

An Audit Report on

# Management of Correctional Managed Health Care Contracts

November 2004

Report No. 05-012



# Management of Correctional Managed Health Care Contracts

## Overall Conclusion

Deficiencies in the Correctional Managed Health Care Committee's (Committee) management of inmate health care and potential conflicts of interest between the Committee and university providers could indicate that a separate committee is no longer critical to the management of contracts for inmate health care.

The contracts between the Committee and university providers do not ensure that the interests of the State are protected or that university providers are held accountable for the cost-efficient delivery of quality services. Furthermore, the Committee does not provide sufficient fiscal oversight of the funds appropriated to provide health care to prison inmates. In fiscal year 2004, these funds totaled approximately \$330 million. Without sufficient fiscal oversight, the Committee cannot ensure that state funds are spent appropriately, nor can it support its requests for funding.

## Key Points

**A separate committee may no longer be critical to the management of contracts for inmate health care.**

The current structure and duties of the Committee may not be essential to the management of contracts for inmate health care. Many of the Committee's contractual duties are actually performed by either the Department of Criminal Justice (Department) or university providers. The Committee includes two representatives from each university provider, two employees from the Department, and three public members. In addition, in fiscal year 2003, the Committee had five full-time staff members and expenditures of approximately \$636,000. Of that amount, 92 percent was spent on salaries and benefits for the Committee's staff.

There are still potential conflicts of interest in the relationships between the Committee and university providers. These potential conflicts may make contract provisions difficult to enforce and may contribute to a lack of fiscal oversight. We first reported similar issues in January 1998 (see *An Audit Report on Managed Health Care at the Texas Department of Criminal Justice*, SAO Report No. 98-013).

### Inmate Health Care in Texas

In 1994, the State implemented a managed health care plan for prison inmates to reduce the cost of providing legally mandated health care. The Correctional Managed Health Care Committee (Committee) was subsequently established and charged with developing and administering managed care. Currently, the Department of Criminal Justice (Department) contracts with the Committee, which in turn contracts with university health care providers.

The University of Texas Medical Branch at Galveston covers the southern and eastern parts of the state and provides health care to approximately 77 percent of prison inmates. The Texas Tech University Health Sciences Center covers the western part of the State and provides health care to approximately 23 percent of prison inmates.

In the 2004-2005 biennium, approximately \$330 million per year was appropriated to the Department for the health care of an estimated 150,000 inmates.



**The Committee's contracts for inmate health care lack necessary provisions to ensure accountability and the appropriateness of expenditures.**

The contracts between the Committee and university providers lack basic provisions such as those for the evaluation of contractor performance, remedies for nonperformance, and financial reporting requirements. In addition, because the Committee does not require university providers to maintain or report complete, detailed financial records, we were unable to determine whether the current appropriations amount represents the true cost of providing inmate health care.

The contracts between the Committee and university providers also do not specify allowable and unallowable costs. As a result, the University of Texas Medical Branch at Galveston (UTMB, the university provider serving approximately 77 percent of inmates) has spent state funds it received to provide inmate health care services on items that are not allowable under state law but that may be allowable using UTMB's local funds. These items include food and gifts for employees, flowers, and moving expenses for newly hired employees. In addition, we found expenses that UTMB allocated to its contract with the Committee but did not appropriately allocate among the various entities for which it provides health care services. UTMB provides health care services to other entities, including the Texas Youth Commission and several federal prisons and county jails.

**The Committee's monitoring of funds appropriated for inmate health care is not sufficient to ensure that funds are spent appropriately.**

From fiscal year 2001 through fiscal year 2003, the Committee paid university providers a total of \$15.7 million above the agreed-upon rate as a "loss reimbursement" without reviewing sufficient documentation to determine whether university providers had actually incurred financial losses. In addition, the Committee has not reported complete and accurate information regarding its finances to state decision makers. While the Committee has consistently held available ending balances in each of the past eight fiscal years, it has not reported all of these balances. The available ending balance was as high as \$31.8 million at the end of fiscal year 2000.

## ***Summary of Management's Response***

Management's response indicates that it concurs with and plans to implement most of our recommendations. However, many of the responses provided information that warranted an auditor follow-up comment. The full text of management's responses can be found in Appendix 6.

## ***Summary of Information Technology Review***

Because both the Committee's financial accounts and UTMB's financial accounts for fiscal year 2004 were maintained in PeopleSoft, we reviewed access controls, input controls, and change management processes for the PeopleSoft financial systems at UTMB. UTMB implemented the PeopleSoft financial system in September 2003 (at the beginning of fiscal year 2004). We did not identify any reportable issues regarding the PeopleSoft financial system at UTMB. We reviewed this system only as it related to correctional managed

health care accounts. Although we also reviewed data from prior years, we did not test the prior financial reporting system. We relied on previous audit work we had performed on UTMB's prior financial reporting system. That work had determined that the data from the prior system was reliable. We did not audit UTMB's automated pharmacy system because that system is scheduled for replacement soon.

## ***Summary of Objectives, Scope, and Methodology***

The objectives of this audit were to determine whether:

- Procurement processes are sufficient to ensure that the best contractors are fairly and objectively selected.
- Contract provisions are sufficient to hold contractors accountable for delivery of quality services and prevent the inappropriate or inefficient use of public funds.
- The methods that are used to establish contractor reimbursement are sufficient to ensure that the State pays a fair and reasonable price for services.
- Contractor oversight is sufficient to ensure that contractors consistently provide quality services and that public funds are spent effectively and efficiently.

The scope of our audit included the review of correctional managed health care contract provisions for the 2002-2003 and 2004-2005 biennia. We reviewed expenditures and cost allocation systems at UTMB that were related to the managed health care appropriation. Our review of financial data covered the period from September 1995 through May 2004. At the Department, we reviewed monitoring program processes and results from September 2002 through May 2004. We did not perform any financial audit work at the Texas Tech Health Sciences Center or at the Department.

Our methodology included reviewing the accuracy of the Committee's financial data; verifying the reported costs of inmate health care; interviewing staff of the Committee, UTMB, Texas Tech Health Sciences Center, the Department, and the Legislative Budget Board; and reviewing the contracts between the Committee and the Department and between the Committee and university providers.

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00-015	A Review of Department of Criminal Justice Inmate Transportation	February 2000

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# Detailed Results

## Chapter 1

### *A Separate Committee May No Longer Be Critical to the Management of Contracts for Inmate Health Care*

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Although the Correctional Managed Health Care Committee (Committee) played a significant part in moving inmate health care to a managed care system, there are indications that, as it is currently structured, the Committee may no longer be critical to the management of contracts for inmate health care. Specifically, the composition of the Committee and its staff and the Committee's operating structure may make it difficult for the Committee to carry out its responsibility to administer the inmate managed care program. Chapters 2 and 3 discuss the deficiencies in the Committee's contract management.

Half of the current Committee members are employed by university providers, which may make it difficult for the Committee to effectively and independently manage its contracts. The Committee is responsible for negotiating contracts between the Department of Criminal Justice (Department) and the Committee and between the Committee and university providers.<sup>1</sup> To be effective and independent, the Committee must be able to resolve conflicts regarding the needs of the university providers, the Department, and the inmates. The current university providers are the University of Texas Medical School at Galveston (UTMB) and the Texas Tech Health Sciences Center (Texas Tech).

By statute, the Committee includes nine members: two from UTMB, two from Texas Tech, two from the Department, and three from the public. Two of the public members must be physicians. This requirement has the potential to cause a conflict of interest because many physicians in Texas are likely to have ties to one of the university providers. Furthermore, one of the physician public members resigned in August 2001 and has not yet been replaced. This leaves the Committee with eight members, four of whom are representatives of university providers. One of these four members is the Committee chair. (Appendix 2 includes a time line of important events and changes over the history of the correctional managed health care system.)

The composition of the Committee's staff and its operating structure may contribute to the Committee's lack of fiscal oversight of university providers. The Committee's four current staff members are charged with the day-to-day management of the contracts with university providers. However, these staff members—an executive director, an assistant director, a chief financial officer, and an administrative technician—maintain that the staff is not structured to perform detailed fiscal monitoring. Instead, they compile high-level information from the university providers for the Committee members' use. Consequently, the Committee does not have sufficient information to determine the accuracy of the costs reported by university providers. Statute requires

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<sup>1</sup> Currently, the Department of Criminal Justice contracts with the Committee, which, in turn, contracts with the university providers.

the Committee to set a per-inmate-per-day capitation rate based on the true cost of providing inmate health care (see Chapter 2-B).

As Table 1 shows, many of the Committee’s contractual responsibilities are actually performed by either the Department or the university providers. The Committee’s staff members are not required to have a medical background or medical knowledge. This means that any disputes of a medical nature must be resolved by the Department’s and university providers’ medical directors. Committee staff members attend some of the meetings regarding the provision of inmate health care, but they do not play a significant role in the monitoring process (see Chapter 3-B). The Committee’s fiscal year 2003 expenditures totaled approximately \$636,000. Of that amount, 92 percent (or \$584,095) was spent on five full-time staff members’ salaries and benefits. In September 2003, the Committee’s four current staff members received salary increases of approximately 3 percent.

Table 1: Many of the responsibilities assigned to the Committee in the contract between the Committee and the Department are actually performed by the Department or university providers. The contracts between the Committee and university providers primarily assign the Committee responsibilities that relate to billing for services and the payment of funds, functions which are performed by the Committee’s staff.

Contractual Responsibilities of the Correctional Managed Health Care Committee	
Responsibility	Function Performed By
Provide a uniform level of health care consistent with the accepted national standards of care.	University providers perform this function.
Implement and monitor correctional managed health care services for inmates confined in institutions.	The Department and university providers perform this function.
Perform fiscal oversight, appropriation formulation, and budget allocation.	The Committee is responsible for performing this function, but its fiscal oversight is not sufficient (see Chapter 3-A). Committee staff formulates information that the Department then incorporates into its appropriation request and budget.
Determine the capitation rates, which reflect the true cost of correctional health care and cost-containment studies.	The Committee determines a capitation rate, but its monitoring procedures do not provide assurance that rates reflect the true cost of services (see Chapter 2-B).
Provide health care services to support private corrections facilities and state jails.	UTMB provides health care in most private corrections facilities and in state jails.
Review and respond to inmate grievances in a timely manner.	The Department and university providers perform this function.
Ensure that university providers properly allocate expenditures and segregate funding sources for Department and non-Department programs.	The Committee is responsible for performing this function; however, its monitoring of the allocation of expenditures is not sufficient (see Chapter 3-A).
Establish procedures for monitoring the quality of care delivered by the health care providers and enforce compliance with the contract provisions.	The Department has developed procedures for monitoring the quality of health care. University providers monitor the quality of care. The Department also has mechanisms for participating in the process to monitor quality of care. Contract disputes of a medical nature are resolved among the various medical directors (see Chapter 3-B).
Develop written procedures for monitoring the correctional health care system and for monitoring operational results and overall performance or compliance.	The Department has developed written procedures for monitoring the provision of health care. A member of the Committee’s staff co-chairs the policy and procedure committee (see Chapter 3-B).

Operationally, the Committee is closely tied to UTMB, which may compromise the Committee staff’s ability to monitor its contract with UTMB. For example:



- The Committee maintains its funds in two accounts at UTMB, and the funds it uses to make quarterly payments for inmate health care are held in UTMB's bank accounts (see Chapter 3-A). The Committee relies on UTMB's accounting department to maintain its accounting records.
- The Committee relies on the university providers and the Department's legal departments to review (on its behalf) the Committee's contracts with university providers.
- Committee staff members are paid by UTMB's payroll system and participate in the same retirement system as UTMB employees.

Other entities that contract for inmate managed care contract directly with the health care provider. To provide health care for youth incarcerated in Texas Youth Commission (TYC) facilities, TYC contracts directly with the same university providers that the Committee contracts with. There is not an intermediate entity between TYC and the university providers. In addition, UTMB has other contracts to provide health care to individuals incarcerated in some county and federal facilities across the state, and these contracts do not include an intermediate entity such as the Committee.

Alternative options for managing inmate health care contracts include (1) allowing the Department to contract directly with university providers or (2) appropriating the funds for inmate health care directly to university providers themselves. Implementing either of these options would require increasing the amount of fiscal and program oversight authority the Department has over university providers' contracts and the provision of inmate health care.

## Recommendations

To carry out its responsibilities independently and effectively, the Committee should:

- Perform all of its contractual requirements, including monitoring the financial aspects of the contract and mediating disputes concerning medical issues.
- Separate its accounting and payroll functions from UTMB.

