

Report To

The Mississippi Legislature



AN INVESTIGATION OF THE PURCHASE OF BURIAL INSURANCE FOR CLIENTS OF THE HUDSPETH RETARDATION CENTER

August 22, 1989

PEER investigated the February 1, 1984, purchase of burial insurance from Gulf National Life Insurance Company for 288 Hudspeth clients and reviewed the disposition of death benefits for policyholders from February 1984 to April 1989. PEER found no evidence of illegal activities on the part of Hudspeth, Gulf National, or Baldwin-Enochs Funeral Home involving burial insurance. However, Hudspeth exercised insufficient control over burial benefits paid on behalf of deceased wards of the state.

PEER also found that in 1978 Hudspeth officials placed client money into a "pre-need trust account" for clients' funerals which remained on deposit for eleven years with little benefit to its participants. On June 26, 1989, Hudspeth notified PEER that Baldwin-Enochs (now Baldwin-Lee) returned the \$14,355.42 balance to the center for repayment to clients or their heirs.

The PEER Committee

PEER: THE MISSISSIPPI LEGISLATURE'S OVERSIGHT AGENCY

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A standing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

An extension of the Mississippi Legislature's constitutional prerogative to conduct examinations and investigations, PEER is authorized by law to review any entity, including contractors supported in whole or in part by public funds, and to address any issues which may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

As an integral part of the Legislature, PEER provides a variety of services, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

**AN INVESTIGATION OF THE PURCHASE OF BURIAL INSURANCE
FOR CLIENTS OF THE HUDSPETH RETARDATION CENTER**

August 22, 1989

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The Mississippi Legislature
Joint Committee on Performance Evaluation and Expenditure Review

PEER Committee



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August 22, 1989

HONORABLE RAY MABUS, GOVERNOR
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MEMBERS OF THE MISSISSIPPI STATE LEGISLATURE

At its meeting of August 22, 1989, the PEER Committee authorized release of the report entitled An Investigation of the Purchase of Burial Insurance for Clients of the Hudspeth Retardation Center.


REPRESENTATIVE J. P. COMPRETTE, CHAIRMAN

This report does not recommend increased
funding or additional staff.

TABLE OF CONTENTS

LETTER OF TRANSMITTAL.....	i
INTRODUCTION.....	1
Authority	1
Purpose and Scope	1
Methodology	1
Overview	1
BACKGROUND.....	2
Acquisition of Burial Insurance.....	2
Disposition of Insurance Proceeds	3
FINDINGS.....	4
POLICY OPTIONS.....	6
APPENDIX A. ATTORNEY GENERAL'S OFFICE LETTER CONCERNING HUDSPETH'S BURIAL TRUST ACCOUNT.....	7
APPENDIX B. DOCUMENTS CONCERNING REPAYMENT OF BURIAL TRUST ACCOUNT FUNDS TO HUDSPETH CENTER.....	8
AGENCY RESPONSE	10

AN INVESTIGATION OF THE PURCHASE OF BURIAL INSURANCE FOR CLIENTS OF THE HUDSPETH RETARDATION CENTER

INTRODUCTION

Authority

At its meeting on January 17, 1989, the PEER Committee authorized an investigation of the purchase of burial insurance for patients (clients) of the Hudspeth Retardation Center (Hudspeth). The Committee acted in accordance with MISS. CODE ANN. Section 5-3-57 (1972).

Purpose and Scope

PEER's investigation had two purposes:

1. To review the acquisition of burial insurance on behalf of Hudspeth clients; and,
2. To investigate the disposition of the proceeds of burial insurance policies upon the death of Hudspeth clients.

Methodology

In conducting this investigation, PEER:

1. Reviewed relevant state statutes and federal and state regulations;
2. Reviewed Department of Mental Health policies and procedures for the handling of patients' personal funds;
3. Interviewed Hudspeth officials and reviewed records relating to burial insurance for Hudspeth clients;
4. Interviewed officials and reviewed records of Gulf National Life Insurance Company, Biloxi, Mississippi, in relation to death benefit claims on Hudspeth clients; and,
5. Interviewed officials and reviewed records of Baldwin-Lee (formerly Baldwin-Enochs) Funeral Home, Pearl, Mississippi, in relation to the burial of Hudspeth clients.

Overview

PEER investigated the February 1, 1984, purchase of burial insurance from Gulf National Life Insurance Company for 288 Hudspeth clients and reviewed the disposition of death benefits for policyholders during the period February 1984 to April 1989. PEER found no evidence of illegal activities on the part of Hudspeth officials, Gulf National officials, or Baldwin-Enochs Funeral Home officials in relation to transactions involving burial insurance purchased for Hudspeth clients in February 1984. However, PEER determined that Hudspeth exercised very little control over the disbursement of insurance benefits paid on behalf of deceased policyholders who were also wards of the state.

