HEALTH AND SOCIAL SERVICES: DEPARTMENT AND NETWORK INSTITUTIONS

This chapter on the Ministère de la Santé et des Services sociaux (MSSS) and the health and social services network focuses on the service programs that have provided a framework for the organization of its activities since 2004. The chapter also deals with services inherent in certain programs: adoption, residences, prehospital emergency services and home support.

This year, the number of complaints about the health network remained virtually unchanged, up by just three for a total of 1,089. On the other hand, there was a significant increase in reporting – in other words, reports made by third parties, drawing the Québec Ombudsman's attention to situations that could compromise the health or wellbeing of one or more users, often people who are vulnerable. The number of reports rose from 88 in 2008-2009 to 118 in 2009-2010. The Québec Ombudsman also notes a higher proportion of requests concerning institutions that deal mainly with vulnerable people, such as rehabilitation centres, residential and long-term care centres (CHSLDs) and child and youth protection centres.

Nearly 39% of the complaints and reports that the Québec Ombudsman examined were substantiated, representing a slight increase from last year's level of 35%.

The complaints examined reveal that service access, continuity and quality vary considerably among Québec's regions.

IMPLEMENTATION OF DEPARTMENTAL GUIDELINES

The MSSS has adopted guidelines and action plans in the various spheres of service and care offered to the public. Following an analysis of the complaints received, the Québec Ombudsman noted a number of obstacles encountered in the implementation or application of those guidelines by network institutions. The effects of these obstacles included infringements of the right of users to consent to care, unwarranted delays in the provision of care, and deteriorations in the quality of the living environment. The Québec Ombudsman also observed that staff turnover, training gaps and lack of resources hindered the application of these important and relevant guidelines. In fact, much of the progress achieved by the Québec Ombudsman with the institutions, and many of the improvements obtained as a result, were based on the MSSS guidelines.

CONSTANT VIGILANCE

With a few exceptions, the Québec Ombudsman's visits to institutions on its regional tours revealed good quality care, an empathetic attitude, and worker respect for users. This is borne out by the reduction in the number of complaints concerning staff attitudes and behaviour. In addition, the Québec Ombudsman notes that the institutions have cooperated extensively in implementing its recommendations. Nevertheless, the substantiated complaints received this year confirm the need to remain vigilant.

The Québec Ombudsman would like to reiterate that respect for users forms the cornerstone of the health and social services network's commitment, and that a person's trust in the health care system is decisive in his or her recovery. Therefore, even with the introduction of better protocols, policies and regulations, goals can only be achieved if the system demonstrates an appropriate attitude and openness to its users.

The Québec Ombudsman also deplores the MSSS's clearly inadequate response to its past recommendations. Despite several reminders, as of March 31, 2010, the responses to 13 of 25 recommendations from 2007-2008 were still deemed unsatisfactory, as were the responses to all seven of the recommendations made in 2008-2009.

This next chapter begins with the Québec Ombudsman's findings concerning the Complaint Examination System. The following sections are presented in alphabetical order, based on the French headings: adoption; physical disability, mental disability and pervasive developmental disorders; accommodation of people with age-related loss of autonomy; troubled youth; mental health; physical health; prehospital emergency services; and home support services. Some sections include recommendations from the Québec Ombudsman to the MSSS, followed by the comments from the Departments. The MSSS also issued the following general comment:

"First of all, we would like to reiterate that the Ministère de la Santé et des Services sociaux places great importance on your recommendations. As we do every year, we will carefully examine the recommendations in your report. We will then formulate our commitments in an action plan that we will submit to you, and that will subsequently be monitored closely by the Department's authorities, under the supervision of the Direction de la qualité."

Complaint examination system

The health and social services system has a complaint examination system, provided for by law, under which local or regional complaint and service quality commissioners are given the initial responsibility to:

- examine complaints;
- promote quality services;
- enforce users' rights.

People who are dissatisfied with the commissioner's response or conclusions can seek further recourse from the Québec Ombudsman. The Québec Ombudsman may also intervene of its own accord if it has reason to believe that an individual or group has been wronged by the action or inaction of the MSSS or of a recognized health and social services institution.

Over the last three years, the Québec Ombudsman has paid special attention to the implementation of the complaint examination system. As part of this process, it surveyed the CEOs of institutions, and the results of the survey led to several recommendations that have generally been applied by the MSSS and the network, helping to improve the system. For example:

- A training program was designed for complaint and service quality commissioners and medical complaint examiners (focusing on their roles and functions);
- An action plan was put in place to better inform users about the complaint examination system (reflecting a desire to reach everyone, especially people who are vulnerable).

The Québec Ombudsman hailed these advances at first, but subsequently realized that the recommendations, although initially embraced, had not always been systematically enforced. It was also noted that new problems had arisen in the application of the complaint handling program.

Further improvements are needed, especially since a major recommendation involving the complaint examination system, issued by the Québec Ombudsman in its 2007-2008 annual report, is still unresolved. The recommendation was aimed at the CEOs of health and social services institutions and regional agencies. Through it, the Québec Ombudsman wanted to ensure that local and regional commissioners had the appropriate resources and working conditions to fulfill their responsibilities effectively. The MSSS's only response to this recommendation was to state that each institution is responsible for allocating its own resources and determining the conditions for its own complaint examination system.

The Québec Ombudsman is not satisfied with this response. The law entrusts the MSSS with specific responsibilities in overseeing the quality of care and services in the health and social services network, including the operations of the complaint examination system. As such, it is up to the MSSS to demonstrate leadership, guarantee consistency and equity, and ensure that people's rights are upheld.

REMINDING USERS OF THE RECOURSE AVAILABLE THROUGH THE QUÉBEC OMBUDSMAN

The complaint examination process calls for the commissioner, after examining the complaint, to share the institution's conclusions with the user and to inform the user about the possibility of pursuing further recourse through the Québec Ombudsman if he or she is dissatisfied with the initial response. In light of the complaints received by the Québec Ombudsman, it appears that this information is sometimes omitted in the conclusions of certain commissioners. The Ombudsman was obliged to intervene with certain commissioners several times over the course of the year.

It can be inferred from this that some instances of user dissatisfaction are not reported because the users in question do not know about the second level of recourse.

In the fall of 2009, the Québec Ombudsman reminded all commissioners about the importance of explaining this right of recourse to the Ombudsman in all their conclusions.

SEPARATING COMPLAINTS FROM REQUESTS FOR ASSISTANCE

The goal of the assistance service is to help people with their complaints or, if they so wish, direct them toward a complaint assistance and coaching centre (centre d'assistance et d'accompagnement aux plaintes or CAAP), a community organization responsible for assisting and coaching users wishing to file a complaint against a health and social services institution or organization. The CAAP informs, supports, advises, assists and coaches individuals throughout the complaint process, in the hope of achieving reconciliation. Once a complaint has been filed, the examination procedure begins, allowing the user to express his or her dissatisfaction to a commissioner either orally or in writing. In the event of dissatisfaction, it is the commissioner's processing of the complaint, not the use of the assistance service, which determines the user's right of recourse to the Ombudsman.

The Québec Ombudsman has noted that in the last year, some complaints were treated by local commissioners as requests for assistance, rather than as complaints as their nature would suggest. Furthermore, the difference between the notions of assistance and complaint are rarely explained to users, even though this has a direct impact on their right to recourse through the Québec Ombudsman.

The Québec Ombudsman notified the MSSS authorities of this problem, and they have confirmed that an appropriate reminder has been issued to the commissioners. The Ombudsman is satisfied with this course of action. We will continue to monitor the commissioners' recourse to assistance over the next year.

PROPERLY ROUTING MEDICAL COMPLAINTS

The complaint examination system stipulates that the complaint and service quality commissioner must immediately forward all complaints concerning physicians, pharmacists, dentists or residents to the medical complaint examiner.

In the last year, the Québec Ombudsman has discovered that some commissioners receive medical complaints without passing them on to the medical complaint examiner. They address the administrative aspects of these complaints but offer only assistance for the medical aspects. The result is that no official response is given to users for the medical aspects of their complaint.

DESIGNATING A MEDICAL COMPLAINT EXAMINER FOR EACH INSTITUTION

The Québec Ombudsman has found that the medical complaint examiner's position is often vacant in some institutions. As such, users do not have the recourse set out by law for complaints of a medical nature. The Québec Ombudsman informed the MSSS of this situation, and the MSSS approached the institutions in question. Nevertheless, despite numerous reminders on the matter, the MSSS is still unable to confirm whether these positions have been filled, or whether they are still vacant, contrary to the law.