## Management's Response

- *The CMHCC agrees with this recommendation, including enhancing the monitoring of the financial aspects of the contract. The CMHCC however, notes that it is already involved in mediating disputes concerning medical issues as the Chair of the CMHCC oversees regular medical directors meetings where such issues are discussed and mediated. In addition, the TDCJ Medical Director is also a member of the CMHCC. To the extent that the medical directors cannot reach a consensus through this mechanism, such issues can be brought to the full CMHCC body for decisions. This process is clearly outlined in the CMHCC's contracts.*

*Action: Management will develop and present for approval by the full CMHCC a written plan to enhance the financial monitoring responsibilities of the CMHCC's staff. The plan will be incorporated into the contracts for the FY 2006-2007 biennium.*

*Responsibility: Executive Director, CMHCC*

*Timeline: Development of a written plan to enhance the financial monitoring responsibilities of the CMHCC will begin immediately. A final plan will be fully implemented not later than the next contract cycle on September 1, 2005.*

### **Auditor's Follow-Up Comment**

The process for resolving conflicts outlined in the Committee's contracts calls for conflicts to be resolved between the parties up to and including the level of the medical directors. Any disputes that cannot be resolved by the medical directors are referred to the executive director of the Committee, who is not a physician. If the executive director cannot resolve the dispute, then he has the option of referring it to the full committee. As mentioned in Chapter 1, half of the current committee is composed of representatives of the university providers. This could potentially leave the Department at a disadvantage, especially in disputes of a medical nature.

### **Management's Response (continued)**

- *The CMHCC does not agree that it is necessary to separate its accounting and payroll functions from UTMB in order to manage its responsibilities. As an alternative, the CMHCC does agree that it can take actions to better document that the CMHCC operates independently of UTMB. The CMHCC's accounts are maintained separately by UTMB. Payments to and from those accounts are authorized only by duly authorized representatives of the CMHCC. Staff of the CMHCC, while paid through the UTMB payroll systems, are organizationally responsible to the full CMHCC. As outlined in statute, the CMHCC hires an administrator, who in turn is authorized to employ additional personnel as necessary to fulfill the committee's duties. Costs for the operation of the CMHCC are paid from funds appropriated for correctional health care. Short of creating a new and separate accounting and payroll function for the CMHCC alone, the perception of a conflict of interest would exist regardless of which partner agency provided administrative support for the CMHCC.*

*Action: The CMHCC will develop a memorandum of understanding between the CMHCC and UTMB that clearly documents the operational procedures for providing administrative support for the CMHCC. The MOU will clearly specify that CMHCC staff work for the CMHCC and are independent of UTMB.*

*Responsibility: Executive Director, CMHCC*

*Timeline: An MOU will be developed and put in place not later than February 1, 2005.*

### **Auditor's Follow-Up Comment**

The Committee's accounts at UTMB are separate from other university accounts but are reported as part of UTMB's annual financial report (see Chapter 4). These accounts are held outside the State Treasury. UTMB has some level of oversight for these accounts; UTMB accounting staff provided us with information on the balances and transactions in these accounts during the course of our audit. As the Committee mentions, the funds used to pay for the operation of the Committee are appropriated to the Department. The services are provided by UTMB and Texas Tech, not the Department. The action proposed by the Committee does not resolve the issue about conflicts of interest, as the service provider would still be handling the Committee's funds.

## ***The Committee's Contracts for Inmate Health Care Lack Necessary Provisions to Ensure Accountability and the Appropriateness of Expenditures***

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The contracts between the Committee and university providers do not ensure that the interests of the State are protected or that university providers are held accountable for the cost-efficient delivery of quality services. The contracts lack basic provisions such as the evaluation of contractor performance, remedies for nonperformance, and financial reporting requirements.

Furthermore, because the Committee does not require university providers to maintain or report complete, detailed financial records, we were unable to determine whether the current appropriations amount represents the true cost of inmate health care. In addition, the contracts do not specify allowable and unallowable costs. As a result, UTMB spent state funds it received to provide health care services to prison inmates on items that are not allowable under state law but that may be allowable using UTMB's local funds.

In January 1998, we reported this same issue regarding the lack of contract provisions (see *An Audit Report on Managed Health Care at the Texas Department of Criminal Justice*, SAO Report No. 98-013). Several of the provisions that were missing from the contracts for the 1996–1997 biennium were also missing from the contracts for the 2002–2003 and 2004–2005 biennia.

### Chapter 2-A

#### **The Committee's Contracts Lack Basic Provisions to Hold University Providers Accountable**

The Committee's contracts for inmate health care for the 2002–2003 and 2004–2005 biennia are not sufficient to protect the State's interests and hold university providers accountable for the cost-efficient delivery of quality services. The contracts lack basic provisions such as:

- Clearly defined performance measures.
- Methods of evaluating contractor performance.
- Sanctions for contractor nonperformance.
- Financial reporting requirements.
- Right-to-audit provisions, which are required by the Texas Government Code, Sections 2262.003 (a)(1) and (2).

Contracting best practices require that contracts include provisions to hold contractors accountable for providing the intended services at the best price. Without these provisions, state funds are at risk of not being spent as intended, and the State may not have recourse against contractors for their poor performance.

In addition to not incorporating sound provisions into contracts, the Committee did not execute contracts with the Department and university providers in a timely manner. Without an executed contract in place, the Committee risks not having legal recourse if there are problems with a university provider's performance. With a contract amount in excess of \$500 million, the UTMB contract is monetarily the largest contract of the two university provider contracts. However:

- The contract with UTMB for the 2002–2003 biennium was not signed until approximately 9.5 months after the contract for the previous biennium expired. There was no amendment executed to extend the prior contract; consequently, the Committee and UTMB operated without an executed contract during this 9.5-month period.
- The contract with UTMB for the 2004–2005 biennium was not signed until almost two months after the extension on the previous contract had expired.

One way to ensure that a contract protects the State's interests is to have adequate review by legal counsel. However, the Committee's contracts did not show clear evidence of review and approval by the Department's or university providers' legal counsel. The UTMB contract was initialed by individuals who the Committee's assistant director stated were part of UTMB's legal counsel, but there was no signature line or other evidence signifying to whom the initials belonged. Contracts should show evidence of legal review and approval to ensure that they are legally sound and protect entities' interests.

Furthermore, the Committee does not seek out its own legal counsel to review the contracts before execution. Instead, it relies on the legal counsel at the Department and university providers to review the contracts. This creates a risk that the legal counsels will ensure that their own entities' interests are protected but not necessarily protect the Committee's interests.

## Recommendations

The Committee should:

- Include the following provisions in its contracts with university providers:
  - ♦ Methods for evaluating contractor performance, including clearly defined performance measures
  - ♦ Sanctions for contractor non-performance
  - ♦ Financial reporting requirements
  - ♦ Right-to-audit provisions
- Make efforts to renew the contracts on a timely basis to avoid periods of contract lapses. It should consider financial sanctions (such as a reduction of the contract amount based on the number of days the contract has lapsed) to encourage university providers to sign contracts in a timely manner.

- Include in its contracts evidence of legal review or approval.

### Management's Response

- *The CMHCC agrees with this recommendation and will revise its contracts for the next biennium to reflect these recommendations.*

*Action: CMHCC will review the current contract documents and develop better defined performance measures and evaluations of performance, adopt sanctions for non-performance and include more detailed financial reporting requirements and right-to-audit provisions in its contracts for the FY 2006-2007 biennium.*

*Responsibility: Executive Director, CMHCC*

*Timeline: New contract documents for the FY 2006-2007 biennium will be drafted and developed in time for implementation September 1, 2005.*

- *The CMHCC agrees with this recommendation and will take action to encourage the execution of the contracts in a timely manner.*

*Action: The process of contract renewal for the next cycle of contracts will be initiated not later than February 1, 2005 in order to provide sufficient time to review and negotiate the terms of the contracts prior to September 1, 2005. Should circumstances beyond the control of the CMHCC delay execution of the contracts by September 1, 2005, properly executed contract extensions will be put in place to insure that there is no lapse in contract coverage.*

*Responsibility: Executive Director, CMHCC*

*Timeline: Contract discussions and changes will be initiated by February 1, 2005 and final execution of the contracts will be sought prior to September 1, 2005.*

- *The CMHCC agrees to require that evidence of legal review be included on the actual contract documents. Legal counsel from each partner agency already participates in the contract review and approval process; however there is not a standardized documentation of these reviews.*

*Action: The CMHCC will amend the contract signature blocks to require a formal acknowledgement of legal review to be documented on the contract. In addition, the CMHCC will request a legal review of the contracts by the Office of Attorney General, in lieu of hiring a separate counsel for the Committee.*

*Responsibility: Executive Director, CMHCC*

*Timeline: The legal reviews will be documented on the contract documents beginning with the next cycle of contracts, to be implemented not later than September 1, 2005.*

## **The Committee's Contracts Lack Financial Controls to Determine the Actual Costs of Inmate Care and Ensure that Funds Are Spent Appropriately**

The Committee's contracts with university providers do not require university providers to maintain or report complete, detailed financial information. Without these requirements, the Committee cannot meet its statutory requirement to develop a capitation rate that reflects the true costs of inmate managed care.

We were unable to determine whether the current appropriation amount represents the true cost of inmate health care because (1) UTMB allocated unallowable expenses to its contract with the Committee, (2) there are inaccuracies in the allocation of other expenses (see Chapter 3-A), and (3) there is a potential for inaccurate allocation of payroll costs. This also prevents the Committee from ensuring that the State receives the services it pays for and that state funds are spent as intended. (The Committee's inadequate monitoring of university providers, which is discussed in Chapter 3, also prevents the Committee from ensuring that university providers spend funds as intended.)

Determining the capitation rate and the actual costs of providing health care. Statute requires the Committee to determine a capitation rate that reflects the true cost of providing correctional managed health care. However, without detailed financial information from university providers, the Committee cannot determine the true cost. Instead, it backs into the capitation rate by taking the annual appropriation amount and dividing it by a number that is equal to the projected prison population for the year. The capitation rate for fiscal year 2004 was \$5.77 per inmate per day for UTMB and \$5.27 per inmate per day for Texas Tech. However, these rates may not represent the true cost of inmate health care because they are not based on verified cost information. In addition, the Committee's calculation allows the Committee to accumulate reserves due to the "population lag," which is the difference between the budgeted population and the actual population of the prison system (see Chapter 4-A).

Furthermore, the Committee does not require university providers to track the cost of care per inmate, so there is no way to determine the cost of a specific service or the cost of an individual inmate's care. As they are currently reported, the costs for correctional managed health care are a combination of salaries and benefits, capital equipment, travel, "telemedicine," pharmacy expenses, off-site costs (such as UTMB's Hospital Galveston and other private hospitals), and indirect overhead of 5 to 6 percent of reported costs.

**Allowable and unallowable costs.** The contracts between the Committee and university providers do not specify what are allowable and unallowable costs. We found that UTMB spent state funds it received to provide health care to inmates on items that were unreasonable or not allowable under state law (but these items may be allowable if they are paid for using UTMB's local funds). These expenditures included food and gifts for employees, flowers, and moving expenses for newly hired employees.

We tested 228 judgmentally selected expenditures from fiscal years 2002 and 2003 that were included in UTMB's costs to provide inmate health care and found that

17.5 percent of the expenditures in our sample were unreasonable or would not have been allowable under state law. The expenditures in this sample totaled \$2,266,072, and the errors we found accounted for 2.5 percent of this amount. We also tested 42 judgmentally selected expenditures from fiscal year 2004 and found that 11.9 percent of the expenditures in our sample were unreasonable or would not have been allowable under state law. The expenditures in that sample totaled \$8,660,342, and the errors we found accounted for 0.14 percent of this amount. The unreasonable or unallowable expenditures included:

- \$14,353 for a conference and banquet.
- \$7,040 and \$5,000 for moving expenses for two newly hired employees.
- \$1,705 for pocket calculators used as gifts for employees who attended training.
- \$215 for a UTMB employee and spouse to take a new UTMB doctor and his family out to dinner (tip included).
- \$1,466 for an employee retirement party.

**Payroll records.** The Committee's contracts with university providers do not require university providers to keep detailed payroll records that would allow them to accurately allocate payroll costs to their contracts with the Committee. Salaries and benefits constituted approximately 54 percent of the costs for inmate health care that UTMB reported in fiscal year 2003. However, without detailed payroll records, the accuracy of this percentage cannot be determined. We first identified this issue in our January 1998 report (see *An Audit Report on Managed Health Care at the Texas Department of Criminal Justice*, SAO Report No. 98-013).

The accuracy of UTMB's reported costs is questionable because UTMB contracts with other criminal justice organizations (such as county jails, federal prisons, and TYC facilities) to provide inmate health care. Some of these other facilities are located near Department prisons, and they often share UTMB staff members; therefore, there is no way to track the actual hours worked at each facility. (See the map in Appendix 3 for co-located facilities.)

Each shared staff member who is involved in providing health care is assigned a payroll allocation percentage, but these allocation percentages do not reflect detailed actual time. (Actual time worked is not recorded, except as an aggregate amount of work time versus sick time or leave time.) For example, a staff member who is assigned to work four days a week at a state prison and one day a week at a county jail might have 80 percent of his payroll cost allocated to the care of inmates at the state prison. However, if the county jail is short of staff, the employee may actually work only one day at the state prison and four days at the county jail. Under these circumstances, the staff member's payroll cost would still be allocated to the various entities based on the preset allocations (80 percent to the state prison and 20 percent to the county jail). The preset allocations can be changed, but this rarely happens.

