

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**SOME PENNSYLVANIA FAMILY CHILD
DAY CARE HOME PROVIDERS DID NOT
ALWAYS COMPLY WITH STATE
HEALTH AND SAFETY REQUIREMENTS**

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Office of Inspector General

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EXECUTIVE SUMMARY

Of the 20 family child day care home providers that we reviewed in Pennsylvania, 17 did not always comply with applicable State requirements to ensure the health and safety of children.

WHY WE DID THIS REVIEW

The Administration for Children and Families provides Federal grants through several programs, including Head Start and the Child Care and Development Fund (CCDF). In a December 2011 report summarizing the results of 24 audits of Head Start grantees, we described multiple health and safety issues that put children at risk. To determine whether similar health and safety risks exist at childcare providers that received CCDF funding, we reviewed 20 registered family child day care home operators (providers) that received CCDF funding in Pennsylvania. We conducted this audit of the Pennsylvania Department of Human Services (State agency) in conjunction with our review of three child day care centers (report number A-03-14-00251).

The objective of this review was to determine whether the State agency ensured that providers that received CCDF funds complied with applicable State requirements related to the health and safety of children.

BACKGROUND

The CCDF, authorized by the Child Care and Development Block Grant Act and section 418 of the Social Security Act, assists low-income families, families receiving temporary public assistance, and families transitioning from public assistance to obtain child care so that they may work or obtain training or education. Combined funding for the CCDF program for fiscal year 2012, including the block grant's discretionary fund and the CCDF mandatory and matching funds, was approximately \$5.2 billion. On November 19, 2014, after our fieldwork, the Child Care and Development Block Grant Act of 2014 (P.L. No. 113-186) reauthorized the CCDF program and improved childcare health, safety, and quality requirements. Among other things, the law requires States' lead agencies to perform an initial onsite monitoring visit and at least one annual unannounced onsite visit of providers that have received CCDF subsidies. In addition, the law requires childcare providers to submit background checks at least once every 5 years for each childcare staff member.

The State agency is the lead agency designated to administer the CCDF program, which helps low-income families in Pennsylvania pay for child care. Parents may select a childcare provider that satisfies the applicable State requirements, including basic health and safety requirements.

As the lead agency, the State agency is responsible for childcare registration. State regulations do not require an initial inspection to register a family child day care home. Rather, the State agency inspects a random sampling of 5 to 15 percent of family child day care homes each year. The State agency also conducts inspections in response to a complaint or at the provider's request.

WHAT WE FOUND

The State agency did not always ensure that providers that received CCDF funds complied with applicable State requirements related to the health and safety of children. We determined that three providers complied with the State requirements. However, 17 providers did not comply with 1 or more of the State requirements to ensure the health and safety of children. Specifically, 16 providers did not comply with requirements related to the physical conditions of their facilities, 14 providers did not comply with administrative requirements, and 4 providers did not comply with requirements to obtain criminal history and child protection reports. In addition, one provider falsified the renewal application by certifying that there were no prohibited criminal charges pending. We made onsite visits to this provider but we were unable to gain access. However, our preliminary review determined that the provider had pending criminal charges including, but not limited to, corruption of minors and endangering the welfare of children. When we advised the State agency of the pending charges, it immediately suspended this provider.

The State agency has authority to inspect a random sample of only 5 to 15 percent of family child day care homes each year unless it receives a complaint or the provider requests an inspection. As a result, the State agency had never inspected 7 of the providers in our review and, in calendar year 2013, inspected only 170 (about 11 percent) of the 1,570 registered family child day care homes that received CCDF funds. At the time of our review, the State agency's average ratio of inspectors to providers was 1:143, which far exceeds the 1:50 ratio recommended by a national association of childcare agencies. Reducing the inspectors' caseload would enable the State agency to ensure more frequent and thorough onsite monitoring of childcare providers.

