressive-looking facilities can be spending their money on staff and be offering great care," Hey said.

A deposition in a Missouri suit in which a woman lost a leg to gangrene illustrates the point. In court documents, Thomas Daake, a Wentzville nursing home owner, acknowledged spending \$1 million in the summer of 1999 to remodel one of the building's wings, adding new tile, insulation, walls and ceilings. That same summer, the state cited the facility for inadequate staffing that led to neglect.

The nursing home industry says that some operators are being sued out of business by what the trade association calls thousands of "frivolous nuisance suits" brought by personal injury lawyers on behalf of injured residents or, most likely, their survivors.

An examination by the Post-Dispatch of more than 500 of these suits did show a handful of claims that a privacy curtain wasn't closed, a broken television went unrepaired or that Spam was served four days a week.

But the vast majority of the suits were for deaths, injuries, amputations and brain damage allegedly caused by negligent care.

Scully looks to the future

Despite the changes to the program, the federal crackdown and increasing number of lawsuits, nursing homes remain a big business, spending \$92.2 billion in 2000.

CMS boss Scully has a succinct view of the nursing home industry: "There are good, decent, people in the business but more than enough whose actions are motivated by greed.

"My goal as a regulator is to have the Justice Department and the inspector general go out and hang as high as they can every greedy, dishonest person in the business," Scully said.

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"Right now we absolutely have a lot of shaky nursing home owners. Is it going to fix it by bitching about it? I don't think so. The government has to find a way to draw better people into the nursing home business.

"There is no quick fix to resolving the problems in nursing homes," Scully said. "I hope we can get it done in 10 years."

NOTES:

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GRAPHIC: PHOTO; Photo by Robert Cohen / Post-Dispatch - David Kantner (center) and Kent Harrington, president of Cathedra Rock Corp. of Fort Worth, Texas, serve barbecue in September 2001 to residents of Oak Forest North Skilled Care, 2600 Redman Road in north St. Louis County. The company, which took over the home's operations from American Healthcare Management, held a Texas-style barbecue and unveiled the home's new name: Cathedral Gardens Care Center.

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