## Recommendations

The Committee's contracts with university providers should include:



- Financial reporting requirements that include reporting the actual costs of providing inmate health care.
- Definitions of allowable and unallowable costs.
- Requirements to maintain detailed payroll records that track actual time spent providing health care at Department facilities.

### Management's Response

- *The CMHCC agrees to include in its contracts more detailed reporting of health care expenditures from the universities and to take steps to validate the accuracy of the information it receives.*

*Action: The CMHCC will meet with the financial staff of each of the three partner agencies and develop requirements and common formats for a more detailed financial reporting of expenditures from the universities. This revised reporting process will be developed not later than February 2005 and all FY 2005 reporting will be revised to reflect the more detailed reporting requirements.*

*The revised reporting formats will subsequently be incorporated into the contracts for FY 2006-2007. The CMHCC will also develop additional procedures designed to validate the accuracy of information it receives from the university providers. Development of the procedures will consider the cost-effectiveness of such practices as requiring periodic risk assessments and independent audits to be performed and submitted to the CMHCC, requiring specific items to be verified and approved by the university's internal auditors, and/or direct review and auditing of financial transactions by the CMHCC.*

*In addition, the CMHCC will initiate an immediate review of the losses reported by the university providers to ascertain the true extent of such losses reported for FY 2004 and FY 2005. Such a review will include a correction of reported expenses to disallow any expenses determined to be inappropriate and to account for any inaccuracies in allocation of costs between programs.*

*Responsibility: Executive Director, CMHCC*

*Timeline: Revised financial reporting formats and requirements will be developed and be put into place by February 2005. The revised reporting formats and requirements will be included in the next contracts for FY 2006-2007 to be effective September 1, 2005. A more detailed review of reported FY 2004 losses shall be initiated immediately and completed prior to any final adjustments for loss reimbursements are settled.*

- *Payments to the university providers are made on a capitated basis, represent funds earned by the universities and are considered by the universities as local funds. As such, rules applicable to university local funds apply. However, the CMHCC agrees to include in its future contracts, expenditure restrictions on certain expenses that could be considered unallowable, including food and gifts for employees and flowers. The CMHCC specifically does not agree however,*

*that funds earned by the university should be restricted from paying for moving expenses of newly hired professional staff. The recruitment and retention of professional medical staff takes place in an extremely competitive environment. One of the reasons the universities were asked to become involved in correctional health care is their enhanced flexibility to legally utilize such measures to recruit and retain medical staff. Paying for moving expenses for a physician to relocate is an industry standard practice necessary to insure qualified professionals are available to provide health care services.*

*Action: The CMHCC will work with the university providers and TDCJ to identify expenses that will not be reimbursed under the contracts. Such restrictions will be included in the next contracts for FY 2006-2007. In addition, as a part of the review of FY 2004/2005 losses detailed above, the list of restricted expenses will be used to correct FY 2004 and FY 2005 financial reports.*

*Responsibility: Executive Director, CMHCC*

*Timeline: A listing of restricted expenses will be developed and included as a part of the revised financial reporting requirements to be effective not later than February 2005. The restrictions will be incorporated into the FY 2006-2007 contracts to be effective September 1, 2005.*

#### **Auditor's Follow-Up Comment**

Even though the funds paid to the university providers are considered local funds once they are earned and can be used as the university providers wish, there should be some consideration given to the appearance of spending funds on expenses that are not directly related to inmate health care and that would be a violation of state statutes if general revenue funds were used. In addition, since fiscal year 2001, the Committee paid the university providers \$17.6 million above the capitation rate for "loss reimbursement" (see Chapter 3). The cost information used to support these payments and to calculate the next year's capitation rate included these unallowable costs. If the Committee chooses to allow the university providers to spend correctional managed health care funds on moving expenses for newly hired employees, these amounts should not be used to support loss reimbursement payments or to calculate the capitation rate.

#### **Management's Response (continued)**

- *The CMHCC agrees with this recommendation and will include such requirements in its contracts for the FY 2006-2007 biennium. Allocations of payroll costs between contracts are being made on a budgeted hour basis; however time reporting systems allowing for the adjustment of those allocations based on actual hours or other such validation systems for time reporting allocations will need to be developed.*

*Action: The CMHCC will include in our FY 2006-2007 contracts requirements for maintenance of detailed payroll allocation and time-keeping records for any employees providing services for multiple contracts. In addition, the CMHCC,*

*working with the university providers, will develop procedures that call for periodic validation of such allocations.*

*Responsibility: Executive Director, CMHCC*

*Timeline: The requirements will be incorporated into the FY 2006-2007 contracts to be effective not later than September 1, 2005.*

## ***The Committee's Monitoring of Funds Appropriated for Inmate Health Care Is Not Sufficient to Ensure that Funds Are Spent Appropriately***

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The Committee does not provide sufficient fiscal oversight of the funds appropriated for inmate health care. Without monitoring how these funds are spent, the Committee cannot ensure that the funds are spent appropriately, nor can it support its requests for funding. For example, from fiscal year 2001 through fiscal year 2003, the Committee paid university providers a total of \$15.7 million above the agreed-upon rate as a "loss reimbursement" without requesting or reviewing detailed supporting documentation to determine whether university providers had actually incurred financial losses. The fiscal year 2004 appropriation for correctional managed health care was approximately \$330 million, which represented about 13 percent of the Department's total appropriation.

The Committee relies on the Department to monitor inmates' access to care and on university providers themselves to monitor quality of care. Statute limits the Department to monitoring only access to care. In addition, although statute requires the Committee to oversee the quality-of-care monitoring program, this is actually done by the Department and not by the Committee. Given the limitations of the statute, the Department does a good job of monitoring, but increases in authority and resources available to monitor inmate health care may improve the accountability of university providers.

### Chapter 3-A

## **The Committee's Financial Monitoring Is Insufficient to Ensure that Funds Are Spent Appropriately**

The Committee does not provide sufficient fiscal oversight of the funds appropriated for inmate health care. The structure of the Committee and the potential for conflicting loyalties on the part of its staff may contribute to the lack of fiscal oversight (see Chapters 1 and 2). The Committee's staff has indicated that they focus on whether the contracted services are provided, not on how the university providers spend the funds they receive for providing inmate health care. Committee staff also stated that, as a result, they do not see the need to perform a detailed analysis of university providers' costs for providing health care to inmates.

To ensure that the State receives the best value and that inmates receive the health care mandated by the courts, it is necessary for the Committee to monitor and evaluate the costs that university providers charge against their contracts. Monitoring is especially important when university providers report that they are operating at a loss and request additional funding. In addition, as mentioned in Chapter 2, the Committee is statutorily required to develop a capitation rate that is a true reflection of the cost of providing inmate health care.

Loss reimbursement payments were made without supporting documentation. From fiscal year 2001 through fiscal year 2003, the Committee paid university providers \$15.7 million above the established capitation rate as a "loss reimbursement" without reviewing any documentation to substantiate that the university providers had incurred financial losses. At the end of the third quarter of fiscal year 2004, the Committee paid university providers an additional \$1.9 million as a loss

reimbursement, again without reviewing sufficient supporting documentation. At a minimum, the Committee should have reviewed a detailed list of expenditures allocated to the contracts, and it should have gained some assurance from periodic testing that this information was accurate.

Furthermore, the Committee does not review expenditures that university providers allocate to their contracts with the Committee. The Committee's chief financial officer stated that the Committee is not familiar with university providers' methods for allocating costs and is not concerned with these methods as long as services are being provided to the inmates.

Costs were not allocated as required by the contract. The contract between the Committee and UTMB requires UTMB to allocate costs among its various clients. From fiscal years 2002 through fiscal year 2004, however, we found expenditures that UTMB had allocated to its contract with the Committee but that it should have allocated among its various correctional managed health care clients (TYC facilities and several county jails and federal prisons). These expenditures included:

- \$23,000 per month for two months of rent for the Galveston offices of correctional managed health care.
- \$1,165 for carpeting for the Galveston finance department office.
- \$5,301 for database access for the central pharmacy.
- \$9,000 for a quarterly payment for data modules.

One exception to this issue is UTMB's process for allocating costs for the central pharmacy that serves all of UTMB's managed health care clients. While the Committee does not monitor the allocation of costs for pharmacy services, we found that those costs were appropriately allocated. In addition, we compared the costs for 59 randomly selected drugs and 7 judgmentally selected high-cost drugs from UTMB's drug utilization report and compared them with the pharmacy's purchasing invoices. The pricing for these drugs was generally reliable. (See Appendix 4 for trend analysis of the costs of HIV and hepatitis C drugs.)

Additional examples of the Committee's lack of fiscal oversight include the following:

- The Committee receives only a very high-level summary report of university providers' costs and does not require university providers to submit supporting documentation. The Committee then combines the quarterly summary reports from each university provider into an overall report that contains information regarding on-site expenses, off-site expenses, pharmacy services, and indirect expenses. (See Appendix 5 for an example of the combined report.)
- The Committee does not audit university providers' financial information; instead, it relies on university providers' internal audit departments. However, university providers' internal audit departments do not audit this information.
- The Committee does not properly monitor the financial accounts that UTMB maintains on the Committee's behalf to determine whether funds are received

and transferred properly and in a timely manner. The Committee has access rights to UTMB's accounting system, but it reviews information on its financial accounts only on a quarterly basis. At the end of the second quarter of fiscal year 2004, the Committee's agency fund account had a negative balance of \$12,267,293 due to the erroneous double-booking of a general ledger transaction. The Committee did not detect and correct this error until about three months later.

- As noted in Chapter 2, 17.5 percent of the fiscal year 2002 and fiscal year 2003 expenditures we tested and 11.9 percent of fiscal year 2004 expenditures we tested were unreasonable or unallowable.

## Recommendations

The Committee should:

- Increase its monitoring of the financial aspects of its contracts with university providers.
- Ensure that Committee staff review the detailed financial records of university providers on a monthly basis and provide more detailed information to the Committee at its quarterly meetings to enable the Committee to make more informed financial decisions.
- Ensure that Committee staff provide for a periodic audit of university providers' financial records related to correctional managed health care.

## Management's Response

- *The CMHCC agrees to increase its monitoring activities related to the financial aspects of the contracts. Historically, the CMHCC has focused on insuring that the services called for in the contracts were delivered and because the university providers are state institutions with individual accountability to the Legislature, has relied on those individual institutions to exercise financial oversight of funds they earned under the contracts. The CMHCC will work with the Legislature during the appropriations process to better define financial monitoring expectations.*

*Action: The CMHCC will review the responsibilities of its staff to incorporate increased financial monitoring of the university provider contracts. The monitoring activities will include the collection, review and analysis of supporting levels of detail for information provided by the universities and provisions for the periodic validation of reported data.*

*Responsibility: Executive Director, CMHCC*

*Timeline: Preliminary revised financial monitoring activities will be put in place not later than February 2005, and further refined by the end of FY 2005 so as to be in place for the FY 2006-2007 biennium contracts.*

## Auditor's Follow-Up Comment

The contract for inmate health care is in excess of \$330 million a year. Our concern is whether this amount reflects the true cost of inmate health care. Even when one entity of the state contracts with another, there should be procedures in place to ensure that services are provided in a cost-efficient manner. It would be difficult, if not impossible, to ensure financial accountability without monitoring the transactions associated with the contract.

## Management's Response (continued)

- *The CMHCC agrees with this recommendation. CMHCC staff will work with the university providers to develop access to detailed financial records for review and analysis on a monthly basis. Reports on the financial monitoring and an increased level of detail on the financial status of the university providers will be provided to the members of the CMHCC at their quarterly meetings.*

*Action: The CMHCC staff will work with the university providers to develop monthly detailed financial records for review and analysis. In addition, the CMHCC staff will develop a revised financial reporting process that will provide the members of the CMHCC with increased detail on the financial status of the university providers, including key expenditures and allocations of cost.*

*Responsibility: Executive Director, CMHCC*

*Timeline: A preliminary revised financial reporting process will be put in place not later than February 2005. Revised financial reporting requirements will be incorporated into the FY 2006-2007 biennium contracts.*

- *The CMHCC agrees to consider and develop procedures designed to validate the accuracy of information it receives from the university providers and will include such procedures in its contracts for FY 2006-2007.*

*Action: The CMHCC staff, with input from the university providers and TDCJ, will develop procedures to provide for periodic auditing of the university provider's financial records. Development of the procedures will consider the cost-effectiveness of such practices as requiring periodic risk assessments and independent audits to be performed and submitted to the CMHCC, requiring specific items to be verified and approved by the university's internal auditors, and/or direct review and auditing of financial transactions by the CMHCC.*

*Responsibility: Executive Director, CMHCC*

*Timeline: The revised procedures will be incorporated into the contracts for the FY 2006-2007 biennium to be effective not later than September 1, 2005.*

## The Committee Relies on the Department and University Providers to Monitor the Health Care Provided to Inmates

Statute requires the Committee to establish a procedure for monitoring the quality of care delivered by the health care providers. The monitoring of the quality of health care provided to inmates is primarily performed by the university providers themselves. The Department's monitoring activities are limited by statute to investigating medical grievances, ensuring access to care, and conducting periodic operational reviews of the health care provided at its prison units. The Department's Health Services Division (Division) gathers information about the quality of care and, given its budgetary constraints, does a good job of monitoring the health care provided to inmates.