WHAT WE RECOMMEND

We recommend that the State agency:

- correct the specific health and safety issues with the providers noted in this report,
- implement policies and practices to ensure that inspections of family child day care homes are conducted before children are placed into care and that at least one annual unannounced onsite visit is conducted in accordance with new Federal requirements,
- develop and implement State regulations to require that criminal background checks are conducted at least once every 5 years in accordance with new Federal requirements,
- ensure that providers obtain required criminal background checks and child protection reports, and
- ensure adequate oversight by reducing inspectors' caseloads.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred with our recommendations and provided information on actions it had taken and planned to take to address our recommendations.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Administration for Children and Families (ACF) provides Federal grants through several programs, including Head Start and the Child Care and Development Fund (CCDF). In a December 2011 report summarizing the results of 24 audits of Head Start grantees,¹ we described multiple health and safety issues that put children at risk. To determine whether similar health and safety risks exist at childcare providers that received CCDF funding, we reviewed 20 registered family child day care home² operators (providers) that received CCDF funding in Pennsylvania. We conducted this audit of the Pennsylvania Department of Human Services³ (State agency) in conjunction with our review of three child day care centers (report number A-03-14-00251).

OBJECTIVE

The objective of this review was to determine whether the State agency ensured that providers that received CCDF funds complied with applicable State requirements related to the health and safety of children.

BACKGROUND

The CCDF, authorized by the Child Care and Development Block Grant Act and section 418 of the Social Security Act, assists low-income families, families receiving temporary public assistance, and families transitioning from public assistance to obtain child care so that they may work or obtain training or education. Combined funding for the CCDF program for fiscal year 2012, including the block grant's discretionary fund and the CCDF mandatory and matching funds, was approximately \$5.2 billion.

The Child Care and Development Block Grant Act and Federal regulations require the State to maintain a plan that certifies that the State has requirements in State or local law to protect the health and safety of children, and the plan must certify that procedures are in effect to ensure that childcare providers comply with these requirements (42 U.S.C. § 9858c(c)(2)(F) and (G) and 45 CFR § 98.15(b)(5) and(6)).

¹ *Review of 24 Head Start Grantees' Compliance With Health and Safety Requirements* (A-01-11-02503, issued December 13, 2011).

² "Family child day care home" is defined as any home in which out-of-home child day care is provided at any one time, for part of a 24-hour day, to four, five, or six children who are not relatives of the caregiver and who are 15 years of age or younger (55 Pa. Code § 3290.3(a)). Pennsylvania's Public Welfare Code requires that a family child day care home must have a Certificate of Registration from the State agency (62 P.S. § 1071).

³ On November 24, 2014, the Pennsylvania Department of Public Welfare changed its name to the Pennsylvania Department of Human Services.

Federal regulations require States to designate a lead agency to administer the CCDF program (45 CFR § 98.10). In retaining overall responsibility for the administration of the program, the lead agency must ensure that the program complies with the approved Plan and all Federal requirements and must monitor programs and services (45 CFR § 98.11(b)(4) and (6)).

Pennsylvania Childcare Services

The State agency is the lead agency and helps low-income families in Pennsylvania pay for child care. Parents may select a childcare provider that satisfies the applicable State requirements, including basic health and safety requirements.

As the lead agency, the State agency⁴ is responsible for issuing certificates of registration for family child day care homes.⁵ Family child day care homes receive certificates of registration based on the provider's application, which includes self-certification that the provider complies with the applicable health and safety requirements, and documentation of mandatory background checks. The State agency does not conduct an onsite inspection as part of the registration process. Rather, the Pennsylvania Code authorizes the State agency to inspect a random sample of family child day care homes unless it receives a complaint or a provider requests an inspection (55 Pa. Code § 3290.11). Section 3.1.2(a) of the CCDF State plan specifies that the random sample will be 5 to 15 percent of family child day care homes each year. At the time of our review, the State agency's average ratio of inspectors to providers was 1:143.

Related Office of Inspector General Work

The Office of Inspector General, Office of Evaluation and Inspections (OEI), issued an Early Alert Memorandum Report on July 11, 2013, to ACF entitled *License-Exempt Child Care Providers in the Child Care and Development Fund Program* (OEI-07-10-00231). OEI concluded that States exempt many types of providers from licensing and that these providers are still required to adhere to Federal health and safety requirements to be eligible for CCDF payments.

Child Care Aware of America

Child Care Aware of America⁶ (CCAA) published a 2012 update, *Leaving Children to Chance: NACCRRRA's Ranking of State Standards and Oversight of Small Family Child Care Homes*, that

⁴ The State agency certifies childcare facilities through the Office of Child Development and Early Learning (OCDEL), Bureau of Certification Services. OCDEL is housed in the State agency and the Department of Education and coordinates childhood services provided through the various agencies.