BACKGROUND

The Hudspeth Retardation Center in Rankin County is one of five residential retardation centers operating as a component of the Mississippi State Department of Mental Health. Hudspeth serves a maximum of two hundred ninety-five mentally retarded persons and had an annual budget of \$12.6 million for fiscal year 1989.

Hudspeth provides direct care, treatment and habilitation treatment to mentally retarded clients. Services provided include: diagnosis and evaluation of resident needs, interdisciplinary treatment and training to habilitate mentally retarded clients to their optimal level, and medical supervision of daily life activities.

According to Hudspeth's director, most of the center's clients, and their families if they have them, live on small fixed incomes, usually only Social Security benefits. When an indigent Hudspeth client deceases, Hudspeth and the State Hospital provide a wooden casket, a burial plot at the State Hospital cemetery, staff to dig the grave, and a chaplain. When contacted by Hudspeth, Baldwin-Enochs Funeral Home (which became Baldwin-Lee in April 1989) in Pearl provides transportation of the body, a funeral service, tent and chairs, and graveside equipment. Baldwin-Lee's participation results from an agreement arranged with the State Hospital and Hudspeth in the 1970's and the funeral home's desire to provide community service. If other services or amenities are desired, they must be provided by the family or other outside source of income. During the early 1980's, Hudspeth management and staff (including social workers and review and screening committees) decided to pursue the purchase of burial insurance for clients to assist with the burial expenses of deceased clients.

Acquisition of Burial Insurance

In 1983, Hudspeth management gave the center's business manager the responsibility of contacting insurance companies about the possibility of providing burial insurance to Hudspeth clients. Hudspeth officials stated that no companies, other than Gulf National Life Insurance Company, were interested in providing burial insurance. Due to the absence of written documentation, PEER could not determine whether the business manager had contacted companies other than Gulf National to submit burial policy proposals. The business manager reported to PEER that she could not remember the names of companies she had contacted.

PEER could also not locate any written documentation of the business manager's evaluation process which resulted in Gulf National being selected as the insurer for Hudspeth clients. PEER determined that the Gulf National agent that sold the burial policies to Hudspeth clients was also the business manager's personal insurance agent at the time of the sale. While PEER discovered no illegality in this relationship, it raises a question as to the competitiveness of the procurement process used to obtain burial insurance for Hudspeth clients.

At the time of the insurance purchase, Gulf National agreed to waive pre-existing medical conditions for policy applicants, except for a few that were very ill. As a result, Gulf National insured 98% of the Hudspeth clients at one time (288 of 295 clients) for \$1000 each. Each month, the center deducts the premium from the \$44 allotted to each client from Social Security benefits for personal expenses. Then the center forwards the total premium for the group to Gulf National.

During a 1984-85 Social Security Administration audit, the administration recommended that Hudspeth consider clients' individual circumstances (e.g., age, health) when determining the need for burial insurance. As a result, insurance companies were not interested in insuring only older clients if risk could not be offset by insuring younger clients. Hudspeth has not since purchased burial insurance for any of its clients.

Disposition of Insurance Proceeds

Since the purchase of burial insurance for Hudspeth clients in February 1984, thirty-three clients have deceased. Gulf National had insured twenty-two of those deceased clients and paid claims totaling \$22,000 on these clients' policies.

Insurance proceeds for funerals of clients with family and burial insurance are paid directly to the funeral home of the family's choice or to a family member providing proof of payment for a client's funeral expenses. Hudspeth is not involved in the claims payment process. All transactions are between clients' family members and/or their funeral home and the insurance company (Gulf National).

FINDINGS

Hudspeth Center clients have paid total premiums of over \$36,000 for burial insurance. At least five deceased insured clients received virtually the same benefits as those received by noninsured clients.

Gulf National initially provided burial insurance to 288 Hudspeth clients for a total annual premium of \$8,073.58, paid in advance. Although the original number of policies has decreased due to death or other attrition, Hudspeth clients, through the center, have paid total premiums of \$36,071.36 to Gulf National through April 1989. As of April 3, 1989, 187 of the original burial policies remained in force with a total monthly premium of \$474.28.

