



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

DEC 08 2010

The Honorable Edward J. Kasemeyer  
Acting Chair, Budget and Taxation Committee  
3 West, Miller Senate Office Building  
Annapolis, MD 21401-1991

The Honorable Norman H. Conway  
Chair, Appropriations Committee  
121 Lowe House Office Building  
Annapolis, MD 21401-1991

RE: 2010 Joint Chairmen's Report (Page 78), M00B01.03 – Incomplete Survey Activities Resulting from Insufficient Staffing Level

Dear Chairmen Kasemeyer and Conway:

Pursuant to page 78 of the Joint Chairmen's Report of 2010, the Office of Health Care Quality (OHCQ), the agency within the Department of Health and Mental Hygiene that is responsible for monitoring the quality of care in Maryland health care facilities and community residential programs, respectfully submits this report on survey activities for FY 2010.

I am proud of OHCQ's efforts during the year to maximize efficiencies, focusing limited resources on programs with greatest impact on people's safety and health. While the continued surveyor deficit will render it difficult to accomplish its growing workload, OHCQ will continue to effectively minimize the impact of the staffing shortage by evaluating priorities and workload demands to ensure that staff are deployed in areas most sensitive, such as assisted living facilities, facilities for persons with developmental disabilities, and nursing homes.

I hope this information is useful. If you have questions regarding this report, please contact Ms. Wynee Hawk, Director of the Office of Government Affairs, at 410-767-6481.

Sincerely



John M. Colmers  
Secretary

Enclosure

cc: Wendy Kronmiller, Chief of Staff, Office of the Secretary  
Nancy Grimm, RN, JD, Director, Office of Health Care Quality  
Wynee Hawk, RN, JD, Director, Office of Governmental Affairs

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DEPARTMENT OF HEALTH & MENTAL HYGIENE

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Martin O'Malley, Governor  
Anthony G. Brown, Lt. Governor  
John M. Colmers, Secretary  
Nancy Grimm, Director

*FY 2010  
Survey Activities for  
The Office of Health Care Quality<sup>1</sup>*

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<sup>1</sup> This report is submitted pursuant to the 2010 Joint Chairmen's Report

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## Executive Summary

On behalf of the Office of Health Care Quality (OHCQ), I am pleased to provide you with the information as requested by the Joint Chairmen in their Report. The Joint Chairmen's Report (JCR) suggests that "the combination of increased workload, a structural deficiency in positions allotted for survey and inspection activities, and chronic vacancies among surveyor positions prevent the Office of Health Care Quality (OHCQ) from conducting all of the survey activities for which the agency is responsible."<sup>2</sup>

This report describes OHCQ's FY 2010 survey activities. Specifically, the report delineates, by program unit, survey requirements; surveys conducted, and survey activities that were prioritized.

During the fiscal year, OHCQ was unable to complete all statutorily mandated State inspections and surveys of health care facilities due to the continued staffing deficit. We have attempted to meet this challenge with good stewardship, utilizing existing resources through innovative and constructive initiatives. The following activities set forth key examples of efficiencies:

- The Developmental Disabilities (DD) unit began utilizing provider self-surveys to document mandated policy and procedure compliance and personnel training requirements, which resulted in an average savings of two days survey time per agency surveyed. The unit has also improved communication with the applicants through the applicant interest process which has created a more efficient licensure system.
- The DD unit allocated staff resources to develop a small division with the primary focus on children's issues, which includes initial and re-licensure surveys, complaint and incident investigations, and partnerships with other state and county agencies involved in supporting the needs of children. The creation of the children's unit should increase OHCQ's ability to complete mandatory annual visits to each of the 24 agencies. These agencies are responsible for the operational oversight of 85 residential sites for children.
- The DD unit recently began the practice of referring non-health and non-safety complaints to the four Developmental Disabilities Administration (DDA) regional offices. Administrative investigations, rather than those performed on site, are conducted, when appropriate. Furthermore, the DD unit incorporates incident and complaint investigations into re-licensure visits whenever possible.
- The Hospitals, HMOs, and Patient Safety unit requires HMOs to submit the majority of their survey information electronically in order to minimize the time spent on-site at the HMO and assigns complaints to surveyors based on the proximity of where the incident occurred to the surveyor's residence.
- OHCQ has established an Emergency Preparedness and Environmental Life Safety Program across all units within the agency. This realignment will allow OHCQ to be more effective in the management of environmental and fire safety surveys related to

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<sup>2</sup> Joint Chairmen's Report from the 2010 Maryland General Assembly, page 78.

regulated facilities and to position the agency to better support the emergency preparedness mission of the Department.