ENSURING THAT LOCAL COMMISSIONERS DEAL WITH COMPLAINTS CONCERNING INVOICING

Users complained to the Québec Ombudsman about local commissioners who refused to handle complaints regarding invoicing. They simply redirected these complaints to a unit within the institution, asking it to perform the necessary checks and issue a response. The local commissioners in question did not acknowledge receipt of the requests from the users and did not keep records, meaning that the users had no secondary recourse to the Québec Ombudsman.

When the Québec Ombudsman learned about this, it reported the situation to the MSSS, which promised to issue a written reminder to the commissioners. This has yet to be done. For this reason, the Québec Ombudsman has asked the MSSS to act on its promise as quickly as possible.

A user complained to the local complaints and service quality commissioner about the fees charged for her father's room. The commissioner did not process the complaint, but instead forwarded it to the institution's client service department, which merely acknowledged receipt. The user was not satisfied and contacted the Québec Ombudsman to clarify the situation.

The Québec Ombudsman contacted the commissioner to ask for details about this practice, which is against the spirit of the complaint examination system, and discovered that it was in fact a current practice in this institution. The Québec Ombudsman asked for permanent changes to be made to the procedure, in compliance with the law.

ENSURING THE AVAILABILITY OF LOCAL AND REGIONAL COMMISSIONERS

It often happens that local or regional commissioners are not replaced during vacations or prolonged absences, meaning that users are deprived of recourse during those times.

The Québec Ombudsman has taken action several times on behalf of an absent commissioner, but the complaint examination system is not meant to work this way. Furthermore, these actions have an impact on the the Ombudsman's resources, who are not supposed to provide the first level of recourse. The Québec Ombudsman therefore asked the regional commissioners to agree among themselves on a mechanism to ensure that, during the absence of one commissioner, the commissioner from another institution will be appointed to respond to users' requests.

The director of an institution refused to allow a user's daughter to be vaccinated even though it was an emergency. The user tried to contact the local commissioner to file a complaint, but the commissioner was absent for several days. The user asked to speak to the commissioner's replacement. He was informed that it was the director of the institution – the very person who had refused the vaccination. The parent contacted the Québec Ombudsman and described the situation, in which the director was both judge and defendant. He said he had lost confidence in the complaint examination system. As a result, the Québec Ombudsman agreed to handle the complaint as a first recourse.

Adoption

COMPLAINTS IN 2009-2010

Once again, the complaints received showed how important it is for international adoption applicants to have accurate, easy-to-understand information on the legislation, rules and procedures governing the process in Québec and in the countries from which they hoped to adopt a child.

EXERCISING VIGILANCE AND CONTROL OVER THE ACTIVITIES OF ACCREDITED AGENCIES

In all but a handful of cases, people who wish to adopt a child who is domiciled abroad or in another Canadian province must do so via an agency accredited by the Minister of Health and Social services. These agencies, which are supervised by the Secrétariat à l'adoption international, assist adoption applicants with the legal and administrative process.

In 2009-2010, the Québec Ombudsman completed an investigation that revealed administrative confusion and lack of rigour on the part of a certified agency. Over a period of several years, some of the agency's activities had escaped the supervision of the the Secrétariat à l'adoption internationale, and the agency had failed to fulfill its obligations under the legislation and standards governing international adoption in Québec.

Among other things, the Québec Ombudsman observed that the agency did not provide the services to which applicants were entitled, and had failed to provide them with essential information on the eligibility and progression of their applications, at a time when the country of origin had made some major changes to its adoption rules.

The agency's negligence contravened many of the conditions of its accreditation from the Minister of Health and Social services. Applicants were forced to pay additional costs to produce new versions of the documents in their files. These failures on the part of the agency delayed and ultimately compromised the adoption projects of certain applicants who, because of the accumulated delays, were no longer eligible to adopt due to the new age limit introduced by the amendments to the adoption rules in the country of origin.

As a result of this situation, the Secrétariat à l'adoption internationale introduced a series of corrective measures. It recommended that the Minister should suspend and then withdraw the accreditation of the agency in question, and this was done in May 2009. Following a recommendation by the Québec Ombudsman, the Secrétariat made sure the agency signed an out-of-court agreement with the applicants, and paid them financial compensation. The applicants in question approached a new accredited agency working in another country in which they were eligible to apply for an adoption.

Since the Hague Convention on Protection of Children and Co-operation in Respect of Inter-Country Adoption was implemented in 2006, the Secrétariat has had more power, which has enhanced its ability to control the activities of accredited agencies. Among other things, the agencies must submit a request for evaluation or renewal of their accreditation, and table an annual report of their activities along with their financial statements. The Secrétariat has also introduced a policy governing the processing of complaints relating to services provided by accredited agencies.

Although the Secrétariat à l'adoption internationale supervises the activities of accredited agencies, the Québec Ombudsman deplores the fact that it was not sufficiently vigilant to prevent the situation revealed by its investigation.

ADJUSTING THE SERVICES INTENDED FOR INTERNATIONAL ADOPTION APPLICANTS

In 2008-2009, the Québec Ombudsman recommended that the Ministère de la Santé et des Services sociaux (MSSS) should harmonize the services available to the parents of children adopted in Québec and abroad, to ensusure that both groups received equivalent support adjusted to their specific needs. In response to this recommendation, the MSSS informed the Québec Ombudsman that a consultative committee under the responsibility of the Secrétariat à l'adoption internationale had been given the priority of developing training for international adoption professionals, ensuring that applicants are better prepared, and harmonizing international adoption practices. In addition, the Secrétariat and its partners will be publishing a practical guide in June 2010, for international adoption professionals and case workers.

In 2010-2011, the Secrétariat intends to carry out the following activities :

- providing staff in all health and social services centres with vocational training so that, where needed, they are able to provide medical and psycho-social follow-up for international adoption cases;
- examining the possibility of working with Québec's youth centres to offer an information program for applicants who must choose between adopting in Québec or abroad, along with special preparation for those who choose international adoption.

The Québec Ombudsman notes these efforts but observes that the supply of services for international adoption applicants needs to be consolidated, in particular with regard to preparation for international adoption and access to post-adoption services.

RECOMMENDATIONS

WHEREAS it is important to provide appropriate services for the adoption of children domiciled outside Québec;

WHEREAS the Secrétariat à l'adoption internationale and its partners are expected to complete their work on the practical guide to international adoption in June 2010;

WHEREAS the purpose of the guide is to clarify the responsibilities of the various international adoption stakeholders in the pre-adoption, adoption and post-adoption phases;

WHEREAS the guide was prepared as a result of a consensus among the stakeholders on the need to reinforce the consistency of shared practices and ensure more efficient processing of adoption files for children domiciled outside Québec;

WHEREAS the activities of international adoption stakeholders are governed by legal obligations;

WHEREAS the Ministère de la Santé et des Services sociaux intends, between now and 2012, to introduce new orientations for the supply of domestic and international adoption and post-adoption services;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux ensure that an inter-sector agreement be entered into by the authorities responsible for providing services to applicants domiciled in Québec and, where applicable, to the children who are adopted, at the pre-adoption, adoption and post-adoption phases in the process of adopting a child domiciled outside Québec;

That this agreement reiterate the responsibilities of the authorities concerned, and in particular of the following:

- the Secrétariat à l'adoption internationale;
- Directors of Youth Protection;
- youth centres;
- health and social services centres;
- accredited agencies;

That this agreement define all the services that the authorities concerned undertake to provide to applicants and, if the need arises, to the children adopted, at every step in the process of adopting a child domiciled outside Québec.

COMMENTS BY THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

"The legislation governing international adoption already stipulates the responsibilities of the various stakeholders (the Minister, the Secrétaire à l'adoption internationale, the Director of Youth Protection and the accredited agencies). The Secrétariat à l'adoption internationale and its partners who worked on the guide mentioned in the recommendation all plan to sign the guide, which will help improve the interventions of the various stakeholders involved in the process. The joint effort made in this respect in the last two years followed the principles of respect for individual roles, consistency of action, fairness for all citizens, and process efficiency."

PARLIAMENTARY WATCH – REDEFINING ADOPTION GUIDELINES

On February 2, 2010, the Québec Ombudsman appeared before the Committee on Institutions regarding a draft bill, the Act to amend the Civil Code and other legislative provisions as regards adoption and parental authority. The purpose of its intervention was to raise questions on the following elements:

- the discretion left to the courts regarding adoption in which the pre-existing bond of filiation is not dissolved;
- the lack of clarification regarding open adoptions;
- the solidarity of the measures to be introduced to ensure that the reform is managed properly;
- the introduction of a legal recourse regarding breach of a communication agreement or disclosure of information on medical history.