⁵ The State agency also licenses group homes that care for 7 to 12 children and childcare centers that may care for more than 12 children (the *Child Care and Development Fund Plan for Pennsylvania FFY [Federal fiscal year] 2014–2015* (the CCDF State plan)). Group homes are licensed according to a stricter set of requirements in the Pennsylvania Code. The Bureau of Certification Services must inspect these facilities before a license is issued and annually thereafter.

⁶ In 2012, the National Association of Child Care Resource & Referral Agencies (NACCRRRA) changed its name to Child Care Aware of America.

reviewed and ranked State regulations for small family childcare homes.⁷ CCAA reported that without inspections or monitoring of providers, regulations alone have limited value. CCAA added that when providers are not inspected, it is difficult for a State to enforce its regulations and suspend or revoke the licenses of individuals who are not in compliance. CCAA recommended that States increase the frequency of inspections to at least quarterly and that States reduce the caseload for licensing inspectors to a ratio of 1:50.

Child Care and Development Block Grant Act of 2014

On November 19, 2014, the Child Care and Development Block Grant Act of 2014⁸ reauthorized the CCDF program and improved childcare health, safety, and quality requirements. The law includes a requirement that States' lead agencies perform an initial onsite monitoring visit and at least one annual unannounced onsite visit of providers that have received CCDF subsidies. State agencies must maintain a ratio of inspectors to providers sufficient to ensure timely inspections. Childcare providers must submit background checks at least once every 5 years for each childcare staff member. The law also requires training and professional development of the childcare workforce to meet the needs of the children and improve the quality and stability of the workforce. Specifically, it requires lead agencies to establish ongoing provider training.

HOW WE CONDUCTED THIS REVIEW

Of the 1,570 providers in Pennsylvania that received CCDF funding for the month of December 2013, we selected 20 providers for our review. We based our selection on risk factors including those identified in the OCDEL *Program Reach and Risk Assessment State Fiscal Year 2011–2012*,⁹ which provides information on the level of risk for school failure for children (based on 15 risk factors) and the availability of OCDEL programs for children in each county and school district in Pennsylvania.

We conducted site visits in Connellsville, DuBois, Erie, Franklin, Harrisburg, Lewistown, Meadville, Philadelphia, Pittsburgh, and West Hazleton, Pennsylvania, from April 21 through June 13, 2014.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁷ CCAA works with more than 600 State and local childcare resource and referral agencies nationwide. CCAA leads projects that increase the quality and availability of childcare professionals, undertakes research, and advocates childcare policies that positively impact the lives of children and families.

⁸ P.L. No. 113-186 (Nov. 19, 2014).

⁹ OCDEL, *Program Reach and Risk Assessment State Fiscal Year 2011–2012* (May 2013). Available online at [http://www.ocdelresearch.org/Reports/Reach and Risk/2011-12/Reach and Risk 2011-2012 final release 05022013.pdf](http://www.ocdelresearch.org/Reports/Reach%20and%20Risk/2011-12/Reach%20and%20Risk%202011-2012%20final%20release%2005022013.pdf). Accessed on April 15, 2015.

Appendix A contains the details of our audit scope and methodology, and Appendix B contains details on the Federal regulations and State requirements that pertain to providers.

FINDINGS

The State agency did not always ensure that providers that received CCDF funds complied with applicable State requirements related to the health and safety of children. We determined that three providers complied with the State requirements. However, 17 providers did not comply with 1 or more of the State requirements to ensure the health and safety of children. Specifically, 16 providers did not comply with requirements related to the physical conditions of their facilities, 14 providers did not comply with administrative requirements, and 4 providers did not comply with requirements to obtain criminal history and child protection reports. In addition, one provider falsified the renewal application by certifying that there were no prohibited criminal charges pending. We made onsite visits to this provider but we were unable to gain access. However, our preliminary review determined that the provider had pending criminal charges including, but not limited to, corruption of minors and endangering the welfare of children. When we advised the State agency of the pending charges, it immediately suspended this provider.

The State agency has authority to inspect a random sample of only 5 to 15 percent of family child day care homes each year unless it receives a complaint or the provider requests an inspection. As a result, the State agency had never inspected 7 of the providers in our review and, in calendar year 2013, inspected only 170 (about 11 percent) of the 1,570 registered family child day care homes that received CCDF funds.

Appendix C contains photographic examples of noncompliance with physical conditions requirements, and Appendix D displays a table that contains the instances of noncompliance at each provider we reviewed.