Hudspeth clients with burial insurance, but no family, receive similar services to those without burial insurance (see page 2 for services provided free by Hudspeth and Baldwin-Lee). The only difference is that Baldwin-Lee provides a metal casket for insured clients. PEER determined that at least five Hudspeth clients have been buried in the State Hospital cemetery since 1984, despite having burial insurance. The proceeds of each of these policies were paid directly to Baldwin-Enochs funeral home by Gulf National. PEER attempted to review invoices related to the burial of Hudspeth patients, but found that the invoices were not itemized.

The Hudspeth Center established a burial trust account in 1978 that has remained on deposit for eleven years with little benefit to its client participants. The account balance as of February 8, 1989, was \$14,372.89.

During the review of burial insurance transactions relating to Hudspeth clients, PEER also determined that Hudspeth officials had established a "pre-need trust account" for Hudspeth clients in 1978. The proposed purpose of this account was to defray funeral expenses for participating clients as the need arose. (This was prior to the group burial insurance purchase in 1984.) The account was established with funds from clients' personal accounts and placed on deposit with Baldwin-Enochs funeral home in a local bank. The trust account was a one-time offering to clients and only the original group of clients was covered by the account.

The current director of Hudspeth discovered the existence of the trust account in April 1985. Because of poor recordkeeping, Hudspeth officials could not determine which clients had participated in the program and how much of the account belonged to each client. Again due to poor recordkeeping, Hudspeth officials could not determine the status of the account, i.e., which clients had participated and how much of the account belonged to each client. The director contacted the Office of the State Auditor in October 1985 for assistance in determining the proper disposition of the trust account. The Office of the State Auditor investigated the matter and recommended in May 1986 that Hudspeth seek an Attorney General's opinion regarding the proper disposition of the funds.

The Hudspeth director requested an Attorney General's opinion regarding the proper disposition of the account in a letter dated May 30, 1986. At the time of PEER's investigation in April 1989, Hudspeth had not received a reply from the Office of the Attorney General. The Hudspeth director sent another letter to the Office of the Attorney General on April 10, 1989.

Subsequent to the completion of PEER's investigative fieldwork, the Office of the Attorney General contacted the Hudspeth director and stated that an official Attorney General's opinion was not necessary because there seemed to be no legal question involved. The Attorney General's office stated that "it appeared" that the trust funds, along with any accrued interest income, should be returned to Hudspeth and placed in individual accounts for the clients in question. Funds should also be returned to heirs of deceased clients that participated in the account. (See Appendix A, page 7.) PEER agrees with the position of the Office of the Attorney General regarding the return of funds to participating clients or their heirs.

As of April 14, 1989, the trust account was held in the name of Baldwin-Enochs Funeral Home in a certificate of deposit with the Brandon, Mississippi, branch of the Trustmark National Bank. The most recent renewal of the certificate was on February 9, 1989, when the balance was \$14,372.89. The certificate's maturity date was listed as August 9, 1991. In a May 30, 1989, letter, the Hudspeth director requested Baldwin-Lee Funeral Home to return the trust funds to Hudspeth clients at the earliest opportunity. On June 26, 1989, Hudspeth notified PEER that Baldwin-Lee had returned \$14,355.42 to the center for repayment to clients from the trust fund. (See Appendix B, page 8.) As of August 3, 1989, Hudspeth officials were attempting to determine proper allocation of these funds to clients and heirs of deceased clients. Hudspeth officials also were attempting to determine whether the center owed additional amounts to Baldwin-Lee for services rendered to trust participants.

POLICY OPTIONS

The PEER Committee authorized this investigation solely as a fact-finding review and not as a performance evaluation of Hudspeth's procedures for handling funeral expenses of indigent clients. As a result, PEER did not conduct this investigation as a means of developing recommendations for the handling of client funeral expenses. However, due to the weaknesses noted in this report, PEER developed policy options that Hudspeth and Department of Mental Health officials should consider regarding funerals and related expenses for Hudspeth clients.

1. Do not purchase burial insurance for Hudspeth clients in the future.

Hudspeth officials stated that insurance companies were no longer willing to offer regular insurance to Hudspeth clients because of the high risk. As a result, the only insurance that is available is very expensive with very limited benefits during the initial years of the policy. Such insurance is not feasible for a client who is only allotted \$44 per month for personal expenses.

2. Hudspeth officials should review and update their agreement with the funeral home regarding the provision of funeral services for indigent clients that are buried at the State Hospital cemetery. The agreement should reflect the services to be provided and the related charges for such services by the funeral home. The agreement should also require the funeral home to provide detailed accounting of services and related charges for each funeral service provided.

NOTE: Hudspeth's agreement with Baldwin-Lee Funeral Home has been updated since the completion of PEER's fieldwork on this investigation and the new agreement is consistent with PEER's suggestion.