- The Laboratory Licensing and Certification unit has improved the efficiency of the initial and biennial licensing process through improved communications with the applicant by assisting the applicant through the application process.
- OHCQ has combined several units, specifically the Adult Medical Day Care Program with the Assisted Living Program, as well as the Substance Abuse Program with the Mental Health Program. The primary purpose for this realignment is to utilize existing staff more efficiently through the process of cross training individuals among the programs with the goal of increasing survey productivity. We expect this approach to increase OHCQ's eligibility for Medicaid dollars, as well.
- OHCQ has begun implementing a standardization process in an effort to streamline the pre-licensure application procedure for Assisted Living and Adult Medical Day Care facilities.
- The Substance Abuse Unit has revised its program to schedule certification requests concurrently with renewal surveys to maximize surveyor productivity. This includes the consolidation of renewal surveys for programs located across multiple Maryland regions.
- The Long-Term Care Unit (LTC) has reprioritized their responsibilities so that complaints and/or concerns received by residents, family members, advocates, ombudsman, government officials, and the public, including those where there is substantiated resident abuse, take precedence over facility reported incidents (FRI). Complaints will be triaged immediately and investigated within 10 days of receiving the complaint, while FRI's will be done within forty five days of receiving the report. Furthermore, the LTC unit has initiated plans to cross train all LTC individuals, including managers and coordinators, to perform Quality Improvement Surveys (QIS) as required under the federal regulations.

During this time of limited resources, OHCQ will persist in our endeavor to find efficient and cost-effective methods in which to protect the health and safety of Maryland's citizens while ensuring there is public confidence in the health care and community service delivery systems in the State. We will continue to review and develop appropriately focused regulations in our efforts to maintain a basic regulatory safety-net for all of our programs. We appreciate the support of the Secretary, the Administration, members of the General Assembly, and all of our varied stakeholders as we progress toward this goal.

Respectfully submitted,



Nancy Grimm, RN, JD  
Director

# The Office of Health Care Quality

## FY 2010 Survey Activities

### Long-Term Care Unit

The Long-Term Care (LTC) Unit ensures that State licensure and Medicare/Medicaid standards are maintained for nursing homes and Intermediate Care Facilities for the Mentally Retarded (ICF-MR) through unannounced on-site annual and follow up surveys, and complaint investigations. Additionally, the LTC Unit investigates complaints of resident abuse by staff and assists with criminal and civil prosecution of staff members who abuse vulnerable adults.

**Table 1 Long-Term Care Unit's survey activities for FY 2010**

Units of Measurements	Fiscal Year 2010
<b>Nursing Homes</b>	
Number of Licensed Nursing Homes	234
Full Surveys <sup>3</sup>	203
Initial Surveys of New Providers	2
Follow up Surveys	38
<b>Intermediate Care Facilities for the Mentally Retarded (ICF-MR)<sup>4</sup></b>	3
Full Surveys <sup>5</sup>	3
Follow up Surveys	3

### Adult Medical Day Care Unit

The Adult Medical Day (AMD) program has licensure and regulatory oversight for medical day care facilities in the state of Maryland. Adult Medical Day Care Centers provide medical day care services in an ambulatory care setting to medically compromised adults who have disabilities but who do not require 24 hour inpatient care.

**Table 2 Adult Medical Day Care Unit's survey activities for FY 2010**

Units of Measurements	Fiscal Year 2010
Number of Adult Medical Day Care Centers	144
Full Surveys <sup>6</sup>	71
Initial Surveys of New Providers	2
Follow up Surveys	4
Complaint Surveys	30

<sup>3</sup> Priority surveys to ensure that each nursing home is surveyed on-average every 12 months, with no more than 15.9 months elapsing between surveys of any particular nursing home.