The Committee's enabling statute charges the Department and university providers with cooperating in monitoring the quality of care and reporting the results of monitoring to the Committee. The Committee is responsible for monitoring and developing reports on general quality-of-care issues. However, reports on quality-of-care issues are actually developed by the Department and university providers. We did not evaluate the monitoring of quality of care that university providers perform. The university providers are responsible for self-monitoring access to care; monitoring quality of care via their operational performance evaluation system; and conducting peer reviews, credential reviews, and utilization management.

The Division is responsible for performing periodic audits of its prison units to ensure access to care and for monitoring and tracking infectious diseases. The Division also monitors and tracks (1) Step II grievances (grievances that are appealed because they are not settled at the prison unit level) that concern health care issues and (2) complaints about health care it receives from the patient liaison and the ombudsman processes (complaints from third parties). The Division reports that it handles approximately 500 Step II grievances and 1,000 patient liaison complaints per month. Grievances or complaints regarding the quality of care are forwarded to the university providers, who are responsible for responding. Responses to Step II grievances must be made within 45 days.

The Division has two units that monitor health care:

- The Office of Clinical Services/Professional Standards is responsible for the majority of the Division's monitoring. The Division monitors approximately 110 prison facilities throughout the state. There are only seven nurses (all Department employees) who provide statewide coverage. The health care facility at each prison unit is audited at least once every two years. These audits are scheduled around the accreditation audits of the American Correctional Association (ACA) and National Commission on Correctional Health Care (NCCHC), which occur every three years. Records are reviewed to ascertain compliance with accreditation standards, Division policies and procedures, and other regulatory requirements. The audit results are reported to the facility management team, which must submit a corrective action plan within 30 days. A low score results in the unit's receiving another audit and additional technical assistance.

Each health care facility self-monitors during the two years between ACA/NCCHC visits, and the Division reviews the self-monitoring reports.



Special investigations are also conducted based on allegations that the Division receives. Teams of nurses and investigators make unannounced visits to investigate.

The Quality Improvement Program is a statewide mechanism for monitoring both access to care and quality-of-care indicators. Facilities send weekly self-reported data to the Division about their access to care performance. Patients are required to be physically seen (for triage) within 48–72 hours (depending on whether it is a weekday or weekend) for a routine sick call complaint. If indicated, a physician is required to see the inmate within seven days of the sick call submission. There are nine access-to-care indicators that are measured. Facilities must score at least 80 percent on these indicators. If they do not, the nurse monitors will investigate and the unit must submit access-to-care data to the Division for 4–8 weeks or until its scores improve. The nurse monitors assigned to each facility review the self-reported information and look for trends among the indicators that are measured. Quality Improvement nurses also visit each facility once or twice a year to verify self-reported data.

- The Preventative Medicine Department monitors diseases such as tuberculosis, hepatitis, HIV, AIDS, and sexually transmitted diseases. In addition, the Preventative Medicine Department obtains, maintains, and reports statistical data on inmate infectious diseases, investigates food borne illnesses, and conducts continuing medical education training. It also coordinates employee health care programs (such as programs for occupational exposures and industrial medical screening).

The Division also has several committees that meet periodically to monitor health care issues. These committees include:

- The Monitoring and Consolidation Committee, which discusses monitoring results, including scores from the access-to-care monitoring.
- The Quality Assurance Committee, which discusses medical issues found in monitoring and the results of monitoring visits.
- The Quality Control Committee, which discusses inmate grievance and patient liaison statistics.

Other monitoring activities include those of medical review committees, which are joint efforts among various parties. Examples of these committees follow:

- The Morbidity and Mortality Committee is a joint committee of health care clinicians that reviews the circumstances and records of each inmate death. The committee then makes a determination about whether a referral to the university provider's peer review committee or a utilization review is necessary.
- The Pharmacy and Therapeutics Committee is a joint committee that develops and manages the drug formulary, publishes disease management guidelines, and conducts studies of drug usage and efficacy. In addition, this committee ensures consistency among the university providers.

- The System Leadership Council is a joint committee that evaluates quality and process issues that are problematic statewide.
- The Health Services Policy and Procedure Committee is a joint committee. One of the co-chairs of this committee is a member of the Correctional Managed Health Care Committee staff. This committee meets to discuss and implement new policies or revise existing policies.

### Management's Response

*While there are no recommendations offered by the audit team on this section dealing with monitoring, the CMHCC believes it is important to point out that the heading and text of this chapter indicates that the CMHCC relies on the Department and university providers to monitor health care. In response, we would point out that the statute establishing the CMHCC specifies this precise arrangement. In fact section 501.150 of the Government Code is entitled "Quality of Care Monitoring by the Department and Health Care Providers." It expressly requires that "the clinical and professional resources of the health care providers shall be used to the greatest extent feasible." It defines the role of TDCJ in monitoring and requires TDCJ and the universities to cooperate in monitoring. We would further point out that the department and the university providers operate within a framework established by the CMHCC partnership to facilitate such cooperation and report results of these monitoring efforts to the full Committee.*

### Auditor's Follow-Up Comment

The statute establishing the Committee also includes language that identifies responsibilities for the Committee in overseeing the monitoring of access to care and quality of care performed by the Department and the university providers. As mentioned above, the Committee is responsible for monitoring and developing reports on general quality-of-care issues and should oversee the monitoring performed by the Department and by the university providers.

## ***The Committee Does Not Report Detailed Financial Information to State Decision Makers***

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The Committee did not report the available fund balances it held at the end of each of the first three quarters in fiscal year 2004 to the Office of the Governor and the Legislative Budget Board (LBB), although this reporting is required by the General Appropriations Act. The available fund balances totaled \$3.9 million, \$2.7 million, and \$1.98 million at the end of each of the first three quarters, respectively, in fiscal year 2004. In addition, the Committee has had available fund balances each fiscal year since 1996. This balance was as much as \$31.8 million in fiscal year 2000. Although the Committee reported a portion of its available balances to the Legislature—and these funds were reappropriated for the following years—the Committee did not report the entire balance available each year. We were unable to find any evidence that the Committee has the authority to carry these excess funds forward from one biennium to the next.

The Committee's financial information is not readily available to the Legislature because UTMB maintains the Committee's funds. Because of this, the Committee's annual financial information is reported as part of the University of Texas System's Annual Financial Report (AFR), and it is not distinguishable from UTMB's funds. Furthermore, the Committee has earned \$3.2 million in interest since fiscal year 1998 because its funds are held outside the State Treasury. The Committee has not reported this interest to the Office of the Governor or the LBB.

### Chapter 4-A

## **The Committee Has Not Reported Available Funds**

In our analysis of the Committee's fiscal year 2004 financial transactions (through August 2004), we noted that there were available cash balances of \$3.9 million, \$2.7 million, and \$1.98 million at the end of first, second, and third quarters, respectively. However, the Committee did not report these balances to the Office of the Governor and LBB as required by Rider 48, page V-22, the General Appropriations Act (78th Legislature). Specifically, Rider 48 requires the Committee "to report to the Governor and the LBB all monies held in reserve for the Committee by [the university providers]."

### **Unexpended Balance Authority**

The General Appropriations Act (78th Legislature) defines "unexpended balance" as the unobligated balance remaining in an appropriation "that has not been set apart by the incurring of an obligation, commitment, or indebtedness by the state agency authorized to spend the appropriation." The funds for inmate health care are appropriated to the Department, which then takes out the funding for its Health Services Division and passes the remainder to the Committee in quarterly payments.

The Department's riders in the General Appropriations Act do not specifically grant unexpended balance authority for the funds in the Department's inmate health care strategies. We did not identify any other statute that grants unexpended balance authority or appropriates available fund balances to the Committee.

In addition, the Committee had a balance of \$3.2 million at the end of fiscal year 2003, and it has had fund balances as high as \$31.8 million since 1996 (see Table 2). Although the Committee did report some available reserves in prior years and these reported reserves were reappropriated as funding for subsequent years, it did not report its entire available balances. We were unable to determine whether the Committee has unexpended balance authority to carry these funds forward (see text box).

The Committee receives financial information from UTMB that notes the available fund balances, but it did not use this information to report the available fund balances as required. The Committee's quarterly reports to the LBB

state that university providers “report that they have no reserves.” The Committee asserts that the available fund balances we identified are not “reserves” because these funds are budgeted to be paid out during the year. According to the Committee, these funds are available because of “population lags.” The capitation rate—the rate per inmate per day that is used to calculate how much to pay university providers each quarter—is based on the estimated prison population. If the actual prison population is less than what is estimated for the quarter, the Committee does not pay university providers all the funds set aside for that quarter, thus creating available fund balances. The Committee does report the amount of these funds, called “population lag” funds, in its quarterly report, but it is not clear on the report that these are available reserves. As a result of the lack of accurate fiscal information, the Legislature, the Office of the Governor, and the LBB do not receive sufficient information to make decisions about the budget for inmate health care.

The Committee asserts that after the appropriations are transferred to UTMB—which then holds these funds for the Committee—the funds are no longer considered General Revenue and are subject to UTMB’s authority to carry forward other university funds. However, the Committee’s arrangement with UTMB regarding the Committee’s funds does not actually transfer ownership of the funds. By not appropriately returning the unexpended funds at the end of the fiscal year to the Department for lapsing purposes, the Committee does not allow the State Treasury full use of all available funds.

Table 2: Although the Committee reported some available reserves in prior years and these reported reserves were reappropriated as funding for subsequent years, it did not report its entire available balances.

Correctional Managed Health Care Committee Fund Balances								
	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
Agency Fund Balance	\$18,959,365	\$22,341,341	\$17,091,257	\$21,111,930	\$31,104,750	\$24,146,367	\$10,508,981	\$2,821,991
Committee Fund Balance	\$0	\$0	\$655,077	\$631,553	\$693,135	\$212,460	\$318,219	\$387,393
<b>Total Ending Fund Balance</b>	\$18,959,365	\$22,341,341	\$17,646,334	\$21,743,483	\$31,797,885	\$24,358,827	\$10,827,200	\$3,209,384
Funds Reappropriated	N/A	\$12,000,000 to the 1998-1999 biennium	N/A	\$19,100,000 to the 2000-2001 biennium	N/A	\$11,265,354 to the 2002-2003 biennium	N/A	—

Source: The University of Texas Medical Branch at Galveston accounting system and Committee records.

## Recommendations

The Committee should:

- Report its available balances (including funds from population lag) to the LBB and the Office of the Governor as required by the General Appropriations Act.
- Identify and return all unobligated funds at the end of each fiscal year to the Department so that these funds can be deposited into the State Treasury and lapsed as appropriate.

## Management's Response

- *The CMHCC agrees to clarify its reporting of available balances as recommended, however it does not agree that it has not reported funds as required by rider 48. As the audit report points out, population lag funds were reported in our quarterly reports, but were not specifically identified as reserves. The funds identified as "population lag" result from differences between the budgeted populations and the actual population experienced by TDCJ. The funds are budgeted for use by the university providers, but are paid to them on the basis of actual population. Because the funds are budgeted to cover a projected population over the course of a full year, slower growth at the beginning of the year may result in funds not being paid out at that time. Conversely, faster growth in later months would require that these funds be used to pay the universities. The Committee's reports have identified these funds as separate from reserves because they have been budgeted, and may be required to meet the contractual obligations.*

*Action: The CMHCC will revise its reporting format to clarify the status of all balances on hand to include any obligated funds, population lag funds or other funds available.*

*Responsibility: Executive Director, CMHCC*

*Timeline: A revised reporting format will be used on the ending FY 2004 and all FY 2005 quarterly financial reports, effective immediately.*

## Auditor's Follow-Up Comment

It is our understanding that the intent of rider 48 was to identify any excess funds that could be reappropriated or used for other purposes. Calling these funds "population lag funds" rather than "reserve funds" does not change the fact that they are excess funds, and these excess funds have been held by UTMB for the Committee (outside of the State Treasury) for the last four biennia.

## Management's Response (continued)

- *The CMHCC will seek direction from the Legislature on this issue. The Committee has, since the inception of the program, been permitted to carry unobligated funds at the end of a fiscal year forward to the next fiscal year. All such funds have been used to fund the correctional health care program, including any interest earned by the funds. However, should the Legislature determine that any unobligated funds should be lapsed at the end of each year; arrangements to do so can be made within the current operating structure.*

*Action: The CMHCC will seek legislative direction on the issue of carry-forward authority.*

*Responsibility: Executive Director, CMHCC*

*Timeline: Clarification will be sought for FY 2005 during the 2005 Legislative appropriations process.*

Chapter 4-B

## Details of the Committee's Financial Status Are Not Readily Available

The Committee's annual financial information is reported to the Comptroller of Public Accounts (Comptroller's Office) in the University of Texas System's AFR, which summarizes the Committee's financial data within the UTMB component of the AFR. The Committee's financial information is included in the primary university fund and, as it is reported, cannot be readily identified. The Department's Legislative Appropriations Request includes two strategies that contain the appropriations requests for inmate health care. These two strategies include the Committee's operating funds and funds for the Department's Health Services Division.