3. Hudspeth and the Mississippi State Hospital should consider the joint acquisition of the equipment necessary to perform funerals for clients that are to be buried at the State Hospital cemetery.

Such an arrangement would eliminate the need for many of the services of a funeral home with the possible exception of transportation of the body to the gravesite. As stated earlier, the State Hospital already provides caskets, digs the graves, provides pall bearers and provides pastoral services.

APPENDIX A

ATTORNEY GENERAL'S OFFICE LETTER CONCERNING HUDSPETH'S
BURIAL TRUST ACCOUNT

STATE OF MISSISSIPPI



OFFICE OF THE ATTORNEY GENERAL

JIM WARREN
Special Assistant to
the Attorney General

THOMAS E. PAYNE, PhD
Special Assistant Attorney General
Director, Public Advocacy

BEVERLEY D. COLEMAN, CPA
Director, Administration

MIKE MOORE
ATTORNEY GENERAL

STEPHEN J. KIRCHMAYR
Deputy Attorney General
Litigation

ROBERT L. GIBBS
Deputy Attorney General
State/Local Government, Opinions

May 10, 1989

Mr. Edwin C. LeGrand, III
Director, Hudspeth Center
P. O. Box 127-B
Whitfield, Mississippi 39193

Re: Prepaid Burial Trust Accounts

Dear Mr. LeGrand:

After review and research of the issue involving prepaid burial trust accounts with Baldwin-Enochs Funeral Home, Pearl, Mississippi and the disbursement of said funds, it appears that said funds, along with accrued interest should be returned to Hudspeth Center and placed in individual accounts for the patients in question, or returned to the heirs of deceased patients. It appears to me that this is the correct procedure, under the circumstances. I have contacted the Social Security Administration for further verification but have no immediate answers from them. If you feel it necessary, I would suggest that you contact Social Security at 965-5001. I believe, however, they will eventually agree with this procedure, since the SSI money used to set up the pre-burial trust accounts were for general use and not earmarked for a specific purpose.

If you have any questions, concerning this matter, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Belinda J. Stevens".

Belinda J. Stevens
Special Assistant Attorney General

BJS:sm

APPENDIX B

DOCUMENTS CONCERNING REPAYMENT OF BURIAL TRUST ACCOUNT FUNDS
TO HUDSPETH CENTER

HUDSPETH CENTER



EDWIN C. LeGRAND III
Director

P.O. Box 127-B
WHITFIELD, MISSISSIPPI 39193

(601) 939-8640

June 26, 1989



Mr. Danny Miller, C.P.A.
Senior Analyst
PEER Committee
P. O. Box 1204
Jackson, MS 39215-1204

Dear Mr. Miller:

In follow-up to our most recent telephone conversation, I wish to advise you Mr. Joe Lee, owner of Baldwin Funeral Home Inc., delivered a check payable to Hudspeth Center in the amount of \$14,355.42 as repayment of funds held in trust by Baldwin Funeral Homes Inc. for clients of this facility. This was in response to my letter to him of May 30, 1989, asking for the return of these funds to this agency. Mr. Lee asked only that our business manager meet with his accountant/bookkeeper to ensure this reflects a final accounting and funds from this amount are not owed to Baldwin Funeral Homes Inc. for past services. Mr. Lee's accountant/bookkeeper has been on vacation and Ms. Jean Hughes, Business Manager, will schedule the requested meeting this week. If you require the information, I will be happy to send you a copy of the final accounting which will be prepared and submitted to me by Ms. Hughes.

Thank you for your help in finally resolving this matter. The clients of this agency will benefit from having these additional funds made available for their personal spending. Should you require anything further in regard to this or another matter, please advise.

Sincerely yours,

Edwin C. LeGrand III
Director

ECL/jcg



Official Check

565072

Trustmark National Bank
Jackson, Mississippi

Payable to Trustmark National Bank
redeemed cd#73229

Date May 4, 1989

Pay to the order of Baldwin Enochs Funeral Home Trustee's Pre-Need Fund \$14,355.42

TRUSTMARK ⑈14355⑈000420⑈

Payable to Williams/Rankin/Pearl

Wachovia Bank & Trust Company, N.A.
Wachovia, a Division of

J. B. Withers
Authorized Signature
Delta N. Priest, Branch Officer

⑈0000565072⑈ ⑆053100494⑆018730 000364⑈

Pay to Baldwin-Lee Funeral Home
Owner
By: *Baldwin-Lee*

Pay to the order of Hudspeth Center
Patient Fund Accounts

By: *Joe Lee*

AGENCY RESPONSE
HUDSPETH CENTER



EDWIN C. LeGRAND III
Director

P.O. Box 127-B
WHITFIELD, MISSISSIPPI 39193

(601) 939-8640

August 21, 1989



Mr. John W. Turcotte, Director
PEER Committee
Central High Legislative Services Building
P.O. Box 1204
Jackson, Mississippi 39215-1204

Dear Mr. Turcotte:

On August 9, 1989, I had the opportunity to review the draft report prepared by PEER Committee staff concerning the investigation of the purchase of burial insurance for patients of Hudspeth Retardation Center. Outlined below is Hudspeth Retardation Center's response to this draft report. Since I was not allowed a copy of the draft report, the statements credited to PEER may not be an exact quotation from the draft document.