The Québec Ombudsman was concerned at the potential repercussions if adopted persons did not have information on their medical history, and recommended that every adopted person should have access to information on the medical history of his or her natural father and mother, with due respect for their anonymity.

The Québec Ombudsman's speech is available at www.protecteurducitoyen.qc.ca*, under "Cases and Documentation".*

Physical disability, mental disability and pervasive developmental disorders

The Physical Disability program is for people of all ages suffering from a condition in an organ or system that creates or could create significant and persistent (including episodic) disabilities related to hearing, vision, language or motor activities which limit or may limit the accomplishment of daily activities or social roles. Due to the nature of their needs, these people, at some time or another, require specialized habilitation and rehabilitation services, as well as support services for social participation in some cases.

The Mental Disability and Pervasive Developmental Disorder program is for people in these two client groups. Mental disability is characterized by a level of intellectual function that is significantly below average, with limitations in adaptive behaviour that are visible in conceptual, social and practical skills. Disability occurs before the age of 18. Pervasive developmental disorders (PDDs) are specific problems that affect an individual's overall development, especially with regard to cognitive, social, emotional, intellectual, and sensory capacity, and language acquisition.

COMPLAINTS IN 2009-2010

The complaints received by the Québec Ombudsman this year dealt mainly with:

- the application of the Service Access Plan for Individuals with an Impairment;
- coordination among institutions to provide appropriate service continuity;
- loss of trust between the public and institutions due to interpersonal conflicts affecting the services received by users.

REDUCING THE WAIT FOR SERVICES

Complaints have been received for several years regarding the length of time people with disabilities have to wait for services. In its 2007-2008 annual report, the Québec Ombudsman issued a recommendation to the Ministère de la Santé et des Services sociaux (MSSS) on the specific topic of language rehabilitation services for children who require specialized speech therapy resources. In June 2008, the MSSS tabled a Service Access Plan for Individuals with an Impairment, aimed at reducing wait times to specific, reasonable lengths. The Plan will be implemented over three years – it should be complete in November 2010 – and includes access for people with disabilities to specialized services in rehabilitation centres as well as health and social services centres.

The Québec Ombudsman has observed a gradual reduction in the number of people waiting for services and in the length of time they must wait for services to begin, as defined in the Access Plan. The greatest reductions have been in the category of children aged 0 to 6.

However, the complaints received in the last year show that problems still persist, despite the Access Plan. The Québec Ombudsman has contacted the MSSS several times to communicate the public's dissatisfaction and to call for corrective measures.

AVOIDING INEQUITIES IN WAITING TIME

The MSSS decided to apply the new service access standards to users referred to institutions after November 8, 2008. As a result, people on waiting lists before this date were excluded. Even though the MSSS has informed these people that they can expect to be served within two years of the introduction of the Access Plan – that is, by November 1, 2010 – the disadvantages they experienced and the sense of being treated unfairly are very real.

A boy has a pervasive developmental disorder. At the age of 16 months, in the summer of 2007, he was put on a waiting list at a rehabilitation centre to receive speech therapy, occupational therapy and physiotherapy. When the Access Plan was introduced, in November 2008, he had already been waiting for 437 days. Children in the same situation as his, referred to the same institution in November 2008 for similar reasons, received their initial services within three months of registering, in February 2009. The Québec Ombudsman is deeply concerned about the unfair treatment this child received.

CURTAILING THE SHIFT IN WAITING TIME

The Access Plan stipulates that service begins at the first meeting, when the service worker gathers information on the user's needs. Between this moment and the provision of rehabilitation services, however, service workers must evaluate the patient's needs, establish priorities and develop an intervention plan.

Only after all these steps have been completed can the services themselves actually be given. Between each of these steps, weeks or even months may elapse, during which time users are told they are no longer waiting, since under the terms of the Access Plan their services have already begun.

In the opinion of the Québec Ombudsman, this is nothing more than a "shift" in waiting time, a practice that must be ended.

A girl under six years of age, with a physical disability, was admitted to a rehabilitation centre after November 8, 2008. In compliance with the Access Plan, the services she needed should have begun within 90 days after registration with the institution. In reality, eight months after the start of activities leading to the preparation of her first intervention plan, the girl had still not received the speech therapy services she needed. Even though access standards were upheld, a great deal of time elapsed before actual rehabilitation services were provided.

PROMOTING ACCESS RATHER THAN STATISTICAL COMPLIANCE

The Access Plan sets standards for the provision of the first rehabilitation service only. It is widely recognized, however, that many disabled people need services in more than one specialty area. In many cases, the first service does not address the original need for which the person was given a priority referral, and that service cannot be given immediately because of a shortage of human or financial resources. For example, an adult whose condition requires temporary residential accommodation may first be given psychosocial follow-up. The consequence of this method is that the institution achieves the statistical objectives of the Access Plan without necessarily providing an appropriate response to the person's needs.

RECOMMENDATIONS

WHEREAS the Ministère de la Santé et des Services sociaux decided not to apply the standards of the Access Plan to people on waiting lists before November 8, 2008;

WHEREAS the waiting time has been shifted within the process leading to the provision of actual services;

WHEREAS the first service provided and acknowledged by the Access Plan does not necessarily address the user's primary need;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux take the necessary steps to ensure that users enrolled on residual waiting lists be served as promised by November 1, 2010;

That it set acceptable wait times between the beginning of the needs evaluation process and the provision of actual rehabilitation services;

That it clearly define what is meant by "first service" to ensure that it addresses the user's priority need;

That it inform the Québec Ombudsman of the results of implementing these recommendations by February 1, 2011.

COMMENTS OF THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

"While we understand the meaning and scope of this analysis, we respectfully point out that for the MSSS, needs evaluation, priority definition and intervention plan development are an integral part of the services given to the clients. As such, it is difficult and even dangerous to suggest that user services only begin once these professional activities are complete."

Response of the Québec Ombudsman

The Québec Ombudsman agrees that evaluation activities are services, but we find it unacceptable that weeks or even months elapse between the needs evaluation and the beginning of rehabilitation activities.

FULFILLING THE COMMITMENT OF SERVICE CONTINUITY

More than six years ago, local service networks under the responsibility of the health and social services centres (CSSS) were set up to provide a better response to public needs by facilitating connections between institutions and professionals. In reality, however, many institutions continue to act in vacuums. Faced with a shortage of resources, many of them are also tightening their eligibility criteria.

During the last year, people with disabilities have turned to the Québec Ombudsman because no institution would agree to give them the services they needed. No institution felt it had the responsibility to serve these people. The Québec Ombudsman managed to obtain services for these people by emphasising the fact of shared responsibility within the local network.

The father of a young boy with coordination disorder contacted the Québec Ombudsman because the rehabilitation centre in his region refused to provide the services required, claiming that the disorder was not his primary diagnosis. No other institution in the region was able to provide the necessary services.

The Québec Ombudsman contacted the CSSS concerned to ask for the partners of the local network to work together so as to establish an individualized service plan for the boy and determine how the local service network could meet his needs. After this intervention, the rehabilitation centre reviewed its position and offered the appropriate priority services.

RESTORING TRUST

The Québec Ombudsman sometimes intervenes in situations where there are interpersonal conflicts between users' representatives and institutional representatives, sometimes compromising the users' rights. A number of complaints dealt specifically with a loss of trust in the system's ability to provide the services required by users. These situations can undermine the conditions in which the users' needs are met. The Québec Ombudsman's recommendations deal mainly with the restoration of this essential bond of trust.

The mother of an adult user with an intellectual disability completely disagreed with the approach chosen by the rehabilitation centre to address her daughter's severe behavioural problems. The conflicting opinions ended up causing tension between the centre's staff and the mother. The mother turned to the Québec Ombudsman for help.

In its investigation, the Québec Ombudsman noted that the measures used by the institution were based on processes applied in similar cases and did not undermine the user's rights. It reminded the rehabilitation centre of one basic principle, however: even though it is up to the clinical specialists to determine the best response to a specific need, the intervention plan must nevertheless be developed in partnership with the individual or the individual's representative. It was therefore reasonable that the mother's suggestions should be taken into consideration. When the user's intervention plan was reviewed, the mother proposed a new approach which the institution agreed to try, and which turned out to be effective.