The Committee has earned more than \$3 million in interest income on the bank account balances that UTMB has held on the Committee's behalf since fiscal year 1998. In fiscal year 2000, the annual interest income was as much as \$971,525. The Committee has not reported any of this financial information to the LBB or the Comptroller's Office. Because these funds are held outside the State Treasury and are not reported in a separate AFR, they are not available for the State's use.

The Committee asserts that its enabling legislation allows it to report its annual financial information within the University of Texas System's AFR. However, Texas Government Code, Section 501.148 (c), states that "the Committee may contract with an individual for financial consulting services." This allows the Committee the option to use other accounting services. The Committee should adhere to the financial reporting requirements and guidelines prescribed in statute and by the Comptroller's Office. These include the following:

- Texas Government Code, Section 2101.011, requires state agencies to annually report their financial activities to the Office of the Governor, the Comptroller's Office, the State Auditor's Office, and the LBB. By definition (see Texas

Government Code, Section 403.013), the statutorily created Committee is a state agency and, therefore, is required to prepare and submit an AFR.

- The Comptroller's Office's reporting requirements include a requirement to submit a detailed statement of all assets, liabilities, and fund balances, including a summary by source of all revenues collected or accruing through the reporting agency.

Including the Committee's annual financial information in the University of Texas System's AFR does not provide complete and useful information regarding the Committee's finances. The LBB needs this financial information to assist the Legislature in budgetary decision making. Assuming the University of Texas System's AFR does include the specific amounts associated with the Committee, the current reporting structure does not appropriately match appropriations (sources of funds as reported in the LAR) with the financial reporting (uses of funds as reported in the AFR) for comparison purposes.

## Recommendations

The Committee should:

- Prepare complete and accurate AFRs and provide them to the LBB, the Comptroller's Office, the State Auditor's Office, and the Office of the Governor.
- Ensure that its AFRs comply with all of the reporting requirements specified by the Comptroller's Office for annual financial reporting by all state agencies and institutions of higher education.
- Ensure that its AFRs follow the requirements set forth in Texas Government Code, Section 2101.011, including requirements to identify sources of funds and provide detailed expenditure information.

## Management's Response

*The CMHCC will seek legislative direction on this issue. It has been the position of the CMHCC that for financial reporting purposes, it is a reporting component of UTMB. For eleven fiscal years the annual financial reporting requirements have been met by incorporating the Committee's data within UTMB's reporting. The CMHCC does not have a separate appropriation---its funds are included within the TDCJ appropriation. The CMHCC has never been assigned a separate agency number or designation by the Comptroller. If however, it is the will of the Legislature for the CMHCC to report as a separate state agency, the CMHCC will do so.*

*Action: The CMHCC will seek Legislative direction on the issue of annual financial reporting during the appropriations process.*

*Responsibility: Executive Director, CMHCC*

*Timeline: Clarification will be sought for FY 2005 during the 2005 Legislative appropriations process.*

### **Auditor's Follow-Up Comment**

Because the funds are appropriated to the Department, another option would be for the Committee's funds to be held by the Department and reported as part of the Department's AFR. This would also ensure that any unspent funds are returned to the State Treasury. Reporting the Committee's finances within UTMB's annual financial report creates a potential for a conflict of interest on the part of the Committee as mentioned in Chapter 1.



# Appendices

Appendix 1

## **Objectives, Scope, and Methodology**

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### **Objectives**

The objectives of this audit were to determine whether:

- Procurement processes are sufficient to ensure that the best contractors are fairly and objectively selected.
- Contract provisions are sufficient to hold contractors accountable for delivery of quality services and prevent the inappropriate or inefficient use of public funds.
- The methods that are used to establish contractor reimbursement are sufficient to ensure that the State pays a fair and reasonable price for services.
- Contractor oversight is sufficient to ensure that contractors consistently provide quality services and that public funds are spent effectively and efficiently.

### **Scope**

The scope of our audit included a review of correctional managed health care contract provisions for the 2002–2003 and 2004–2005 biennia. We reviewed expenditures and cost allocation systems from September 2001 through June 2004 at the University of Texas Medical Branch at Galveston (UTMB) as they related to the managed health care appropriation. The period of our review of financial data was from September 1995 through May 2004. At the Department of Criminal Justice (Department), we reviewed monitoring program processes and results from September 2002 through May 2004. We did not perform any financial work at the Texas Tech Health Sciences Center (Texas Tech) or at the Department.

### **Methodology**

Information collected included the following:

- Information from interviews with members and staff of the Correctional Managed Health Care Committee (Committee)
- Information from interviews with the Department board chairman, executive management, and staff
- Information from interviews with medical and administrative staff of UTMB's correctional managed health care program
- Information from interviews with Texas Tech's correctional managed health care staff conducted to gain an understanding of their processes

- Information from interviews with management and staff of the Legislative Budget Board and the Comptroller of Public Accounts
- Documentary evidence such as:
  - ♦ Organizational charts
  - ♦ Contracts between the Committee and the Department and between the Committee and university providers
  - ♦ Payroll, revenue, and expenditure data provided by the Committee and UTMB
  - ♦ Various management reports from the Committee, the Department, and university providers
  - ♦ Prior audit reports relating to inmate health care issued by the State Auditor's Office and the Department's Internal Audit Division
  - ♦ Recommendations from the Texas Performance Review and the Sunset Advisory Commission relating to inmate health care
  - ♦ Articles and reports about inmate health care from national publications including the American Correctional Association and the Council of State Governments
  - ♦ Audit reports about inmate health care from other states

Procedures and tests conducted included the following:

- Reviewed the governance of the managed health care system by attending meetings of the Committee and interviewing Committee members and staff, Department staff, UTMB correctional managed health care staff, and medical department staff at the Texas Youth Commission
- Reviewed the contracts between the Committee and the Department and between the Committee and university providers to determine whether they met state contracting requirements and best practices for contracting
- Reviewed the monitoring duties and processes of the Committee, the Department, and university providers
- Analyzed costs associated with inmate health care, including trends in the balances in the Committee's accounts held at UTMB
- Reviewed costs allocated to inmate health care by selecting a judgmental sample of expenditures and evaluating the supporting documentation to determine reasonableness and compliance with state law and opinions issued by the Office of the Attorney General
- Reviewed allocations of costs among UTMB's correctional health care business partners to determine whether costs were appropriately allocated

- Reviewed the results of the Department's monitoring of access to care

Criteria used included the following:

- State Auditor's Office contracting model
- Draft of the Texas Building and Procurement Commission's *Contract Management Guide*
- The Department's Health Services Division's policies and procedures
- The Committee's policies and procedures
- The Committee's enabling statutes
- Other standards and criteria identified during fieldwork

### **Project Information**

This audit was conducted in accordance with generally accepted government auditing standards. Fieldwork was conducted from April 2004 to September 2004. The following members of the State Auditor's staff performed this audit:

- Sandra Donoho, MPA, CISA, CIA, Project Manager
- Robert Kiker, Assistant Project Manager
- Brianna Lehman
- Sherry Sewell, CGAP
- Stephanie Sherrill
- Rene Valadez
- Leslie Ashton, CPA, QC Reviewer
- Nicole Guererro, MBA, Audit Manager

## *Correctional Managed Health Care Time Line*

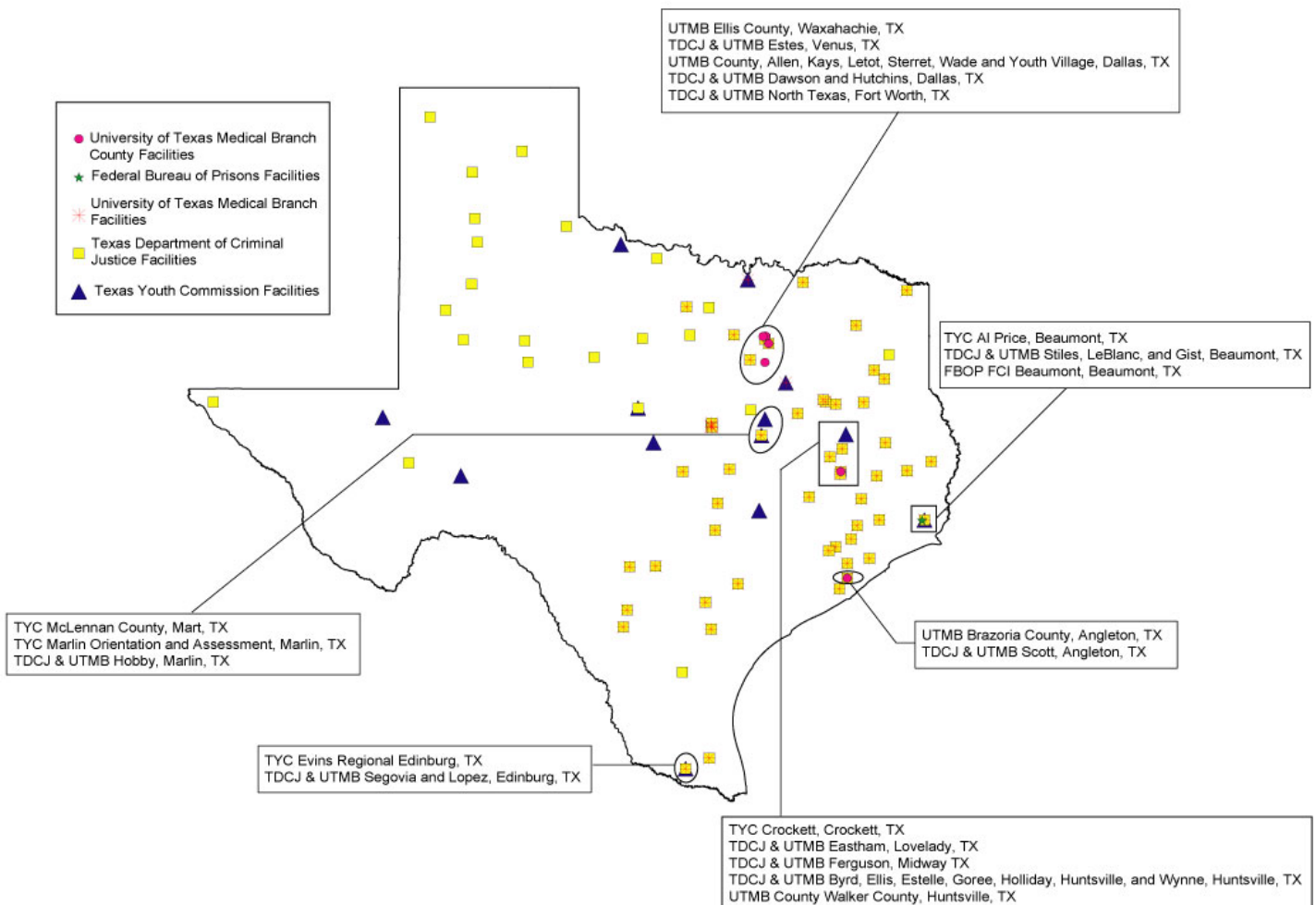
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- January 1993. Texas Performance Review's *Against the Grain* recommends managed health care for Texas prisons.
- 73rd Legislature, 1993. Senate Bill 378 establishes the Managed Health Care Advisory Committee with six members—two from the Department of Criminal Justice and two from each of the university providers.
- September 1994. The transition to managed health care is completed.
- December 1994. The House Corrections Committee completes its interim charge to study the implementation of correctional managed health care.
- 74th Legislature, 1995. House Bill 1567 changes the name of the Managed Health Care Advisory Committee to the Correctional Managed Health Care Advisory Committee and extends its authority to contract with other entities.
- January 1996. Psychiatric services are included in correctional managed health care.
- December 1996. The House Corrections Committee completes a second interim charge to study the implementation of correctional managed health care.
- January 1998. The State Auditor's Office releases its report on managed health care (*An Audit Report on Managed Health Care at the Texas Department of Criminal Justice*, SAO Report No. 98-013).
- July 1998. The Sunset Advisory Committee releases its report recommending changes to the Correctional Managed Health Care Advisory Committee.
- 76th Legislature, 1999. Senate Bill 371 incorporates the Sunset Advisory Committee's recommendations and continues the Correctional Managed Health Care Advisory Committee as the Correctional Managed Health Care Committee. It also adds three public members to the Committee, two of whom must be licensed to practice medicine in Texas.

Source: The Correctional Managed Health Care Committee's *Committee Member Training and Orientation Material*, July 2002

## Texas Incarceration Facilities Map

This map shows the locations of facilities managed by correctional entities that contract with the University of Texas Medical Branch at Galveston to provide health care to inmates. The correctional entities include the Department of Criminal Justice, the Texas Youth Commission, the Federal Bureau of Prisons, and several county jails. The circles indicate areas where facilities are located close enough to share health care staff.