<sup>4</sup> These are the State Residential Centers.

<sup>5</sup> Priority surveys to ensure that each ICF-MR that no more than 12.9 months elapses between surveys of any particular ICF-MR.

<sup>6</sup> Priority surveys to ensure that Adult Medical Day Centers are monitored or inspected at least once every 2 years in accordance with COMAR 10.12.04.

## Assisted Living Program Unit

The Assisted Living unit is responsible for the licensure and regulation of all assisted living facilities in the state of Maryland. The unit monitors the quality of care for the residents living in these facilities and ensure regulatory compliance according to COMAR 10.07.14. In accordance with interagency agreements, the Assisted Living Unit has delegated certain aspects of its monitoring and inspections to the Maryland Department of Aging, Department of Veterans Affairs, and local health departments.

**Table 3 Assisted Living Program Unit's survey activities for FY 2010**

Units of Measurements	Fiscal Year 2010
Number of Licensed Assisted Living Programs	1367
Full Surveys <sup>7</sup>	520
Initial Surveys	122
Other Surveys <sup>8</sup>	502

## Developmental Disabilities Unit

The Developmental Disabilities Unit (DD) is responsible for evaluating, monitoring, and recommending licensure for all community residential, day habilitation, vocational, and support services provided for individuals receiving funding through the Developmental Disabilities Administration (DDA).

**Table 4 Developmental Disabilities Unit's survey activities for FY 2010**

Units of Measurements	Fiscal Year 2010
Number of Licensed Agencies <sup>9</sup>	216
Number of Sites	2772
Full Surveys - Agencies <sup>10</sup>	47
Full Surveys - Sites	1142
Number of New Agencies	3
Number of follow up surveys	11

## Hospitals, HMOs, and Patient Safety Unit

The Hospitals, HMOs, and Patient Safety Unit provides oversight for the regulation of acute care and specialty (i.e., psychiatric, chronic, special rehabilitation) hospitals, residential treatment centers, health maintenance organizations (HMOs), hospitals within correctional facilities, and transplant centers in Maryland on behalf of the Centers for Medicare and Medicaid Services (CMS). The Patient Safety Division receives mandated self-reports of serious adverse events that occur in Maryland hospitals. Hospitals submit root cause analyses of these events to OHCQ for review to determine compliance with COMAR 10.07.06 Patient Safety Programs. The Division conducts reviews of hospital patient safety programs to determine compliance with these regulations.

<sup>7</sup> Priority surveys of Assisted Living Facilities to ensure that each facility is surveyed at least annually.

<sup>8</sup> Includes follow up, bed increase, waiver, level of care, and inspection of care surveys.

<sup>9</sup> In accordance with COMAR 10.22.02.04, OHCQ shall conduct announced and unannounced licensure visits at least annually, and provide the licensee with any notification of noncompliance.

<sup>10</sup> Priority surveys focused on re-licensure agencies that have not been seen for the past five years, or that were the subject of concern by other stakeholders or OHCQ investigative staff.

**Table 5 Hospitals, HMOs, and Patient Safety Unit's survey activities for FY 2010**

Units of Measurements	Fiscal Year 2010
<b>Number of Licensed/Certified Hospitals</b>	<b>67</b>
Validation Surveys of The Joint Commission (TJC) accredited Hospitals <sup>11</sup>	7
Complaints Received	485
Complaints Investigated On-Site <sup>12</sup>	156
Follow up Surveys	9
Follow up Investigations/Hospital Patient Safety Surveys	5
<b>Number of Health Maintenance Organizations</b>	<b>6</b>
Full Surveys <sup>13</sup>	5
Follow up Surveys	0
Complaint Investigations	4
<b>Number of Residential Treatment Centers</b>	<b>11</b>
Validation Surveys and Seclusion and Restraint Investigation <sup>14</sup>	2
Complaints Received	37
Complaint Investigations <sup>15</sup>	38
<b>Number of Correctional Health Care Facilities<sup>16</sup></b>	<b>11</b>
Full Surveys	0
Follow up Surveys	0
Complaint Investigations	1
<b>Number of Freestanding Medical Facilities<sup>17</sup></b>	<b>2</b>
Initial, Full and Follow up Surveys	2
Complaints	0
<b>Number of Transplant Centers</b>	<b>2</b>
Full Surveys	1
Complaint Investigations	3