PROVIDERS DID NOT ALWAYS COMPLY WITH REQUIREMENTS FOR PHYSICAL CONDITIONS

State Requirements

A prospective provider applies for a Family Child Day Care Provider certificate by completing, signing, and submitting to the State agency an application to obtain a Family Child Day Care Provider certificate of registration (55 Pa. Code § 3290.11). The application form includes an acknowledgment that the applicant has read the State registration requirements, agrees to abide by them, and will allow unannounced visits by the State licensing agency's staff. State registration requirements (55 Pa. Code, chapter 3290) include the following provisions related to the physical conditions of providers:

- The facility must comply with building codes related to child day care facilities, which require a smoke detector on each floor (§ 3290.14).

- Conditions at the facility must not pose a threat to the health or safety of the children (§ 3290.18).
- If there are unsafe areas or conditions in or near an outdoor play space, the facility must have fencing or natural barriers (§ 3290.61).
- Electronic outlets accessible to children aged 5 or younger must have protective covers (§ 3290.63).
- Toxic materials must be kept in a locked area or in an area inaccessible to children (§ 3290.64).
- Trash must be removed from the facility premises at least once each week (§ 3290.65).
- Ashes and cigarette or cigar butts are prohibited in indoor or outdoor childcare space (§ 3290.66(b)).
- Floors, walls, ceilings, and other surfaces, including the facility's outdoor play area, must be kept clean, in good repair, and free from visible hazards (§ 3290.74).
- Indoor or outdoor surfaces in the childcare space must not have peeling or damaged paint or damaged plaster (§ 3290.75).
- Toys, play equipment, and other indoor and outdoor equipment used by the children must be clean, in good repair, and free from rough edges and sharp corners (§ 3290.102).

Appendix B contains all relevant State registration requirements.

Many Providers Did Not Comply With Requirements for Physical Conditions

We determined that 16 of the 20 providers in our review had 1 or more instances of noncompliance with requirements to protect children from potentially hazardous conditions. Specifically, we found 101 instances of noncompliance with State registration requirements related to physical conditions. Examples of noncompliance included:

- an unsanitary toilet with mold and damaged floor and walls in the bathroom, showing that surfaces were not kept clean and in good repair (Appendix C, photograph 1);
- ceiling damage where water leaked into the light fixture, showing that the childcare area was not in good repair (Appendix C, photograph 2);
- a sharp tree-trimming saw stored by the door used to enter the outside play area and not in a locked area inaccessible to children (Appendix C, photograph 3);
- bleach and other cleaning supplies stored on the kitchen floor accessible to children (Appendix C, photograph 4);

- a detached and missing smoke detector (Appendix C, photograph 5);
- stairs to a second-floor bathroom with no gate, no risers, and torn carpeting, causing a tripping hazard (Appendix C, photograph 6);
- a rusty, broken, unclean vent on the floor of the children’s play area (Appendix C, photograph 7);
- rusty nails on the door frame and peeling paint on the wall (Appendix C, photograph 8);
- missing glass and peeling paint on a window in the children’s outside play area (Appendix C, photographs 9 and 10);
- a rusty storage drum with sharp edges, holding a football and an empty beer bottle, in the children’s outdoor play area (Appendix C, photograph 11);
- a moldy pail of liquid and other trash that had not been collected from the children’s outdoor play area (Appendix C, photograph 12);
- a broken fence rail in the children’s outdoor play area (Appendix C, photograph 13);
- an exposed area under a deck with cigarette butts and sharp objects accessible to children (Appendix C, photograph 14);
- broken glass (mirror) in an outdoor play area accessible to children (Appendix C, photograph 15);
- a swimming pool with stagnant water on top of its cover in a children’s outdoor play area with no fencing to prevent children from accessing the pool or entering the street (Appendix C, photograph 16);
- sharp garden stakes in the children’s outdoor play area (Appendix C, photograph 17);
- a rusted propane tank for a grill stored in the outdoor play area near the rear door entrance to the children’s playroom (Appendix C, photograph 18); and
- a broken beer bottle and a gardening tool on a grill in an outdoor play area accessible to children. (Appendix C, photograph 19).