ADAPTING PUBLIC SERVICES TO THE REALITY OF CHILDREN AGED 0 TO 7 WITH A PERVASIVE DEVELOPMENTAL DISORDER

In 2003, the MSSS published guidelines and an action plan concerning services for people with pervasive developmental disorders, their families and the people around them. The Québec Ombudsman subsequently launched an investigation to determine why it continued to receive complaints despite the fact that the guidelines were favourably received when they were first issued. Its in-depth analysis focused exclusively on the trajectory of children up to age 7, or the first year of elementary school, and their parents in the quest for services. The study revealed that the dissatisfaction expressed by many parents is, for the most part, substantiated.

Many parents reported a similar trajectory, riddled with obstacles: detecting their child's problem, obtaining a diagnosis, obtaining relevant information, navigating the many different, non-standardized requirements for the provision of services and support, and obtaining ongoing services.

The 21 recommendations in the Québec Ombudsman's report are aimed at the MSSS, the Ministère de l'Éducation, du Loisir et du Sport (MELS), the Ministère de la Famille et des Aînés (MFA) and the Office des personnes handicapées du Québec (OPHQ), encouraging these organizations to respond to the parents' concerns and address their dissatisfaction. The recommendations propose concrete measures to promote:

- access to rigourously accurate information;
- access to interventions that have been assessed and found to be effective;
- timely screening in compliance with ethical rules;
- harmonization of diagnosis requirements;
- recognition of the role played by siblings;
- easing of formalities concerning access to support and funding;
- a supply of services based on an assessment of needs;
- smoother transitions via structuring actions providing access to an individualized service plan and a patient navigator;
- access to education and easier school intake;
- priority to ensuring that the child has every chance to advance toward his or her full potential and providing parents with adequate support.

All the authorities concerned agreed to implement the recommendations and cooperated with the Québec Ombudsman.

The report and the results of the parent survey are available at **www.protecteurducitoyen.qc.ca**, under "Cases and Documentation".

Since then, the Québec Ombudsman has closely monitored the implementation of the recommendations, based on the schedule set out in the report.

Changes in the services available for children and adults of different ages are another major concern for the Québec Ombudsman. This year, it systematically investigated access to public services for teens and adults with pervasive developmental disorders.

Accomodation of people with age-related loss of independence

The health and social services centres (CSSSs) are responsible for organizing accommodation services and allocating them to residents in the territories they serve. Service access is based on the level of independence of the people waiting for services. Ranked from most to least independence, these services are provided by:

- Seniors' residences;
- family-type and intermediary resources;
- residential and long-term care centres (CHSLD) for highly dependent seniors.

COMPLAINTS IN 2009-2010

The complaints received this year concerned various problems encountered in seniors' residences, intermediary resources and CHSLDs, especially with regard to the quality of care and services. Some CHSLDs and intermediary resources have not managed to embrace the concept of living environment. For example, they do not offer a pleasant and stimulating environment for the residents.

Another major source of dissatisfaction was the mix of residents (cohabitation of users with different health problems, including some with serious behavioural disorders).

COMPLETING THE CERTIFICATION PROCESS FOR PRIVATE SENIORS' RESIDENCES AND PROVIDING APPROPRIATE OVERSIGHT

The Québec Ombudsman reminded the Ministère de la Santé et des Services sociaux (MSSS) of the urgent need to address the delay in certifying private seniors residences. As of March 31, 2010, roughly 20% of residences had not yet been certified, even though, under the initial plan, they should all have been certified by June 30, 2009. The growing number of complaints and reports about service quality confirms that the Québec Ombudsman's concern is well-founded. As long as the certification process is incomplete, there is no guarantee of compliance with the social and health-related criteria that help guarantee the security of residents.

Furthermore, the Québec Ombudsman feels it is vital for the MSSS to include seniors' residences in the service quality assessment visits it carries out for all residential resources. The MSSS has been informed of this concern.

RECOMMENDATIONS

whereas the certification process has been delayed and is not complete;

WHEREAS the certification process cannot, on its own, provide all the necessary guarantees for service quality;

WHEREAS residents are especially vulnerable and may be easy targets for abuse;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux ensure that the certification process for private seniors' residences is completed by December 31, 2010;

That private seniors' residences be included in its quality assessment visits.

COMMENTS FROM THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

"A connection has been made between the certification process for private residences and the Department's assessment visits to residential centres and intermediary resources. We understand that this connection reflects the Québec Ombudsman's very legitimate concern about the quality of the services offered in private residences, but without an evaluation of the cost of including private seniors' residences in our quality assessment visits, this recommendation does not seem to be realistic, given the amount of resources it would require."

Québec Ombudsman's response

The Québec Ombudsman is not satisfied with this response, and we reiterate our recommendations to guarantee the quality of services offered to seniors.

OFFERING RESIDENTS A PROPER LIVING ENVIRONMENT IN INTERMEDIARY RESOURCES AND CHSLDS

Intermediary resources and CHSLDs must apply the departmental guidelines concerning the provision of a quality living environment that meets users' needs. Although some centres and resources claim to have created an environment that resembles a natural living environment, they have been slow to adapt their practices accordingly. Services are often focused on the task to be accomplished rather than on the resident's needs and pace of life.

The main grounds for the complaints received during the year related to assistance with hygiene, elimination and eating, and personalization of services. The following examples illustrate the types of situations described in the complaints:

- A resident was obliged to wear incontinence underwear because the staff did not have time to accompany him to the toilet.
- Baths were given according to a defined schedule that did not reflect the usual practice.
- The orderly assigned to assist with meals had to help several people at the same time, meaning that each person was forced to eat quickly.
- Residents were awoken at dawn so that employees could provide hygiene care at the time that was most convenient to themselves.

In the winter of 2010, the MSSS tabled its national report on the results of assessment visits carried out between 2004 and 2007, to evaluate the application of the "living environment" approach in the institutions. The report revealed that daily living activities were not necessarily carried out in compliance with reasonable practice, and that efforts were not always made to help residents to maintain their abilities. It recommended that CHSLDs should be given the tools they need to develop a more flexible work organization that reflects a more normal lifestyle. The Québec Ombudsman approves of this recommendation. Nearly seven years after the departmental guidelines were issued, it is high time that, instead of paying simple lip service, real steps should be taken to implement the measures in the short term.

The residents of an intermediary resource were awoken at 5:30 a.m. The orderlies quickly dispensed personal care, in order to stay within a specific schedule. As a result, it sometimes happened that the users' hygiene and clothing were neglected. Meals were then rushed in 30 or 45 minutes. Although the ministerial guidelines call for a stimulating living environment, people spent their days sitting passively in their rooms. The atmosphere was usually silent, with no stimulation whatsoever.

The Québec Ombudsman recommended that the CSSS should reassess the institution's ability to provide users with quality services in a pleasant and stimulating environment. The CSSS informed the Ombudsman that a new manager would arrive at the institution on April 1, 2010, and that in the interim an executive consultant would be hired to oversee the creation of a more appropriate living environment.

The Québec Ombudsman has observed some positive outcomes from the MSSS's quality assessment visits. The visits lead to the development of practical measures that will help adjust the organization of work to the residents' needs. The Ombudsman is therefore concerned about the planned reduction in the number of annual visits (from 12% to 10%), especially as it recommended increasing the number of visits in its last annual report.

These findings should not overshadow the positive gains that have been made in terms of implementing a quality living environment. In its regional tours, the Québec Ombudsman has observed a desire to provide quality services for residents in an environment that is clean, warm, and marked with joie de vivre and a joy of work, in spite of architectural limitations and dilapidated buildings. It has also observed a great deal of initiative and creative ingenuity.

AVOIDING PROBLEMS CAUSED BY MIXED CLIENT GROUPS IN CHSLDS

In certain institutions where clients are not appropriately grouped, lucid people with reduced mobility may end up with people who exhibit cognitive loss and invasive wandering problems. In other institutions, people with incompatible behaviours are grouped together. For example, someone with frontal dementia and a violent behavioural disorder may be in the same unit as an Alzheimer patient. These situations are likely to aggravate or even cause behavioural problems in some residents. People live in fear of being attacked, they have no peace or security, and they do not feel at home. They are demoralized and anxious. Families are outraged at this forced companionship and refuse to tolerate situations they consider tantamount to abuse.

One solution to problems such as these is to evaluate the residents' needs properly. However, the current evaluation tools do not take sufficient account of the needs generated by cognitive deficits and disruptive behavioural disorders. They focus mainly on everyday activities for which the user requires help (e.g. washing, dressing, eating, walking), and the need for monitoring, behavioural management and an adapted approach are not adequately measured. Institutions are overwhelmed by the additional demand for monitoring and behaviour management.