### **Laboratory Licensing and Certification Unit**

The Laboratories Licensing and Certification Unit is responsible for State licensure of all laboratories that perform tests on specimens obtained from Maryland citizens and for federal certification of all laboratories located in Maryland. The unit also serves as the agent for federal certification in the Clinical Laboratory Improvement Amendments of 1988 Program, which is required for all clinical laboratory testing sites including those seeking Medicare reimbursement. The State licensing programs include those for tissue banks, hospital laboratories, independent reference, physician office laboratories and point of care laboratories, cholesterol testing sites,

<sup>11</sup> Priority surveys to validate the surveys of hospitals conducted by accreditation organizations.

<sup>12</sup> Priority surveys of hospital complaints are authorized and prioritized by CMS. CMS requires OHCQ to initiate an Immediate Jeopardy allegation survey within 2 days and all others complaints within 45 days. The on-site portion of EMTALA (The Emergency Medical Treatment and Active Labor Act) surveys must be completed within 5 days of CMS' authorization.

<sup>13</sup> Priority surveys to ensure compliance with COMAR 10.07.11, which requires annual inspection of HMOs.

<sup>14</sup> Priority surveys of 20% of RTCs to validate the accuracy of the attestations of RTCs to the State Medicaid Agency that the facility is in compliance with the standards set forth in 42 CFR, Section 441, subpart D.

<sup>15</sup> Priority surveys to investigate complaints at RTCs.

<sup>16</sup> Surveys of health facilities located in correctional institutions are conducted triennially. In recent years, survey finds of these facilities have largely been related to the physical environment. Follow up surveys on deficiencies focus on instances where patients may be at risk or to maintain Medicare certification.

<sup>17</sup> In accordance with COMAR 10.07.08.06, a freestanding medical facility shall be open to inspection at all times by the Department for annual licensure surveys, revisit surveys, and complaint investigations.

employer drug testing, health awareness testing sites, collection/testing stations, public health testing, and cytology proficiency testing.

**Table 6 Laboratory Licensing and Certification Unit's survey activities for FY 2010**

Units of Measurements	Fiscal Year 2010
<b>Physician Office and Point of Care Laboratories, State Only</b>	624
Full Surveys <sup>18</sup>	115
Initial Surveys of New Providers	30
Follow up Surveys	44
Complaint Surveys	5
<b>Physician Office and Point of Care Laboratories, Federal CLIA Surveys</b>	611
Full Surveys <sup>19</sup>	228
Initial Surveys of New Providers	39
Follow up Surveys	148
Validation Surveys	1
Complaint Surveys	5
<b>Federal Waived Lab Project Surveys<sup>20</sup></b>	32
<b>Independent Reference Laboratories<sup>21</sup></b>	534
Full Surveys	36
Initial Surveys of New Providers	6
Follow up Surveys	29
Validation Surveys	2
Complaint Surveys	5
<b>Hospital Laboratories</b>	77
Full Surveys	0
Initial Surveys of New Providers	0
Follow up Surveys	0
Validation Surveys	2
Complaint Surveys	1
<b>Cholesterol Testing Sites</b>	17
Full Surveys	36
Initial Surveys of New Providers	2
Validation Surveys	0

<sup>18</sup> Priority survey to ensure compliance with COMAR 10.10.02.01, which indicates that OHCQ shall conduct or oversee an announced or unannounced survey of a laboratory at any time during its hours of operation to assess compliance with applicable sections of Health-General Article, Title 17, Subtitles 2 and 5, Annotated Code of Maryland and the aforementioned COMAR.

<sup>19</sup> Priority surveys to determine a laboratory's compliance with all applicable Clinical Laboratory Improvement Amendment (CLIA) regulations and requirements of 42 CFR Part 493.

<sup>20</sup> CMS requires survey of approximately 2% of laboratories that have been issued a certificate of waiver (COW) under CLIA.

<sup>21</sup> Reference labs are usually private, commercial facilities that do high volume routine and specialty testing. Most of the tests performed are referred from physician's offices, hospitals and other health care facilities (e.g., nursing homes and other facilities).