PROVIDERS DID NOT ALWAYS COMPLY WITH ADMINISTRATIVE REQUIREMENTS

State Requirements

State requirements (55 Pa. Code, chapter 3290) state that family child day care programs must:

- have an emergency plan (§ 3290.24);
- ensure that all staff persons obtain the minimum 12 hours of childcare training every 2 years (§ 3290.31(f));
- not exceed a maximum of six children in care at one time who are unrelated to the operator (§ 3290.51);
- develop and post fire evacuation plans and conduct fire drills at least four times a year (§ 3290.94);
- have an agreement signed by the provider and the parent specifying the amount to be charged per day or week, the services to be provided, and the child's arrival and departure times (§ 3290.123);
- have a health assessment with a medical report signed by a physician, physician's assistant, or certified registered nurse practitioner on file at the facility for persons providing direct care who come in contact with the children (§ 3290.151); and
- maintain a child's record with signed parental consent for emergency medical care for the child (§ 3290.182).

Many Providers Did Not Comply With Administrative Requirements

We determined that 14 of the 20 providers did not always comply with administrative requirements. Specifically we found 35 instances of noncompliance with State requirements related to administrative requirements. The 14 providers each had 1 or more instances of noncompliance with the requirements as follows:

- no emergency plan;
- no training or did not meet the minimum number of training hours;
- more than the maximum number of six children in care at one time;
- no fire evacuation plan or record of fire drills;
- no agreement signed by the provider and the parent specifying the amount of fee to be charged per day or week, the services to be provided, or the child's arrival and departure times for at least one child in care;

- no health assessments on file at the facility for some persons who come in contact with the children; and
- no signed parental consent for emergency medical care for some children in care.

PROVIDERS DID NOT ALWAYS COMPLY WITH REQUIREMENTS TO OBTAIN CRIMINAL HISTORY AND CHILD ABUSE REGISTER CHECKS

State Requirements

In Pennsylvania, all prospective employees of childcare services and every individual 18 years of age or older who resides in the provider’s home for at least 30 days in a calendar year must submit a Federal Bureau of Investigation (FBI) criminal history background check in addition to a child abuse register check and a Pennsylvania State Police background check as a condition of approval of the application for certification (55 Pa. Code § 3290.11 and the Child Protective Services Law, Pennsylvania Consolidated Statutes, 23 Pa. C.S. § 6344.1). The provider must also submit the necessary background checks for individuals residing in the home who attain 18 years of age or are employed after the certification has been issued (55 Pa. Code § 3290.11(m)(2)).

Some Providers Did Not Comply With Requirements To Obtain Criminal History and Child Abuse Register Checks

We determined that nine household members or employees at four providers lacked some or all of the required criminal history and child abuse register checks. Specifically, we found that:

- one household member lacked a State police criminal history background check and an FBI criminal history background check;
- two household members or employees lacked a child abuse register check and a State police criminal history background check;
- two household members or employees lacked an FBI criminal history background check; and
- four household members or employees lacked a State police criminal history background check, a child abuse register check, and an FBI criminal history background check.

PROVIDER FALSIFIED APPLICATION FOR RENEWAL CERTIFICATION

Providers must certify in writing, on a form prepared and furnished by the State agency, that they comply with the registration requirements for a family child day care home (55 Pa. Code § 3290.11 and 62 P.S. § 1071). The Application for a Certificate of Registration to Operate a Family Child Care Home furnished by the State agency requires that providers certify that they have not been convicted of and are not “awaiting trial on charges involving a crime of child abuse, child neglect, moral corruptness or physical violence.”

One provider in our review falsified the application for renewal certification. The provider had pending criminal charges including, but not limited to, corruption of minors and endangering the welfare of children. The provider applied to open a family child day care home on February 17, 2010. On February 24, 2014, the provider submitted an application to renew the certificate of registration. The provider self-certified that she was not awaiting trial on charges that disqualified her from operating a family child day care home. However, our preliminary review, which included a search of the Pennsylvania Common Pleas Docket Sheets,¹⁰ found that the provider was arrested by the Philadelphia Police Department on May 21, 2013, and was awaiting trial on charges that included child abuse and the corruption of a minor when she submitted her application. The trial has since been rescheduled for September 28, 2015.

We were unable to gain entry to this family child day care home. We visited the provider on 3 different days and found no one home and none of the 17 claimed children present. This provider had never been inspected by the State agency.

ACTION TAKEN TO ADDRESS IMMEDIATE HAZARDS

During our review, we brought two providers to the immediate attention of State and local officials because our findings indicated an immediate hazard to children. The State and local officials took immediate enforcement action against these two providers.

When we informed the State agency that one provider had falsified the application for certification and was awaiting trial for prohibited offenses, the State licensing agency suspended the provider.