## Trends in the Costs of Certain Drugs

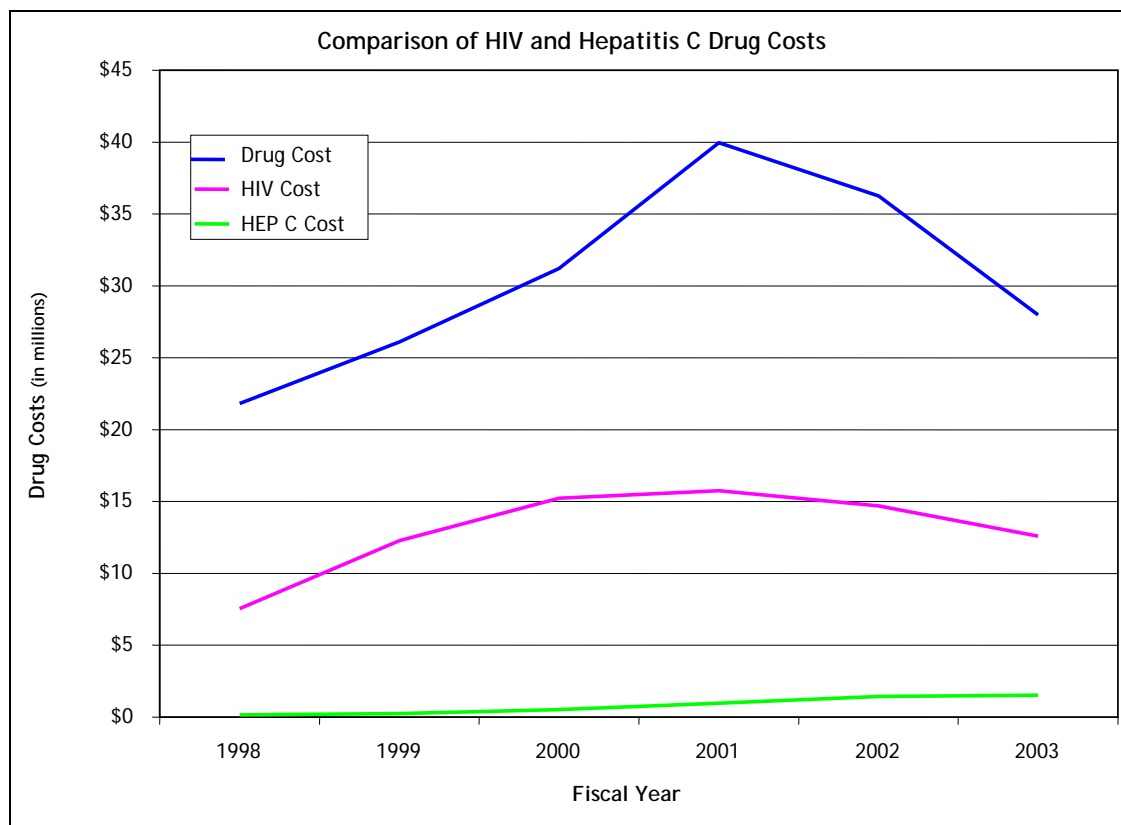
The cost of drugs to treat HIV infections and hepatitis C are decreasing, but at a slower rate than the cost of all drugs prescribed is decreasing.

The majority of the cost of drugs for inmates are attributable to HIV patients (the cost of these drugs represented 45 percent of all inmate drug costs in fiscal year 2003, or \$12.6 million). The cost of HIV drugs has decreased from \$15.7 million in fiscal year 2001 to \$12.6 million in fiscal year 2003.

The cost of hepatitis C drugs has risen from \$151,107 in fiscal year 1998 to \$1.5 million in fiscal year 2003. The increase in fiscal year 2003 represents a 6.24 percent increase from fiscal year 2002 (or an \$89,757 increase).

Figure 1 compares trends in the costs of HIV and hepatitis C drugs.

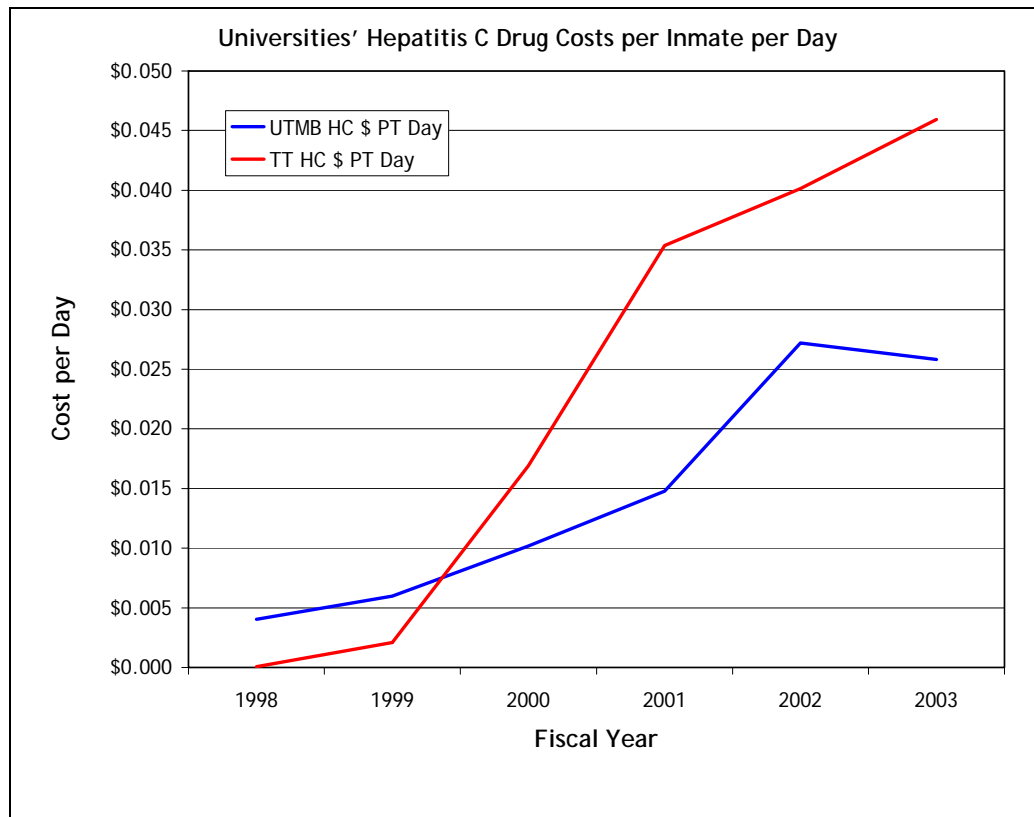
Figure 1



Source: Unaudited information from university providers was analyzed to determine these trends.

The cost of hepatitis C drugs is declining at UTMB and increasing at Texas Tech. Drug costs are lower at UTMB due to public health pricing. UTMB qualifies for Public Health Services pricing, which is lower than non-Public Health Services pricing. Texas Tech does not qualify for these lower drug prices. Figure 2 compares trends in UTMB's and Texas Tech's costs for hepatitis C drugs per inmate (not just inmates with hepatitis C).

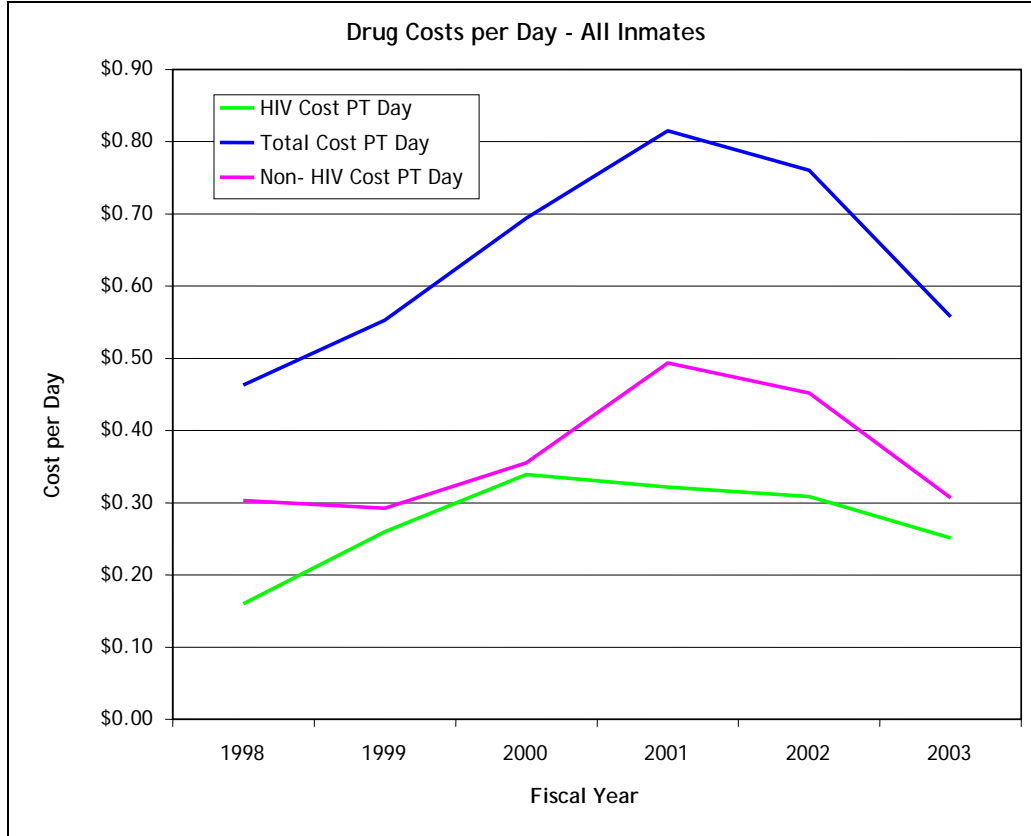
Figure 2



Source: Unaudited information from university providers was analyzed to determine these trends.

The cost of HIV drugs is declining. Figure 3 shows the cost of HIV drugs per inmate (not just inmates with HIV). The daily costs for HIV, non-HIV, and total drug costs (per patient) have all decreased from fiscal year 2001 through fiscal year 2003, with the HIV drug costs decreasing at a slower rate.

Figure 3

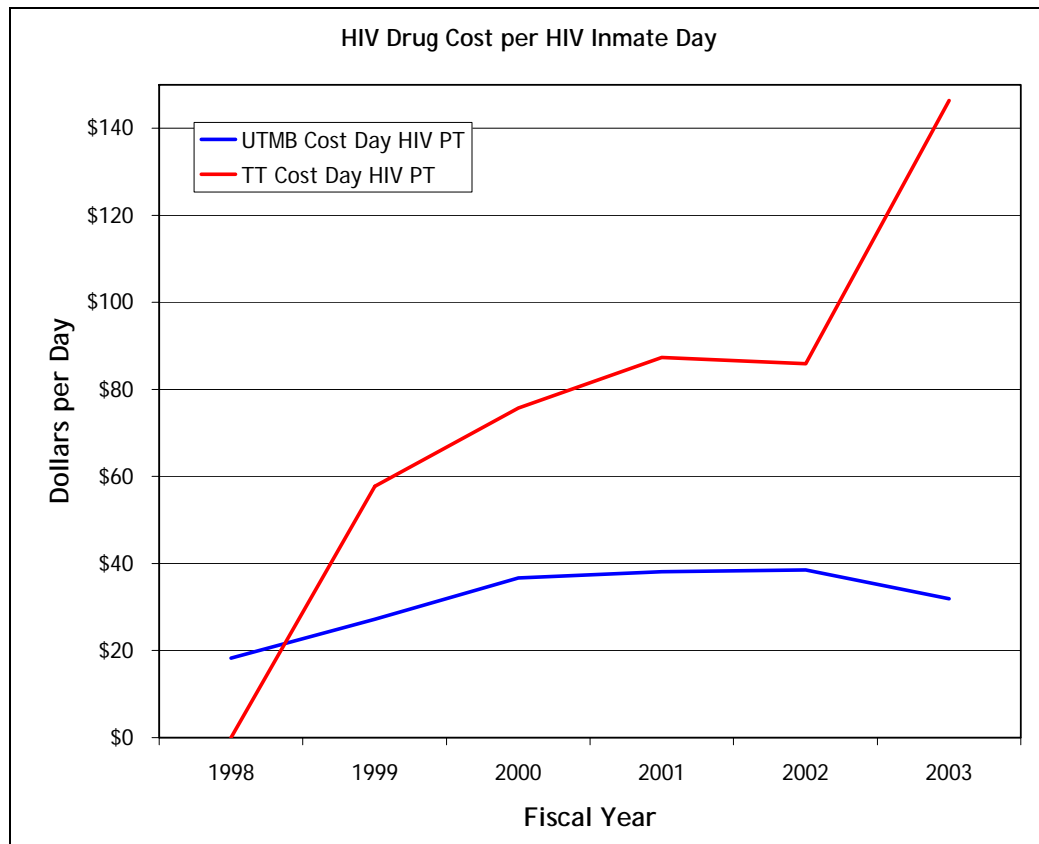


Source: Unaudited information from university providers was analyzed to determine these trends.