Units of Measurements	Fiscal Year 2010
<b>Tissue Banks<sup>22</sup></b>	203
Full Surveys	17
Initial Surveys of New Providers	5
Follow up Surveys	2
Validation Surveys	0
<b>Employer Drug Testing Sites<sup>23</sup></b>	126
Initial Surveys of New Providers	0
Full Surveys	0
Follow up Surveys	0
<b>Public Health Testing Sites<sup>24</sup></b>	24
Initial Surveys of New Providers	0
Full Surveys	0
Follow up Surveys	0

### Ambulatory Care Program Unit

The Ambulatory Care Unit is charged with completing federal certification surveys, State licensure surveys and complaint investigations of 12 different health care programs: Ambulatory Surgery Centers, Birthing Centers, Comprehensive Outpatient Rehabilitation Facilities, End-Stage Renal Disease, Home Health Agencies, Hospice, Major Medical Equipment, Nursing Referral Service Agencies, Nurse Staffing Agencies, Outpatient Physical Therapy and Speech Pathology Services, Portable X-Ray and Residential Service Agencies.

**Table 7 Ambulatory Care Program Unit's survey activities for FY 2010**

Units of Measurements	Fiscal Year 2010
<b>Home Health Agencies</b>	51
Initial Surveys of New Providers	9
Full Surveys <sup>25</sup>	15
Follow up Surveys	0
Complaint Investigations	12
<b>Hospice</b>	26
Initial Surveys of New Providers	0
Full Surveys <sup>26</sup>	5

<sup>22</sup> In accordance with COMAR 10.50.01.05, OHCQ, acting as the Secretary's designee, shall inspect or have an inspection conducted for each tissue bank when an initial Maryland permit to operate is sought and annually after a Maryland permit has been issued. In accordance with COMAR 10.50.01.07, the Secretary may accept as compliance with the inspection requirements a tissue bank accredited by an organization approved by the Secretary, if OHCQ determines that standards of the tissue bank accrediting organization are equivalent those of the regulations.

<sup>23</sup> In accordance with COMAR 10.10.06.08, a licensee that offers to perform or performs screening or confirmation tests for alcohol or controlled dangerous substances shall ensure that the laboratory is inspected and certified to perform such tests by The Secretary; The College of American Pathologists; The federal Substance Abuse and Mental Health Services Administration (SAMHSA); or A government agency, program, or accrediting organization approved by the Secretary as set forth in COMAR 10.10.02.02.

<sup>24</sup> The Department's Infectious Disease and Environmental Health Administration inspected these sites in accordance with COMAR 10.10.12.

<sup>25</sup> Priority surveys to meet CMS' goal of ensuring that no more than 36.9 months elapses between surveys for any particular HHA.

Units of Measurements	Fiscal Year 2010
Follow up Surveys	0
Complaint Investigations	9
<b>Residential Service Agencies<sup>27</sup></b>	700
Full Surveys	19
Initial Surveys of New Providers	81
Follow up Surveys	13
Complaint Investigations	21
<b>Freestanding Renal Dialysis</b>	119
Initial Surveys of New Providers	8
Full Surveys <sup>28</sup>	34
Follow up Surveys	16
Complaint Investigations	24
<b>Freestanding Ambulatory Surgical Centers</b>	340
Initial Surveys of New Providers	26
Full Surveys <sup>29</sup>	130
Follow up Surveys	8
Complaint Investigations	5
<b>Comprehensive Outpatient Rehabilitation Facilities</b>	4
Initial Surveys of New Providers	0
Full Surveys <sup>30</sup>	1
Follow up Surveys	0
Complaint Investigations	0
<b>Major Medical Equipment<sup>31</sup></b>	231
Initial Surveys of New Providers	0
Full Surveys	0
Follow up Surveys	0
Complaint Investigations	2
<b>Birthing Centers<sup>32</sup></b>	2
Initial Surveys of New Providers	0
Full Surveys	1
Follow up Surveys	0
Complaint Investigations	0
<b>Outpatient Physical Therapy</b>	79
Initial Surveys of New Providers	2

<sup>26</sup> Priority surveys to meet CMS goal of surveying 5% of non-deemed hospices in the State.