A second provider voluntarily ceased operation after our review found serious health risks at the facility. At our request, State agency officials and Harrisburg City Fire Inspector and Codes enforcement officials followed up on our findings. They determined that the furnace and hot water heater were not properly sealed and vented and the furnace was releasing exhaust fumes into the home. They also noted 22 other code violations. Because of the condition of the facility, the enforcement official gave the provider the option to close voluntarily that day or be shut down. The provider agreed to close voluntarily and at the time of this report was not certified as a registered family child day care home.

CAUSES OF NONCOMPLIANCE

CCAA recommends that States require inspections of family childcare homes before registration (before children are admitted into care), at least quarterly, and when there is a complaint. However, in calendar year 2013, the State licensing agency inspected only 170 (about 11 percent) of the 1,570 registered family child day care homes that received CCDF funds. The State agency has authority to inspect a random sample of only 5 to 15 percent of family child day care homes each year unless it receives a complaint or the provider requests an inspection (55 Pa. Code § 3290.11). As a result, some providers, including new providers, had never been inspected. The State agency had never inspected seven of the providers in our review. (For

¹⁰ The Unified Judicial System of Pennsylvania, "Pennsylvania Common Pleas Docket Sheets." Available online at <https://ujportal.pacourts.us/DocketSheets/CP.aspx>. Accessed on April 15, 2015.

example, one provider was first registered in October 2009 but was never inspected. Our review uncovered eight instances of potentially hazardous conditions at the facility and five instances of noncompliance with administrative requirements.)

Additionally, the State agency's average ratio of inspectors to providers is 1:143. CCAA recommended that States reduce the caseload for inspectors to a ratio of 1:50. Reducing the inspectors' caseload would enable the State agency to ensure more frequent and thorough onsite monitoring of childcare providers.

RECOMMENDATIONS

We recommend that the State agency:

- correct the specific health and safety issues with the providers noted in this report,
- implement policies and practices to ensure that inspections of family child day care homes are conducted before children are placed into care and that at least one annual unannounced onsite visit is conducted in accordance with new Federal requirements,
- develop and implement procedures to ensure that criminal background checks are conducted at least once every 5 years in accordance with new Federal requirements,
- ensure that providers obtain required criminal background checks and child protection reports, and
- ensure adequate oversight by reducing inspectors' caseloads.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred with our recommendations and provided information on actions it had taken and planned to take to address our recommendations. The State agency's comments are included in their entirety as Appendix E.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Of the 1,570 providers that received CCDF funding for the month of December 2013, we selected 20 providers for our review. We based our selection on risk factors including those identified in the OCDEL *Program Reach and Risk Assessment State Fiscal Year 2011–2012*, which provides information on the level of risk for school failure for children (based on 15 risk factors) and the availability of OCDEL programs for children in each county and school district in Pennsylvania.

We conducted a review of the State agency's provider records as of March 2014. To gain an understanding of the State agency's operations regarding childcare providers, we limited our review to the State agency's internal controls as they related to our objective.

We conducted fieldwork at providers in Connellsville, DuBois, Erie, Franklin, Harrisburg, Lewistown, Meadville, Philadelphia, Pittsburgh, and West Hazleton, Pennsylvania. We conducted these unannounced site visits from April 21 through June 13, 2014.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws and State laws and regulations for registering providers and the most recent Pennsylvania CCDF State plan approved by ACF;
- interviewed the CCDF program manager to determine how Pennsylvania monitored its providers;
- obtained a letter from the State agency explaining our audit to the providers in our review;
- developed a health and safety checklist as a guide for conducting site visits;
- conducted unannounced site visits at the 20 providers we selected for review and reviewed the facilities at 19 of them;¹¹
- interviewed providers to determine whether all required criminal history and child abuse records checks were conducted;
- searched the Pennsylvania Common Pleas Docket Sheets for criminal history on the one provider we could not reach for an interview; and

¹¹ We made several onsite visits to the remaining provider but were unable to contact the provider for an inspection.

- discussed the results of our review with each of the providers, State agency officials, and State licensing agency officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: FEDERAL REGULATIONS AND STATE REQUIREMENTS

FEDERAL REGULATIONS

One of the goals of the CCDF is to assist States in implementing the health, safety, licensing, and registration standards established in State regulations (45 CFR § 98.1(a)(5)). In retaining overall responsibility for the administration of the program, the lead agency must ensure that the program complies with the approved Plan and all Federal requirements and must monitor programs and services (45 CFR § 98.11(b)(4) and (6)).