Figure 4 shows that the costs of HIV drugs is declining at UTMB and increasing at Texas Tech. Drug costs are higher at Texas Tech because UTMB qualifies for Public Health Services, but Texas Tech does not.

Figure 4



Source: Unaudited information from university providers was analyzed to determine these trends.

## Financial Information Compiled by the Committee

Below is a reproduction of the financial information that the Correctional Managed Health Care Committee compiled for inmate health care provided by both UTMB and Texas Tech in the third quarter of fiscal year 2004.

### COMBINED UTMB & TTUHSC FY 2004 Third Quarter

	Medical Services	Private Prisons	Mental Health Services	Total
<b>Population Served</b>	<b>137,466</b>	<b>10,692</b>	<b>148,158</b>	<b>148,158</b>
<b>Revenue</b>				
Capitation Payments	\$215,441,827	\$6,113,749	\$28,089,041	\$249,644,617
State Reimbursement Benefits	\$23,133,965	\$0	\$4,599,090	\$27,733,055
Other Misc Revenue	\$142,134	\$0	\$0	\$142,134
<b>Total Revenue</b>	<b>\$238,717,926</b>	<b>\$6,113,749</b>	<b>\$32,688,131</b>	<b>\$277,519,806</b>
<b>Expenses</b>				
<b>Onsite Services</b>				
Salaries	\$81,912,865	\$2,629,440	\$21,539,896	\$106,082,201
Benefits	\$20,915,602	\$599,877	\$5,314,125	\$26,829,604
Operating (M&O)	\$9,852,429	\$562,244	\$491,555	\$10,906,228
Professional Services	\$924,073	\$0	\$212,121	\$1,136,194
Contracted Units/Services	\$16,703,748	\$0	\$0	\$16,703,748
Travel	\$305,901	\$33,153	\$64,451	\$403,505
Telemedicine	\$919,513	\$0	\$0	\$919,513
Capital Equip/Depreciation	\$359,841	\$13,912	\$140,046	\$513,799
Estimated IBNR	\$54,278	\$0	\$31,103	\$85,381
<b>Subtotal Onsite Expenses</b>	<b>\$131,948,250</b>	<b>\$3,838,626</b>	<b>\$27,793,297</b>	<b>\$163,580,173</b>
<b>Pharmacy Services</b>				
Salaries	\$3,456,476	\$0	\$0	\$3,456,476
Benefits	\$786,141	\$0	\$0	\$786,141
Operating (M&O)	\$16,258,044	\$351,331	\$0	\$16,609,375
Professional Services	\$4,092,724	\$0	\$0	\$4,092,724
Contracted Units/Services	\$0	\$0	\$0	\$0
Travel	\$14,284	\$0	\$0	\$14,284
Capital Equip/Depreciation	\$0	\$0	\$0	\$0
Estimated IBNR	\$659,022	\$0	\$0	\$659,022
<b>Subtotal Pharmacy Expenses</b>	<b>\$25,266,69</b>	<b>\$351,331</b>	<b>\$0</b>	<b>\$25,618,022</b>
<b>Offsite Services</b>				
University Professional Services	\$16,123,551	\$0	\$0	\$16,123,551
Freeworld Provider Services	\$13,693,594	\$534,580	\$0	\$14,228,174
UTMB or TTUHSC Hospital	\$54,155,563	\$0	\$0	\$54,155,563
Estimated IBNR	\$2,454,814	\$151,986	\$0	\$2,606,800
<b>Subtotal Offsite Expenses</b>	<b>\$86,427,522</b>	<b>\$686,566</b>	<b>\$0</b>	<b>\$87,114,088</b>
<b>Indirect Expenses</b>	<b>\$9,633,028</b>	<b>\$295,204</b>	<b>\$1,656,296</b>	<b>\$11,584,528</b>
<b>Total Expenses</b>	<b>\$253,275,492</b>	<b>\$5,171,727</b>	<b>\$29,449,593</b>	<b>\$287,896,812</b>
<b>Revenue - Expenses</b>	<b>(\$14,557,566)</b>	<b>\$942,022</b>	<b>\$3,238,538</b>	<b>(\$10,377,006)</b>

## Management's Response

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## CORRECTIONAL MANAGED HEALTH CARE

1300 11<sup>th</sup> Street, Suite 415 ♦ Huntsville, Texas 77340  
(936) 437-1972

Allen R. Hightower  
Executive Director

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November 5, 2004

Lawrence F. Alwin, CPA  
State Auditor  
Robert Johnson Building  
1501 N. Congress Avenue  
Austin, Texas 78701

Dear Mr. Alwin:

Thank you for the opportunity to provide a management response to the issues and recommendations raised in your recent review entitled, "Management of Correctional Managed Health Care Contracts." We also appreciate the courtesy shown by your audit staff during their fieldwork. We recognize that audit reports are designed to identify opportunities for improvement and we look forward to working with our partner agencies and state leadership to continue to improve the correctional health care program.

This management response addresses each recommendation offered in the report. However, before going to the specific management responses for each recommendation, we would like to offer several observations that we believe offer additional perspective to this report.

The correctional health care program was established and has operated as a *partnership* between the Texas Department of Criminal Justice and two of the state's medical schools: The University of Texas Medical Branch and Texas Tech University Health Sciences Center. The Legislature created a formal mechanism, the Correctional Managed Health Care Committee (CMHCC) to coordinate the activities of this partnership. Each of the three partner agencies remains individually accountable to its management team, to its own Board, to the Legislature and to the Governor. Key roles of the CMHCC include serving as a forum for communication between the partner agencies; managing disputes between the agencies; allocating resources provided to the correctional health care program; and, insuring that a common standard of legally required health care is provided statewide. These roles are an integral component of the success achieved through this unique partnership. To suggest that the CMHCC is no longer needed due to the limited role it has played in the financial activities of the university providers fails to recognize the importance of the Committee's involvement in managing the communication, service delivery and arbitration roles vital to this partnership.

It is true that the CMHCC's focus has been on the *delivery of services* under the terms of the contractual agreements that govern the correctional health care program. Our primary concern has been that TDCJ and the state receive the services agreed upon in the contracts. Throughout the eleven year history of the program, this focus on service delivery and improvements to access and quality of care issues has been a constant. Because each of the agencies is subject to and must account for its financial activities related to the correctional health care program in the same manner as other programs under their purview; each agency is subject to direct legislative oversight; and the contracts for services are capitated (meaning a set rate per offender) based on a level of appropriations set by the Legislature; the CMHCC has historically had a limited involvement in reviewing and reporting on the detailed financial activities of the partner agencies.

In several parts of the report, the auditors seem to suggest that the CMHCC should function and be evaluated as if it was a separate state agency. In response, the CMHCC would point out that the organization, structure and operating arrangements integral to this unique interagency partnership have been examined a number of times throughout the program's history. Interim studies of both House and Senate Committees have examined the correctional health care program and its performance. A comprehensive state audit report in 1998 was followed by a Sunset review during the 76<sup>th</sup> Legislature. The enabling legislation for the program has been reviewed and refined in four separate Legislative sessions. The CMHCC has represented the partnership during the appropriations process through five legislative sessions. Consideration of changes to the structure of the CMHCC, the composition of the CMHCC membership, and to its staff's administrative and organizational reporting responsibilities have been considered and either adopted or rejected by the Legislature. One of the primary goals in the establishment of the program was to avoid unnecessary duplication of resources and functions within the partnership and to leverage the enhanced ability of the university providers to respond to changing needs and circumstances involved in the delivery of services. In its coordination role, the CMHCC has never been considered a stand-alone state agency, but rather has relied on UTMB to serve as the administrative agent for the CMHCC.

The report also notes that the structure of the CMHCC and its staff present potential conflicts of interest. We would note that the CMHCC statutorily consists of representatives of all three partner agencies and public members appointed by the Governor. The CMHCC is intended to manage this partnership—*by actively including the partner agencies in the process*. By providing each partner with a voice in the correctional health care program's management, all three agencies move towards common goals and objectives. Public membership was added to the CMHCC during the Sunset process to provide further balance and perspective to the Committee. Five of the nine members of the CMHCC must be physicians and the Governor designates one of the physicians to serve as Chair of the CMHCC. The purpose of this change, also made through the Sunset process, was to insure appropriate clinical leadership for the program at all times. We believe that this action represents an expressed legislative intent for the Committee to maintain a focus on service delivery. To the extent that the CMHCC's staff does not include clinical expertise, it is because the CMHCC membership itself supplies this expertise; and, as directed by statute, the clinical and professional resources of the health care providers are used to the greatest extent feasible for clinical oversight of quality of care issues.

The success of this arrangement has been largely due to the ability of the partner agencies to work within the cooperative framework established by the CMHCC. The management of this interagency partnership has relied upon the recognition of each state agency as equal partners in the success or failure of the program and the ability to come together under the umbrella of the CMHCC to resolve problems, improve the delivery of services and to respond to challenges. We believe that through this same paradigm, the correctional health care program can and will address the recommendations presented in this audit report.

Responses to specific recommendations of the report follow:

**Chapter 1**

**Recommendation:** *To carry out its responsibilities independently and effectively, the Committee should:*

- *Perform all of its contractual requirements, including monitoring the financial aspects of the contract and mediating disputes concerning medical issues.*

**Management Response:** The CMHCC agrees with this recommendation, including enhancing the monitoring of the financial aspects of the contract. The CMHCC however, notes that it is already involved in mediating disputes concerning medical issues as the Chair of the CMHCC oversees regular medical directors meetings where such issues are discussed and mediated. In addition, the TDCJ Medical Director is also a member of the CMHCC. To the extent that the medical directors cannot reach a consensus through this mechanism, such issues can be brought to the full CMHCC body for decisions. This process is clearly outlined in the CMHCC's contracts.

**Action:** Management will develop and present for approval by the full CMHCC a written plan to enhance the financial monitoring responsibilities of the CMHCC's staff. The plan will be incorporated into the contracts for the FY 2006-2007 biennium.

**Responsibility:** Executive Director, CMHCC

**Timeline:** Development of a written plan to enhance the financial monitoring responsibilities of the CMHCC will begin immediately. A final plan will be fully implemented not later than the next contract cycle on September 1, 2005.

**Recommendation:** *To carry out its responsibilities independently and effectively, the Committee should:*

- *Separate its accounting and payroll functions from UTMB.*

**Management Response:** The CMHCC does not agree that it is necessary to separate its accounting and payroll functions from UTMB in order to manage its responsibilities. As an alternative, the CMHCC does agree that it can take actions to better document that the CMHCC operates independently of UTMB. The CMHCC's accounts are maintained separately by UTMB. Payments to and from those accounts are authorized only by duly authorized representatives of the CMHCC. Staff of the CMHCC, while paid through the UTMB payroll systems, are organizationally responsible to the full CMHCC. As outlined in statute, the CMHCC hires an administrator, who in turn is authorized to employ additional personnel as necessary to fulfill the committee's duties.

Costs for the operation of the CMHCC are paid from funds appropriated for correctional health care. Short of creating a new and separate accounting and payroll function for the CMHCC alone, the perception of a conflict of interest would exist regardless of which partner agency provided administrative support for the CMHCC.

Action: The CMHCC will develop a memorandum of understanding between the CMHCC and UTMB that clearly documents the operational procedures for providing administrative support for the CMHCC. The MOU will clearly specify that CMHCC staff work for the CMHCC and are independent of UTMB.

Responsibility: Executive Director, CMHCC

Timeline: An MOU will be developed and put in place not later than February 1, 2005.

#### **Chapter 2-A**

Recommendation: *The Committee should include the following provisions in its contracts with university providers:*

- *Methods for evaluating contractor performance, including clearly defined performance measures.*
- *Sanctions for contractor non-performance.*
- *Financial reporting requirements*
- *Right-to-audit provisions.*

Management Response: The CMHCC agrees with this recommendation and will revise its contracts for the next biennium to reflect these recommendations.

Action: CMHCC will review the current contract documents and develop better defined performance measures and evaluations of performance, adopt sanctions for non-performance and include more detailed financial reporting requirements and right-to-audit provisions in its contracts for the FY 2006-2007 biennium.

Responsibility: Executive Director, CMHCC

Timeline: New contract documents for the FY 2006-2007 biennium will be drafted and developed in time for implementation September 1, 2005.

Recommendation: *The Committee should make efforts to renew the contracts on a timely basis to avoid periods of contract lapses. It should consider financial sanctions (such as a reduction of the contract amount based the number of days the contract has lapsed) to encourage university providers to sign contracts in a timely manner.*

Management Response: The CMHCC agrees with this recommendation and will take action to encourage the execution of the contracts in a timely manner.