Before a user is referred and admitted to a residential centre, quality indicators should be used to ensure that the centre is able to meet all his or her needs, including management of disruptive behaviour, from the time of admission.

In 2007-2008 the Québec Ombudsman asked institutions to adopt and implement quality indicators such as those described above. Two years later, this measure is still in the planning stage.

The Québec Ombudsman received three complaints relating to the same institution, concerning the behaviour of a new resident, who verbally and physically assaulted the people around her. She had a serious cognitive deficit, and entered people's rooms, stole their personal belongings, yelled, hit and shouted abuse at people. The other users and their families were perturbed. As worrisome as this seems, the CHSLD asked the residents to adapt to this behaviour, which affected their privacy, dignity, security and comfort.

The Québec Ombudsman recommended that additional supervision measures be implemented immediately in the unit to maintain the residents' safety and quality of life. It was also recommended that priority be given to the creation of a more suitable physical environment and service program. The institution accepted these recommendations and the Québec Ombudsman is monitoring their implementation.

In fall 2006, a resident died in a residential centre in the CSSS Sud de Lanaudière. At the same time, a family went to the media to expose the poor treatment to which their parent was subjected in another institution in the same CSSS. The Québec Ombudsman decided to investigate the problems and ensure that the institution was taking appropriate steps to resolve them, in compliance with the departmental guidelines.[1]

The Québec Ombudsman's intervention, which lasted seven months, dealt with the clinical and administrative management of the CSSS (residential sector), the development of its "living environment" project and its interdisciplinary approach. At the end of the investigation, the Québec Ombudsman issued thirty recommendations covering the following issues:

- *the "living environment" project;*
- *service organization;*
- *physical environment and material resources;*
- *clinical management;*
- *administrative management.*

[1] MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX, Un milieu de vie de qualité pour les personnes hébergées en CHSLD – orientations ministérielles. Québec, October 2003.

The Québec Ombudsman is tracking the implementation of corrective measures that will allow the CSSS to make a number of improvements, including:

- *a major overhaul of residential services;*
- *implementation of microenvironments to meet the needs of specific client groups;*
- *transfer of residents to rooms suited to their condition;*
- *sustained training and supervision of workers with regard to the "living environment" approach;*
- *reinforcement of interdisciplinary practices;*

improved support for families and resident committees.

The Québec Ombudsman would like to inform the Centre de santé et de services sociaux that it is satisfied with the cooperation received and the way the Centre has fulfilled its commitments over the course of the intervention.

The intervention report is available at **www.protecteurducitoyen.qc.ca**, under "Cases and Documentation".

RECOMMENDATIONS

WHEREAS benefits have resulted from the assessment visits for the implementation of the quality living environment;

WHEREAS there is a threat to the quality of life and the safety of residents arising from the presence of users with behavioural problems in an environment that is unprepared for this reality;

WHEREAS current evaluation tools are limited in that they do not adequately assess the needs of clients with disruptive behavioural problems;

WHEREAS residents are extremely vulnerable and susceptible to abuse;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux step up assessment visits in order to enforce the implementation, by December 2011, of its departmental guidelines concerning a quality living environment for residents;

That it report the measures it intends to take, in addition to assessment visits, to ensure that work and services are organized so as to adequately meet the needs of the residents and respect their rhythm and lifestyle;

That it design guides, tools, and quality standards for institutions to follow in order to reorganize their work and services to truly meet the needs of the seniors they house, including those with cognitive deficits combined with disruptive behavioural disorders, while respecting their rhythm and lifestyle;

That it report, by April 2011, on the measures it intends to adopt to guarantee to all users with behavioural disorders, even before they are referred and admitted to a residential resource, that the institution that accepts them will be able immediately to provide all the services required by their condition, especially in terms of organization and environment, without infringing on the other residents' right to privacy, security and dignity;

That it report, by April 2011, on the steps it intends to take to follow up on the recommendations issued in the national report on quality assessment visits carried out from September 2004 to June 2007.

In addition to the recommendations on the various topics cited above, in its last two annual reports the Québec Ombudsman also raised other points that require some adjustment.

IMPROVING THE PHYSICAL ENVIRONMENT FOR END-OF-LIFE SERVICES

The MSSS informed the Québec Ombudsman that it would spend $820 million on various renovation projects overseen by the ASSSs, in part to provide an appropriate end-of-life environment for users and their families. As the MSSS was unable to provide any data concerning the portion of this amount that was spent for that purpose, the Québec Ombudsman wants to ensure that the required sums will in fact be used as promised.

PROVIDING SAFETY IN RESIDENCES

The departmental guidelines clearly state that no form of violence will be tolerated in residential institutions. In response to the Québec Ombudsman's intervention, the MSSS indicated that it would add clarifications concerning outbursts of violence by third parties or visitors. In reaction to this response, the Québec Ombudsman has reiterated its recommendation on this matter.

COMMUNICATING ADEQUATE INFORMATION

The MSSS confirmed that the new agreement conditions between institutions and intermediary resources will include the Ombudsman's recommendation that users or their representatives be adequately informed of the reasons for terminating an agreement with an intermediary resource.

The Québec Ombudsman has asked to be kept informed about these new conditions.

Troubled youth

COMPLAINTS IN 2009-2010

In 2009-2010, 70% of the complaints involving youth centres were concerned with to staff interventions using measures agreed between youth protection directors and parents or ordered by the courts.

PROTECTING INFANTS AND TODDLERS

In its last annual report, the Québec Ombudsman announced it was taking action of its own initiative to enforce the legislative intention, expressed in 2006, to make the protection of children, especially infants and toddlers, a collective responsibility. In practical terms, acting on this intention means ensuring that the supply of services complies with the departmental guidelines issued in 2008.

The Québec Ombudsman went on to assert that upholding the right of children to protection, security and attention requires an additional effort to:

- improve coordination between health and social services and youth centres;
- develop tools and strengthen joint practices to detect dangerous situations for infants or toddlers in a timely manner; and
- using inter-institution agreements, make a variety of services available to respond to situations of family neglect

KNOWING HOW TO APOLOGIZE TO PARENTS AFTER A MISTAKE

This year, the Québec Ombudsman's attention was drawn to a specific situation involving youth centres and local complaints and service quality commissioners, namely the importance of moral reparation for parents penalized by errors.

A placement order for a teen was delayed because there was no opening in a rehabilitation centre. Since the teen was becoming increasingly aggressive, the parents asked for emergency assistance and a referral from the youth centre. The institution's Social Emergency Service did not take action. Later that same day, the situation degenerated to a point where the teen began to terrorize his entire family, triggering a police intervention.

After the Québec Ombudsman's intervention, the youth centre apologized to the family for its inaction. Following a recommendation from the local complaints and service quality commissioner, the youth protection director issued a reminder to all staff, in February 2008, concerning the role of the Social Emergency Service and the emergency intervention procedure.

A parent was forbidden from contacting a child for several days while the child was temporarily housed at a rehabilitation centre. Neither the court nor the general manager of the institution had authorized this decision, which had been made by the centre's educational staff, and which was contrary to the Youth Protection Act. Worried, the parent contested the decision

on the grounds that it was against the law. In the end, the youth centre officially acknowledged the error made by its educational staff and apologised to the parent for failing to respect his right to contact the child. The centre also issued a reminder to the rehabilitation unit staff regarding the institution's obligation to comply with the provisions of the law.

The centres' recent efforts in this regard deserve to be recognized. Not only have they been willing to apologise to parents who have experienced dramatic events and been indeed wronged, but they have also taken the appropriate steps to prevent such situations from recurring in the future.

Mental health

The goal of the Mental Health Program is to provide people suffering from mental health problems, regardless of severity and duration, with a response that reflects their needs, and that is appropriate for their situation.

COMPLAINTS IN 2009-2010

In 2009-2010, the Québec Ombudsman received complaints on certain topics that recur year after year:

- forced confinement of users in institutions;
- isolation measures;
- restraint measures.

RESPECTING THE USER'S RIGHTS IN A SITUATION OF FORCED CONFINEMENT

The Québec Ombudsman has intervened repeatedly with institutions to remind them of their obligations with regard to forced confinement. Having noted the absence of official guidelines, the Ombudsman submitted the matter to the Ministère de la Santé et des Services sociaux (MSSS). It also undertook a systematic analysis of the use of forced confinement in institutions. The analysis revealed major gaps between the law and its application, for all three types of forced confinement: preventive confinement, temporary confinement and institutional confinement.