<sup>27</sup> In accordance with COMAR 10.07.05, RSAs are required to assist OHCQ in gaining access to sites where services are being provided for conducting inspection.

<sup>28</sup> Priority surveys to meet CMS' goal of surveying a 10% targeted sample of ESRDs in the State.

<sup>29</sup> Priority surveys to meet CMS' goal of surveying 33% of ASCs in the State

<sup>30</sup> Priority survey to meet CMS' goal of surveying 5% of CORFs in the State.

<sup>31</sup> In accordance with COMAR 10.05.03.04, the Secretary may verify compliance with licensing requirements through on-site random sample record reviews. Unless there is an immediate threat to the health and safety of patients or employees, the Secretary shall notify the licensee 5 days before conducting an on-site inspection.

<sup>32</sup> In accordance with COMAR 10.05.02.02, a freestanding birthing center shall meet all general licensing requirements as provided in COMAR 10.05.01. COMAR 10.05.01.05 requires facilities to be open during normal business hours, or any other times that the facility is serving patients, for inspection by the Department and by any other agency designated by the Department to (1) verify compliance with licensing regulations; and (2) investigate complaints.

Units of Measurements	Fiscal Year 2010
Full Surveys <sup>33</sup>	8
Complaint Investigations	1
Portable X-Ray <sup>34</sup>	9
Initial Surveys of New Providers	1
Full Surveys	1
Follow up Surveys	0
Complaint Investigations	1
Nurse Staff Agencies <sup>35</sup>	483
License Renewed	364
Initial Licenses Issued	119
Nurse Referral Service Agencies <sup>36</sup>	86
Initial License issued	24
Renewal License Issued	62

### Community Mental Health Unit

The Community Mental Health Unit (C-MHU) is the licensing agent of group homes for adults and therapeutic group homes for children on behalf of the Mental Hygiene Administration (MHA) and the licensing review agent for the other services licensed by MHA. As such, the unit's primary function is to ensure that consumers in the state of Maryland receive quality mental health services. Community Mental Health programs include: therapeutic group homes for children, residential crisis services for children and adults, respite services for children, group homes for adults, residential rehabilitation programs for adults, psychiatric rehabilitation programs for children and adults, outpatient mental health clinics for children and adults, mental health vocational programs, mobile treatment services and psychiatric day treatment programs. Responsibilities of the Community Mental Health Unit include collaborating with MHA and the Administrative Service Organizations (ASO).

**Table 8 Community Mental Health Unit's survey activities for FY 2010**

Units of Measurements	Fiscal Year 2010
Number of Providers	191
Number of Residential Rehabilitation Program Sites <sup>37</sup>	764
Number of Programs other than Residential Rehabilitation Program Sites	733
Providers Surveyed	34
Programs Surveyed	107

<sup>33</sup> Priority surveys to meet CMS' goal of surveying 5% of OPTs in the State.

<sup>34</sup> CMS requires that surveys should be conducted so that no more than 7 years elapses between surveys for any one particular provider.

<sup>35</sup> Reviewed applications to ensure proper credentialing agency staff.

<sup>36</sup> Reviewed applications to ensure proper credentialing agency staff.

<sup>37</sup> Priority surveys of mental health programs that provide services to children.

## Substance Abuse Certification Unit

The Substance Abuse Certification Unit works in collaboration with the Alcohol and Drug Abuse Administration (ADAA) as its licensing agent. The unit makes recommendations to ADAA regarding the certification/ licensure of a program and conducts complaint investigations and follow up survey activities for the 482 programs (348 sites) certified to operate in Maryland.

**Table 9 Substance Abuse Certification Unit's survey activities for FY 2010**

Units of Measurements	Fiscal Year 2010
Number of Providers/Agencies	348
Number of Licensed Program Sites	482
Full Surveys <sup>38</sup>	130
Initial Site Surveys	44
Follow up Surveys	0
Complaints Received	16
Complaints Investigated	16

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<sup>38</sup> Priority surveys to re-certify substance abuse programs that provide Opioid Treatment Programs, Residential Services, Detoxification Services, Partial Hospitalization, Outpatient Services and Preventative/Education Programs.