PEER: PEER found no evidence of illegal activities on the part of Hudspeth officials, Gulf National officials, or Baldwin-Enochs Funeral officials in relation to the transactions involving burial insurance purchased for Hudspeth clients in February, 1984. However, PEER determined that Hudspeth exercised very little control over the disbursement of insurance benefits paid on behalf of deceased policy holders who were also wards of the state.

HUDSPETH RETARDATION CENTER: The PEER report acknowledges that there was no evidence of illegal activities involved in the purchase of burial insurance for patients of Hudspeth Retardation Center nor in the disposition of the proceeds of burial insurance policies upon the death of patients of the Hudspeth Retardation Center.

Hudspeth Retardation Center questions the PEER Committee report concerning the statement made that the Hudspeth Retardation Center exercised very little control over the disbursement of insurance benefits paid on behalf of deceased policy holders who are also wards of the state. Hudspeth Retardation Center contends that the disbursement of insurance benefits paid on behalf of a deceased policy holder is the responsibility of the company providing burial insurance and the funeral home providing services to the deceased policy holder. It is the responsibility of Hudspeth Retardation Center to provide notification to next of kin and the funeral home providing services as to whether or not the deceased client has burial insurance to meet final expenses. The burial insurance policy provided by Gulf National Life Insurance Company states, "The company may pay the amount due under this policy or grant any other privileges provided hereunder to the

husband or wife, or any relative by blood or connection by marriage of the insured, or to any person appearing to the Company to be equitably entitled thereto by reason of having incurred expense on behalf of the insured for his or her burial; and the production by the Company of a receipt signed by any or either of said persons, or of other sufficient proof of such payment, shall be conclusive evidence that all claims under this policy have been fully satisfied." Hudspeth Retardation Center contends the disbursement of insurance benefits paid on behalf of deceased policy holders is the responsibility of Gulf National Life Insurance Company. The policy indicates all transactions are between the client's family members and/or the funeral home providing services and the insurance company.

FINDINGS:

1. Finding #1 of the draft PEER Committee report in summary indicates that it is the opinion of PEER staff that Baldwin-Enochs Funeral Home provided similar services to Hudspeth clients with burial insurance to those without burial insurance. Hudspeth Retardation Center has no information or evidence to either agree or disagree with finding #1 of this report. Hudspeth Retardation Center also attempted to review invoices related to the burial of clients but found the information inadequate to determine exactly what services were provided to deceased clients. It was determined by Hudspeth Retardation Center that the proceeds of policies for specific clients were paid directly to Baldwin-Enochs Funeral Home by Gulf National Life Insurance Company.
2. Hudspeth Retardation Center agrees with the accuracy of finding #2. Hudspeth Retardation Center has received \$14,355.42 for repayment to clients from the trust fund and a final accounting of these funds has been completed.

POLICY OPTIONS:

1. Hudspeth Retardation Center agrees with the policy option #1 of this report. This policy was implemented in fiscal year 1985.
2. Hudspeth Retardation Center agrees with policy option #2 and as stated in PEER report the agreement with Baldwin-Lee Funeral Home has been updated consistent with PEER's suggestions.
3. Hudspeth Retardation Center disagrees with policy option #3 which states "Hudspeth and Mississippi State Hospital should consider the joint acquisition of equipment necessary to perform funerals for clients that are to be buried at the State Hospital Cemetery." Hudspeth Retardation Center contends that it is not practical nor desirable for the agency to purchase necessary equipment and obtain required expertise to perform funerals for deceased clients of the Hudspeth Retardation Center. However, this policy option will be reviewed with Mississippi State Hospital and Department of Mental Health officials for their consideration.

Mr. John W. Turcotte
August 21, 1989
Page 2

Thank you for providing us an opportunity to review this draft report. Should you require any additional information regarding our response, please contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Edwin C. LeGrand III". The signature is fluid and cursive, with a prominent loop at the end.

Edwin C. LeGrand III
Director

ECL/jcg