PREVENTIVE CONFINEMENT

With preventive confinement, any physician can keep a person against their will, without court authorization or prior psychiatric examination, for a maximum period of 72 hours, if he or she believes the person's mental state presents a grave and immediate danger to self or to others. If the person taken into care is able to understand, they must be informed immediately of their right to contact their family and a lawyer. But the Québec Ombudsman has observed a number of shortcomings in this respect in its investigations. User files are often incomplete or vague, and the institution's director of professional services is not always informed about preventive confinements, even though the law stipulates this requirement.

The Québec Ombudsman believes the MSSS should develop a standard form that includes a place for a mandatory physician's signature.

A person was taken to the emergency room and placed in preventive confinement. Her file did not indicate in what respect she presented a grave and immediate danger to herself or to others, as justification for her confinement, nor did it confirm that the director of professional services was notified of the preventive confinement, as stipulated by law, or mention whether the person was informed of her confinement, her rights and the recourse open to her, even though this information must be given by law.

Subsequently, the order for preventive confinement was renewed. Again, there was no note in her file to indicate that the institution obtained the free and informed consent of the person before undertaking a psychiatric examination.

The Québec Ombudsman recommended that the institution review its policy for taking people into custody and provide the appropriate training for its staff, which the institution agreed to do.

TEMPORARY CONFINEMENT

At the request of a physician or other interested person (family, friend), the Court of Québec can authorize the temporary confinement of a person, against their will, for psychiatric evaluation if it thinks there is a serious reason to believe the person presents a danger to self or to others because of his or her mental state.

In the opinion of the Québec Ombudsman, temporary confinement should not be a matter for the courts if the person is able to agree to a psychiatric evaluation. But the Ombudsman has observed that several institutions do not fulfill their obligation to determine the person's capacity to provide consent, or simply neglect to obtain it. Likewise, some institutions submit requests directly to the court. As a result, the confinement is unduly prolonged because of delays in obtaining the court order, and additional fees must be paid by the institutions and users in their own defence.

INSTITUTIONAL CONFINEMENT

Institutional confinement has replaced "closed treatment." In this case, if there are serious grounds to do so, the court authorizes the confinement of a person in an institution against their will because of their mental state. The decision must be supported by two psychiatric examinations, during which the person's capacity to take care of themselves or administer to their needs is evaluated, along with the appropriateness of putting them into protective supervision. These examinations are extensive in scope.

If the confinement lasts for more than 21 days, the person must undergo periodic examinations to determine whether confinement is still required. But the Québec Ombudsman has noted that these examinations are not always carried out within the timeframe stipulated by law. Furthermore, institutions systematically ask for confinement durations of 60 to 90 days, a period that, according to law, should only be applied in exceptional circumstances.

MAINTAINING STRICT ACCOUNTABILITY

The boards of directors of institutions currently have no obligation to account for their use of confinement, although they are accountable for upholding users' rights. The Québec Ombudsman recommends that the MSSS quickly develop an accountability process for the various types of confinement.

STANDARDIZING THE APPLICATION OF DECISION-MAKING CRITERIA

The Québec Ombudsman has observed a clear lack of consistency in the institutions' decisions and practices, among regions, institutions, categories of workers and even professionals within the same institution.

It notes that the institutions' interpretation of the danger that a person represents to themselves or others due to their mental state clearly differs according to whether the assessment is made by a physician, an emergency assistance worker or a police officer. The same applies to the terms "grave" and "immediate," even though the interpretation has a direct impact on the decision to place the person in preventive confinement or not. Considering the real harm caused to users, the Québec Ombudsman feels experts should establish guidelines and the MSSS should enforce their application, in order to uphold users' rights.

DECOMPARTMENTALIZING INTERVENTIONS

The Québec Ombudsman believes the MSSS should work more closely with all the stakeholders involved in the application of institutional confinement, to establish shared values and ensure that all interventions are respectful, with a view to complementarity. The Ombudsman feels this would avoid pointless hospitalizations or imprisonment of homeless people.

RECOMMENDATIONS

WHEREAS the Act respecting the protection of persons whose mental state presents a danger to themselves or to others applies to exceptional situations;

WHEREAS there is a gap between the rights granted by law and respect for these rights in practice;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux formulate guidelines to direct and standardize the application of the legal framework governing all types of forced confinement;

That it provide practitioners and workers with a standardized form to avoid the abusive interpretation of the rule of law and ensure it is able to monitor practices;

That it require institutions to report on their practices, including the annual number of confinements, the reasons for them, and their duration;

That it inform the Québec Ombudsman by December 31, 2010, of how it intends to implement these recommendations.

COMMENTS FROM THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

"The Direction de la santé mentale has just completed a report on the application of the Act respecting the protection of persons whose mental state presents a danger to themselves. The report reaches the same conclusions as the Québec Ombudsman and presents similar recommendations, so the MSSS will pay close attention to the response it gives to the Ombudsman's recommendations in this regard."

PROVIDING A BETTER STRUCTURE FOR THE USE OF ISOLATION AND RESTRAINT

Institutions may exceptionally resort to force, isolation, and mechanical or chemical means of restraining users in order to prevent them from inflicting injury on themselves or on others.

Over the years, the MSSS has sought to standardize institutional use of isolation and restraint measures. It has developed guidelines, given training and produced a checklist of alternatives.

Nevertheless, the Québec Ombudsman still receives complaints, and for this reason decided to carry out a systematic analysis of the following factors:

- the exceptional nature of the use of control measures;
- institutional compliance with the law and the departmental guidelines;
- respect for users when control measures are applied;
- consistency in the application of control measures by institutions.

Its analysis revealed that the use of control measures regularly infringes users' rights and breaches institutional obligations. The situations described below bear witness to this.

ISOLATION

The Ministerial guidelines for the exceptional use of control measures (restraint, isolation and chemical substances) define isolation as a control measure that consists of confining for a determined period persons in a place they cannot leave freely.

The Québec Ombudsman has noted various interpretations of this definition, but above all an intentional change of terminology: terms such as room plan (plan de chambre), room confinement (retrait en chambre), behavioural care plan (plan de soin comportemental), and zone may be all used, allowing the law to be sidestepped, and the internal rules and procedures based on MSSS guidelines to be ignored.

USE OF CHEMICAL SUBSTANCES

In its 2007-2008 annual report, the Québec Ombudsman recommended that the MSSS establish guidelines to manage the use of chemical restraints. No follow-up to this recommendation has been reported to date.

USE OF PLANNED CONTROL MEASURES

Planned control measures are used when a person exhibits disorganized behaviour that is likely to be repeated and that may present a real danger for the person or for others.

When an institution resorts to this kind of measure, it must, under the MSSS guidelines, obtain prior consent from the user or the user's legal representative. The Québec Ombudsman has noted that some institutions do not fulfill this obligation, and has insisted that they do comply. The Ombudsman feels the regional health and social services agencies should oversee compliance with these practices, since they are charged with approving institutional policies. But the MSSS has not issued guidelines to assist the agencies with the approval of these policies.

INFORMATION CONCERNING CONTROL MEASURES

The Québec Ombudsman discovered that users and their families were not given information on the reasons for using control measures, even though this is essential in creating trust among users, their families and staff.

Likewise, the law stipulates when a control measure is used, it must be entered in the user's file, with specific reference to the behaviour that triggered its use or continuation, the means used, and the duration of its use. Yet, in nearly all the files that the Québec Ombudsman examined, the laconic nature of the notes is worrisome.

MEANS TO GUIDE AND ASSESS USE OF CONTROL MEASURES

In its action plan on guidelines for the exceptional use of control measures, the MSSS said it intended to design and introduce a standardized data collection tool to provide a more robust structure for the use of such measures, and to allow institutions to track changes in the use of control measures in their environment. The MSSS said the institutions would have to complete this form every time a control measure was used. To date, however, no such tool has been developed. Several institutions have created their own forms, which unfortunately sometimes seem to legitimize apparent infringements of the law.

Finally, the Québec Ombudsman notes that the MSSS has not assessed the effects of using control measures since the implementation of the guidelines, despite the fact that this exercise is clearly essential.