Action: The process of contract renewal for the next cycle of contracts will be initiated not later than February 1, 2005 in order to provide sufficient time to review and negotiate the terms of the contracts prior to September 1, 2005. Should circumstances beyond the control of the CMHCC delay execution of the contracts by September 1, 2005, properly executed contract extensions will be put in place to insure that there is no lapse in contract coverage.

Responsibility: Executive Director, CMHCC

Timeline: Contract discussions and changes will be initiated by February 1, 2005 and final execution of the contracts will be sought prior to September 1, 2005.

Recommendation: *The Committee should include in its contracts evidence of legal review or approval.*

Management Response: The CMHCC agrees to require that evidence of legal review be included on the actual contract documents. Legal counsel from each partner agency already participates in the contract review and approval process; however there is not a standardized documentation of these reviews.

Action: The CMHCC will amend the contract signature blocks to require a formal acknowledgement of legal review to be documented on the contract. In addition, the CMHCC will request a legal review of the contracts by the Office of Attorney General, in lieu of hiring a separate counsel for the Committee.

Responsibility: Executive Director, CMHCC

Timeline: The legal reviews will be documented on the contract documents beginning with the next cycle of contracts, to be implemented not later than September 1, 2005.

#### **Chapter 2-B**

Recommendation: *The Committee's contracts with university providers should include:*

- *Financial reporting requirements that include reporting the actual costs of providing inmate health care.*

Management Response: The CMHCC agrees to include in its contracts more detailed reporting of health care expenditures from the universities and to take steps to validate the accuracy of the information it receives.

Action: The CMHCC will meet with the financial staff of each of the three partner agencies and develop requirements and common formats for a more detailed financial reporting of expenditures from the universities. This revised reporting process will be developed not later than February 2005 and all FY 2005 reporting will be revised to reflect the more detailed reporting requirements.

The revised reporting formats will subsequently be incorporated into the contracts for FY 2006-2007. The CMHCC will also develop additional procedures designed to validate the accuracy of information it receives from the university providers. Development of the

procedures will consider the cost-effectiveness of such practices as requiring periodic risk assessments and independent audits to be performed and submitted to the CMHCC, requiring specific items to be verified and approved by the university's internal auditors, and/or direct review and auditing of financial transactions by the CMHCC.

In addition, the CMHCC will initiate an immediate review of the losses reported by the university providers to ascertain the true extent of such losses reported for FY 2004 and FY 2005. Such a review will include a correction of reported expenses to disallow any expenses determined to be inappropriate and to account for any inaccuracies in allocation of costs between programs.

Responsibility: Executive Director, CMHCC

Timeline: Revised financial reporting formats and requirements will be developed and be put into place by February 2005. The revised reporting formats and requirements will be included in the next contracts for FY 2006-2007 to be effective September 1, 2005. A more detailed review of reported FY 2004 losses shall be initiated immediately and completed prior to any final adjustments for loss reimbursements are settled.

Recommendation: *The Committee's contracts with university providers should include:*

- ♦ *Definitions of allowable and unallowable costs.*

Management Response: Payments to the university providers are made on a capitated basis, represent funds earned by the universities and are considered by the universities as local funds. As such, rules applicable to university local funds apply. However, the CMHCC agrees to include in its future contracts, expenditure restrictions on certain expenses that could be considered unallowable, including food and gifts for employees and flowers. The CMHCC specifically does not agree however, that funds earned by the university should be restricted from paying for moving expenses of newly hired professional staff. The recruitment and retention of professional medical staff takes place in an extremely competitive environment. One of the reasons the universities were asked to become involved in correctional health care is their enhanced flexibility to legally utilize such measures to recruit and retain medical staff. Paying for moving expenses for a physician to relocate is an industry standard practice necessary to insure qualified professionals are available to provide health care services.

Action: The CMHCC will work with the university providers and TDCJ to identify expenses that will not be reimbursed under the contracts. Such restrictions will be included in the next contracts for FY 2006-2007. In addition, as a part of the review of FY 2004/2005 losses detailed above, the list of restricted expenses will be used to correct FY 2004 and FY 2005 financial reports.

Responsibility: Executive Director, CMHCC

Timeline: A listing of restricted expenses will be developed and included as a part of the revised financial reporting requirements to be effective not later than February 2005. The restrictions will be incorporated into the FY 2006-2007 contracts to be effective September 1, 2005.



Recommendation: *The Committee's contracts with university providers should include:*

- *Requirements to maintain detailed payroll records that track actual time spent providing health care at Department facilities.*

Management Response: The CMHCC agrees with this recommendation and will include such requirements in its contracts for the FY 2006-2007 biennium. Allocations of payroll costs between contracts are being made on a budgeted hour basis; however time reporting systems allowing for the adjustment of those allocations based on actual hours or other such validation systems for time reporting allocations will need to be developed.

Action: The CMHCC will include in our FY 2006-2007 contracts requirements for maintenance of detailed payroll allocation and time-keeping records for any employees providing services for multiple contracts. In addition, the CMHCC, working with the university providers, will develop procedures that call for periodic validation of such allocations.

Responsibility: Executive Director, CMHCC

Timeline: The requirements will be incorporated into the FY 2006-2007 contracts to be effective not later than September 1, 2005.

### **Chapter 3-A**

Recommendation: *The Committee should increase its monitoring of the financial aspects of its contracts with university providers.*

Management Response: The CMHCC agrees to increase its monitoring activities related to the financial aspects of the contracts. Historically, the CMHCC has focused on insuring that the services called for in the contracts were delivered and because the university providers are state institutions with individual accountability to the Legislature, has relied on those individual institutions to exercise financial oversight of funds they earned under the contracts. The CMHCC will work with the Legislature during the appropriations process to better define financial monitoring expectations.

Action: The CMHCC will review the responsibilities of its staff to incorporate increased financial monitoring of the university provider contracts. The monitoring activities will include the collection, review and analysis of supporting levels of detail for information provided by the universities and provisions for the periodic validation of reported data.

Responsibility: Executive Director, CMHCC

Timeline: Preliminary revised financial monitoring activities will be put in place not later than February 2005, and further refined by the end of FY 2005 so as to be in place for the FY 2006-2007 biennium contracts.

Recommendation: *The Committee should ensure that committee staff review the detailed financial records of university providers on a monthly basis and provide more detailed information to the Committee at its quarterly meetings to enable the Committee to make more informed financial decisions.*

Management Response: The CMHCC agrees with this recommendation. CMHCC staff will work with the university providers to develop access to detailed financial records for review and analysis on a monthly basis. Reports on the financial monitoring and an increased level of detail on the financial status of the university providers will be provided to the members of the CMHCC at their quarterly meetings.

Action: The CMHCC staff will work with the university providers to develop monthly detailed financial records for review and analysis. In addition, the CMHCC staff will develop a revised financial reporting process that will provide the members of the CMHCC with increased detail on the financial status of the university providers, including key expenditures and allocations of cost.

Responsibility: Executive Director, CMHCC

Timeline: A preliminary revised financial reporting process will be put in place not later than February 2005. Revised financial reporting requirements will be incorporated into the FY 2006-2007 biennium contracts.

Recommendation: *The Committee should ensure that Committee staff provide for a periodic audit of university providers' financial records related to correctional managed health care.*

Management Response: The CMHCC agrees to consider and develop procedures designed to validate the accuracy of information it receives from the university providers and will include such procedures in its contracts for FY 2006-2007.

Action: The CMHCC staff, with input from the university providers and TDCJ, will develop procedures to provide for periodic auditing of the university provider's financial records. Development of the procedures will consider the cost-effectiveness of such practices as requiring periodic risk assessments and independent audits to be performed and submitted to the CMHCC, requiring specific items to be verified and approved by the university's internal auditors, and/or direct review and auditing of financial transactions by the CMHCC.

Responsibility: Executive Director, CMHCC

Timeline: The revised procedures will be incorporated into the contracts for the FY 2006-2007 biennium to be effective not later than September 1, 2005.

### **Chapter 3-B**

#### *No recommendations*

Management Response: While there are no recommendations offered by the audit team on this section dealing with monitoring, the CMHCC believes it is important to point out that the heading and text of this chapter indicates that the CMHCC relies on the Department and university providers to monitor health care. In response, we would point out that the statute establishing the CMHCC specifies this precise arrangement. In fact section 501.150 of the Government Code is entitled "Quality of Care Monitoring by the Department and Health Care Providers." It expressly requires that "the clinical and professional resources of the health care providers shall be used to

the greatest extent feasible.” It defines the role of TDCJ in monitoring and requires TDCJ and the universities to cooperate in monitoring. We would further point out that the department and the university providers operate within a framework established by the CMHCC partnership to facilitate such cooperation and report results of these monitoring efforts to the full Committee.

**Chapter 4-A**

**Recommendation:** *The Committee should report its available balances (including funds from population lag) to the LBB and the Office of the Governor as required by the General Appropriations Act.*

**Management Response:** The CMHCC agrees to clarify its reporting of available balances as recommended, however it does not agree that it has not reported funds as required by rider 48. As the audit report points out, population lag funds were reported in our quarterly reports, but were not specifically identified as reserves. The funds identified as “population lag” result from differences between the budgeted populations and the actual population experienced by TDCJ. The funds are budgeted for use by the university providers, but are paid to them on the basis of actual population. Because the funds are budgeted to cover a projected population over the course of a full year, slower growth at the beginning of the year may result in funds not being paid out at that time. Conversely, faster growth in later months would require that these funds be used to pay the universities. The Committee’s reports have identified these funds as separate from reserves because they have been budgeted, and may be required to meet the contractual obligations.

**Action:** The CMHCC will revise its reporting format to clarify the status of all balances on hand to include any obligated funds, population lag funds or other funds available.

**Responsibility:** Executive Director, CMHCC

**Timeline:** A revised reporting format will be used on the ending FY 2004 and all FY 2005 quarterly financial reports, effective immediately.

**Recommendation:** *The Committee should identify and return all unobligated funds at the end of each fiscal year to the Department so that these funds can be deposited into the State Treasury and lapsed as appropriate.*

**Management Response:** The CMHCC will seek direction from the Legislature on this issue. The Committee has, since the inception of the program, been permitted to carry unobligated funds at the end of a fiscal year forward to the next fiscal year. All such funds have been used to fund the correctional health care program, including any interest earned by the funds. However, should the Legislature determine that any unobligated funds should be lapsed at the end of each year; arrangements to do so can be made within the current operating structure.

**Action:** The CMHCC will seek legislative direction on the issue of carry-forward authority.

**Responsibility:** Executive Director, CMHCC

Lawrence F. Alwin, CPA  
November 5, 2004  
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Timeline: Clarification will be sought for FY 2005 during the 2005 Legislative appropriations process.

**Chapter 4-B**

Recommendation: *The Committee should:*

- *Prepare complete and accurate AFRs and provide them to the LBB, the Comptroller's Office, the State Auditor's Office, and the Office of the Governor.*
- *Ensure that its AFRs comply with all of the reporting requirements specified by the Comptroller's Office for annual financial reporting by all state agencies and institutions of higher education.*
- *Ensure that its AFRS follow the requirements set forth in Texas Government Code, Section 2101.011, including requirements to identify sources of funds and provide detailed expenditure information.*

Management Response: The CMHCC will seek legislative direction on this issue. It has been the position of the CMHCC that for financial reporting purposes, it is a reporting component of UTMB. For eleven fiscal years the annual financial reporting requirements have been met by incorporating the Committee's data within UTMB's reporting. The CMHCC does not have a separate appropriation---its funds are included within the TDCJ appropriation. The CMHCC has never been assigned a separate agency number or designation by the Comptroller. If however, it is the will of the Legislature for the CMHCC to report as a separate state agency, the CMHCC will do so.

Action: The CMHCC will seek Legislative direction on the issue of annual financial reporting during the appropriations process.

Responsibility: Executive Director, CMHCC

Timeline: Clarification will be sought for FY 2005 during the 2005 Legislative appropriations process.

The CMHCC looks forward to addressing the issues raised in this audit. The CMHCC and each of the agencies that comprise this partnership remain committed to improving the correctional health care system. Because several portions of this management response provide useful and necessary context to the discussion on the issues raised in the audit report, we would respectfully request that this management response be included in its entirety in the report. Once again, thank you for the courtesies and professionalism shown by your staff in conducting this review.

Sincerely,



Allen Hightower  
Executive Director

Copy: Chairman and Members, CMHCC

Copies of this report have been distributed to the following:

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The Honorable David Dewhurst, Lieutenant Governor, Joint Chair  
The Honorable Tom Craddick, Speaker of the House, Joint Chair  
The Honorable Steve Ogden, Senate Finance Committee  
The Honorable Thomas “Tommy” Williams, Member, Texas Senate  
The Honorable Talmadge Heflin, House Appropriations Committee  
The Honorable Brian McCall, House Ways and Means Committee

### **Office of the Governor**

The Honorable Rick Perry, Governor

### **Correctional Managed Health Care Committee**

Dr. Ben Raimer, Chair  
Mr. Elmo Cavin, Member  
Ms. Jeannie Frazier, Member  
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