RECOMMENDATIONS

WHEREAS overly frequent or inappropriate application of control measures may infringe upon a person's right to freedom and integrity;

WHEREAS the use of restraint, isolation and chemical substances must be exceptional;

WHEREAS the Québec Ombudsman has noted many shortcomings in this regard in recent years;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux review the notion of isolation to define it more clearly in order to avoid abuse;

That it provide a more robust framework for the use of chemical substances as a control measure;

That it ensure that institutions obtain consent from users or their representatives in instances where planned control measures are used;

That it ensure that institutions fulfill their duty to provide users and their families with information on the use of control measures;

That it ensure that professionals write down the reasons for the use of control measures in the user's file;

That, as set out in its action plan, it design and implement a standardized data collection tool that must be completed by professionals every time a control measure is used, and that it suggest a method for data compilation and monitoring;

That it develop guidelines to direct the health and social services agencies in the approval of the institutions' protocols for use of control measures;

That it ensure that the institutions' boards of directors receive all the information they need to enforce respect for users by monitoring the use of control measures within their institutions;

That it assess the impact of implementing its guidelines.

The Québec Ombudsman asks to be informed, by December 31, 2010, of the measures that the Ministère de la Santé et des Services sociaux intends to take in response to these recommendations, and the schedule for their implementation.

EVALUATING THE REAL CONSEQUENCES OF THE 2005-2010 MENTAL HEALTH ACTION PLAN

The Québec Ombudsman shares the values set out in the 2005-2010 Mental Health Action Plan. It is aware, however, that implementation in the field has been difficult. The reconfiguration intended to improve the distribution of care and services and ensure continuity has not yet produced the desired effects. Some institutions are struggling to provide the required services, especially front-line services, and cooperation among different professionals has been slow to emerge. Major shortcomings persist with regard to individual assessments, individualized service plans, the distribution of required care and timely follow-up. In its last annual report, the Québec Ombudsman pointed out that the MSSS had not made a commitment to assess service quality or users' quality of life. The Ombudsman brought this issue to the attention of the Committee on Health and Social Services.

The Action Plan comes to a close in 2010. What does the MSSS intend to do to correct the problems that were uncovered, and what will happen in the meantime? The MSSS told the Québec Ombudsman that, in the coming year, a team of experts will assess the implementation of the Action Plan. The Québec Ombudsman has asked to be given the results of this assessment as soon as they are known.

PARLIAMENTARY WATCH – PROTECTING THE USERS' INTERESTS IN REDEFINING PROFESSIONAL FIELDS

Bill 21, the Act to amend the Professional Code and other legislative provisions in the field of mental health and human relations, was assented to on June 19, 2009. This law redefines some fields of professional competency, including the professions of psychologist, social worker, marriage and family counsellor, vocational counsellor and psychoeducator.

The Québec Ombudsman told the Committee on Institutions that it was concerned about coordination of the implementation of these new reserved activities, since it fears that clients of professionals no long authorized to practise will not be able to obtain the services they need. Accordingly, the Québec Ombudsman recommended that the Office des professions be given the power to take transitional steps to alleviate this situation, if necessary. As this suggestion was rejected, the Québec Ombudsman will pay special attention to the implementation of this new legislation when it comes into effect.

The Québec Ombudsman's intervention can be consulted at **www.protecteurducitoyen.qc.ca**, under "Cases and Documentation".

Physical health

The Physical Health program is intended for anyone who has an illness, symptom or trauma and who requires specialized or super-specialized care and treatment. This includes services offered in hospitals for acute care, and in outpatient clinics or at home for patients who cannot travel to obtain the care they need.

The program also includes palliative care, as well as services for users who require ongoing care.

COMPLAINTS IN 2009-2010

The complaints received this year on the subject of physical health involved:

- the emergency sector;
- palliative end-of-life care;
- the quality of care and services offered by workers in general care units;
- the quality of care and services at birth and for newborn infants.

TAKING BETTER CHARGE OF USERS IN EMERGENCY WARDS

The mission of an emergency ward is, at all times, to provide the care and services required by the condition of every person who arrives with an urgent medical problem. This requires an organizational model that incorporates all the components of the intra- and extra-hospital network, including:

- residential services;
- mental health services;
- walk-in consultations;
- family medicine groups;
- network-clinics.

Expectations for emergency ward services are high, and users demand easily-accessible, good quality services.

Once again this year, the complaints received were concerned with waiting times, triage and systematic reassessment of patients as they wait to be seen by a doctor. The Québec Ombudsman has observed improvements in some hospitals, particularly in terms of work organization, including the addition of nursing assistants and nurses assigned exclusively to reassessment. This ensures that users whose condition is deteriorating will be given care more quickly. However, the complaints received by the Québec Ombudsman suggest that such initiatives are not widespread.

In its 2008-2009 annual report, the Québec Ombudsman recommended that the Ministère de la Santé et des Services sociaux (MSSS) find temporary solutions so that users whose state of health is evaluated at priority level 4 or 5 can gain access to front-line services. The professional practice guide entitled Le triage à l'urgence (Emergency Triage) specifies that a classification of level 4, considered "less urgent," would mean a waiting time of 60 minutes, while a classification of level 5 or "not urgent" would mean a waiting time of 120 minutes. In processing several complaints, however, the Québec Ombudsman found that despite the measures implemented, users are often not reassessed as indicated in the professional practice guide, leading to unfortunate and sometimes tragic results.

The Québec Ombudsman acknowledges that efforts have been made throughout the network, but deplores the fact that a satisfactory response has yet to be made by the MSSS with regard to its recommendation. It therefore recommends that the MSSS should take concrete steps to provide quality front-line services to users whose health is assessed at priority level 4 or 5, and that it give the requested response by December 2010.

IMPROVING ACCESS TO END-OF-LIFE PALLIATIVE CARE

End-of-life palliative care includes all care offered to people who suffer from a disease with a poor prognosis. These services are for clients in every age group with incurable diseases, as well as those with age-related diseases, and the goal is to reduce pain and provide psychological, social or spiritual support, with the aim of giving users and their families the best quality of life under the circumstances.

The End-of-Life Palliative Care Policy seeks to uphold the dignity of individuals and respect their privacy, and it specifies that care must be organized and dispensed by a multidisciplinary team including the user and the user's family.

The complaints received this year concern the application of this policy. It should be said immediately that the complaints are not concerned with the care provided in palliative units as such, but rather with situations occurring outside those units, either in acute care units (such as emergency and intensive care wards) or in residential centres.

Users and their families expressed dissatisfaction with the support they received, and with the lack of respect for their dignity and privacy. Some complainants pointed out that, unfortunately, "things went badly," and "there will be no second chance" to relive the situation. It therefore appears that the conditions for providing care in line with best practices are not always available.

The Québec Ombudsman recommended the use of palliative care resources so that the care teams are better equipped to meet the specific needs of people at the end of their lives. It also asked for staff to be reminded of the information and support to be given to users and their families. In this regard, it feels the implementation of the departmental policy must, by definition, be supported by better staff training and changes to the physical environment, as well as conditions conducive to the provision of individual support.

The three situations described below illustrate the type of deficiencies that exist.

An 84-year-old woman was hospitalized in the acute care unit of a hospital after suffering multiple cerebral hemorrhages. Within 24 hours, her condition deteriorated to the point that she was expected to die.

The family complained to the Québec Ombudsman, saying that comfort caregivers could not perform their duties properly because the conditions were unsuited to the user's critical condition. Furthermore, over the course of the night, family members were asked to leave the room because visiting hours were over. The family did not feel they were supported in the end-of-life process.

As a result of the Québec Ombudsman's intervention, staff members likely to be taking care of end-of-life users received appropriate training and families were guaranteed access to the rooms of dying patients outside visiting hours.

The health of a 34-year-old woman deteriorated rapidly in the space of a month, during which time she was hospitalized and transferred five times to different care units, before finally dying in intensive care.

The Québec Ombudsman's analysis of the facts revealed that the frequent moves deprived her of access to consistent, continuous palliative care.

The End-of-Life Palliative Care Policy stipulates that users should receive end-of-life care at the right time and in the right place. The Québec Ombudsman deplores the lack of access to this kind of care in acute care units, and especially in intensive care, where end-of-life situations often occur. Special training in palliative care, including support and accompaniment for users and their families, is now available in the intensive care unit of the hospital in question.

An 89-year-old woman was sharing a double room in a residential and long-term care centre. Her health was deteriorating and her daughter asked for her to receive end-of-life palliative care. The daughter had previously signed an agreement with the institution in this regard, and she expected her mother to be transferred to a private room with monitoring, support and accompaniment. In reality, however, the situation was entirely different: the user who shared the room with the woman had to witness her death, and the only support the woman received was morphine to ease her pain.

The Policy stipulates that the user's privacy should be protected by moving him or her to a private room. The Québec Ombudsman's intervention revealed the following:

- *confusion over agreements concluded between the centre and families with regard to end-of-life palliative care;*
- *gaps in services as a result of this confusion;*
- *a need for the centre to develop an end-of-life care program, including specific training for staff.*

RECOMMENDATIONS

WHEREAS the population is aging;

WHEREAS people at the end of their lives are fragile, and they and their families have specific needs;

WHEREAS the Palliative Care Policy has already been in effect for six years;

whereas there is a lack of training on the recommended approach to palliative care when the death occurs outside a palliative care unit;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux submit a report, by December 2010, outlining the steps it intends to take to implement its End-of-Life Palliative Care Policy, particularly in terms of training;

That it inform the Québec Ombudsman of its results by December 1, 2011.

COMMENTS FROM THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

"We acknowledge that the End-of-Life Palliative Care Policy was introduced six years ago. Nevertheless, we must inform the Ombudsman that it is a major challenge to provide basic training and competency upgrades for the personnel and volunteers who work in palliative care. Indeed, the need to replace personnel attending training activities, along with time constraints, costs, lack of basic training in almost all university curricula, staff turnover, and the retirement of palliative care mentors and pioneers, make it difficult to provide training for all the resources in the health and social services network. Despite the many constraints, we are aware of the importance of these issues, and we are determined to pursue our efforts in this regard."

PARLIAMENTARY WATCH – IMPROVING THE MANAGEMENT OF RISKS RELATED TO MIDWIFERY

The draft regulation enacting the Midwives' Code of Ethics reinforces the duties and obligations of midwives, particularly toward women, newborns and the profession, in order to provide better protection for the public.

In its analysis, the Québec Ombudsman found that the draft regulation failed to include duties and obligations relating to the declaration and disclosure of incidents or accidents to the user or the user's representative. Since 2002, however, provisions to this end have been included in other codes of ethics, in order to reduce the risk of events leading to harm and to support people who suffer harm. Risk management is an important component of the provision of quality care that the law seeks to guarantee.

In support of its findings, the Québec Ombudsman noted, in the complaints it received, that declaration and disclosure of incidents and accidents are important elements in respecting users' rights and improving service quality. It therefore believes the new Midwives' Code of Ethics should include a provision on risk management.

The Québec Ombudsperson made a recommendation to this end to the President of the Office des professions du Québec, who agreed to follow up on it.

The Québec Ombudsman's intervention can be viewed at **www.protecteurducitoyen.qc.ca**, under "Cases and Documentation".

Prehospital emergency Services

COMPLAINTS IN 2009-2010

The complaints received in connection with prehospital emergency services concerned payment for ambulance transportation. The two most common reasons for refusal to pay were misunderstandings about the cost of transportation, and the fact that the people taken to hospital did not personally ask for ambulance transportation, which was often provided against their wishes.

In the last ten years, these two problems have often been factors in complaints about prehospital emergency services. Both the Health and Social Services Ombudsman (before April 2006) and the Québec Ombudsman have taken note of this, in their annual reports.

KEEPING THE PUBLIC INFORMED ABOUT THE COSTS OF AMBULANCE TRANSPORTATION

When people claim they do not know the cost of ambulance transportation, they are usually under the impression that it is a service paid for by public insurance programs and therefore free for all users. In other cases, the people concerned may not have called for an ambulance themselves and, for this reason, refuse to pay the costs.

In the last year, the Québec Ombudsman has suggested that a task force composed of representatives from the MSSS and its network, should do more to publicize the cost of ambulance transportation and clarify the conditions of free carriage.

EXEMPTING PEOPLE WHO ARE TRANSPORTED BY AMBULANCE AT THE REQUEST OF POLICE OFFICERS

The Act respecting the Protection of persons whose mental state presents a danger to themselves or to others allows police officers, under certain circumstances, to take a person, against their will and without court authorization, to a hospital. In these situations, the officers may entrust the transportation of the person to the care of ambulance technicians. The law provides for this situation, but it is an extraordinary measure and subject to strict conditions.

After analysing the problem raised by the Québec Ombudsman, the MSSS Direction adjointe des services préhospitaliers agreed that, beginning in the spring of 2010, and in specific situations, the cost of ambulance transportation pursuant to this provision would no longer be invoiced to the person concerned.

The new administrative procedure will be introduced as soon as changes have been made to the service contracts with the ambulance companies. The Québec Ombudsman is satisfied with the steps taken by the MSSS, which has promised to keep it informed of progress on both these issues – communication of information and free carriage in specific circumstances – over the next year.

Home support services

COMPLAINTS IN 2009-2010

In 2009-2010, the main grounds for complaint were the same as in prior years, namely:

- accessibility and continuity of services;
- quality of work and staff attitude towards users.

GUARANTEEING ACCESSIBILITY, QUALITY AND CONTINUITY OF HOME SUPPORT SERVICES

Although the Ministère de la Santé et des Services sociaux (MSSS) adopted a home support policy in 2003, once again this year the Québec Ombudsman received several complaints concerning service accessibility and continuity. It is deeply concerned about the question of access, given the importance of this type of service in relieving congestion in emergency wards, reducing the demand for residential care centres and curtailing concomitant costs. It is also important to bear in mind that many people prefer this type of service because of the autonomy it affords them.

In its 2008-2009 annual report, the Québec Ombudsman recommended that the MSSS:

- specify, in the home support service access plan it was about to develop, the prioritization criteria for access to these services, and
- instruct institutions to apply these criteria with timelines and specific accountability, in order to ensure consistent handling of requests for home support, no matter which institution was approached by a person in need of such services

In response to these recommendations, the MSSS agreed to establish a supply of home support services for its various client groups and then determine the related standards of access, continuity and quality.

In the fall of 2009, the Québec Ombudsman met with the MSSS to share its concerns regarding the implementation of the Home Support Policy. At the meeting, the following issues were addressed:

- the notion of natural caregiver, which differs from one establishment to another;
- the range of services offered, which has declined constantly since the network was reorganized in 2005;
- no-charge household help services for certain client groups;
- the amount of public coverage;
- needs evaluation and prioritization criteria;
- service accessibility and conditions;
- systematic recourse, in certain institutions, to the service employment paycheque;
- harmonization with public insurance plans (including IVAC, CSST, RRQ, SAAQ);

- monitoring of practices;
- regional supervision;
- Policy follow-up.

The MSSS said it was open to the Québec Ombudsman's comments and intended to take them into consideration when it reviewed the service supply in the health and social services centres.

The Québec Ombudsman is concerned by the fact that the MSSS's efforts have not yet produced real results, and will carefully examine the steps taken to provide users with the services they need to remain in their homes.

QUÉBEC OMBUDSMAN'S REPORT – A LARGE-SCALE INTERVENTION WAS REQUIRED

In June 2007, the Québec Ombudsman undertook a large-scale intervention with the Clinique communautaire de Pointe Saint-Charles. Its actions extended over almost a year, and the implementation of its recommendations was monitored until March 2010.

Initially, a number of reports and statements had alerted the Québec Ombudsman to problems in the quality and continuity of home support services offered by the Clinique, especially assistance with everyday activities such as bathing, getting up, going to bed and preparing meals. In 2006, an initial intervention by the Québec Ombudsman resulted in the Clinique making some improvements, but further reports suggested that the target outcomes were not achieved.

In 2007, the Ombudsman once again took steps to ensure that the Clinique had introduced measures to correct the reported situations, in compliance with the MSSS Home Support Policy. The Clinique communautaire de Pointe Saint-Charles is responsible for offering the same basket of services as a local community services centre (CLSC), but due to its special status, it is not connected with a health and social services centre (CSSS).

The Québec Ombudsman's intervention focused mainly on the following issues:

- organization of home support and assistance services;
- interdisciplinary approach;
- clinical processes and procedures;
- supervision of family and social support workers;
- the Clinique's clinical and administrative communication tools;
- official administrative contacts between the Clinique, the regional agency and the area's CSSS.

The intervention report submitted to the Clinique's board of directors and the agency outlined eighteen recommendations, which led to implementation measures.

Progress was observed specifically in the following areas:

- improvements in interdisciplinary work;
- reinforcement of clinical supervision and professional development for support workers;
- better communication tools for support workers and users; stricter management of work attendance.

All these measures have produced positive benefits for the Clinique's users.

Similarly, by signing the first management and accountability agreements and participating actively in the application of the three-way agreement, the agency is now providing better oversight of service quality.

The Québec Ombudsman is satisfied with the cooperation shown by the Clinique and the agency, and with the actions they have taken.

The intervention report can be viewed at **www.protecteurducitoyen.qc.ca**, under "Cases and Documentation".