The lead agency must certify that there are in effect, within the State (or other area served by the lead agency) under State or local (or tribal) law, requirements designed to protect the health and safety of children that are applicable to childcare providers that provide services for which assistance is made available under the CCDF (45 CFR § 98.15(b)(5)).

STATE REQUIREMENTS

State Plan

The CCDF State Plan for Pennsylvania allows providers to self-certify compliance during the application process. Section 3.1.2(a) of the CCDF State Plan requires the State agency to conduct inspections on a random basis of 5 to 15 percent of the providers on an annual basis to ensure that providers meet basic health and safety requirements. The State agency is responsible for the monitoring of family child day care home providers.

State Certification Regulations

The following sections of Pennsylvania's regulations for Family Child Day Care Homes (Pa. Code 55, chapter 3290) are applicable to this review's identification of instances of noncompliance.

Section 3290.4 – Definition

Family child day care home—A home other than the child's own home, operated for profit or not-for profit, in which child day care is provided at any one time to four, five or six children unrelated to the operator.

Section 3290.11(d) – Certificate Required

Prior to providing child day care at any one time to more than three children unrelated to the operator, the legal entity shall apply for and will be issued a certificate of registration.

Section 3290.11(f) – Certification of Compliance

The legal entity applying for a certification of registration shall certify, in writing, compliance with the registration law [62 P.S. § 1071] and this chapter.

Section 3290.11(m) – Background records checks

The legal entity shall submit clearances for the legal entity and for each individual 18 years of age or older who resides in the facility for at least 30 days in a calendar year. [The required clearances are specified in 23 Pa. C.S. § 6344(b). Prospective employees of childcare facilities must submit an FBI criminal history background check in addition to a child abuse register check and a Pennsylvania State Police background check as a condition of employment or approval.]

Section 3290.14 – Building Codes

A certificate of registration will not be granted by the Department [State agency] until the legal entity provides a certificate of occupancy as proof of compliance with the applicable requirements in 34 Pa. Code § 403.23. [Facilities must comply with building code requirements related to child day care facilities, which require a smoke detector on each floor.]

Section 3290.18 – General health and safety

Conditions at the facility may not pose a threat to the health or safety of the children.

Section 3290.24 – Emergency Plan

The facility shall have an emergency plan that provides for:

- shelter during an emergency, including shelter in place at the facility and shelter at locations away from the facility premises.
- evacuation of children from the facility.... The evacuation routes and evacuation plans to exit the building may be the same as those required by § 3290.94(f) and (g) relating to fire drills.
- a method for facility person to contact parents.

Section 3290.31(f) – Training

A staff person shall obtain a biennial minimum of 12 clock hours of child care training.

Section 3290.51 – Maximum number of children

The number of children in care may not exceed six children at any one time who are unrelated to the operator.

Section 3290.61 – Unsafe areas in outdoor space

If unsafe areas or conditions are in or near an outdoor play space, fencing or natural barriers are required to restrict children from those unsafe areas or conditions.

Section 3290.63 – Protective electrical covers

Protective receptacle covers shall be placed in electrical outlets accessible to children 5 years of age or younger.

Section 3290.64 – Toxins

Cleaning materials and other toxic materials shall be stored in an original labeled container or in a container that specifies the content. Toxics shall be kept in a locked area or in an area inaccessible to children.

Section 3290.65 – Sanitation

- Trash shall be removed from the facility at least once a day.
- Trash shall be removed from the premises at least once per week.

Section 3290.66(b) – Smoking

Ashes and cigarette or cigar butts are prohibited in indoor and outdoor child care space or food preparation areas.

Section 3290.74 – Building surface requirements

Floor, walls, ceiling and other surfaces, including the facility's outdoor play area, shall be kept clean, in good repair and free from visible hazards.

Section 3290.75 – Paint

Peeled or damaged paint or damaged plaster is not permitted on indoor or outdoor surfaces in the child care space.

Section 3290.94 – Fire drills

- Fire evacuation plans shall be developed and posted.
- Fire drills shall be conducted at least four times a year.

Section 3290.102 – Condition of play equipment

Toys, play equipment and other indoor and outdoor equipment used by the children must be clean, in good repair and free from rough edges, sharp corners, pinch and crush points, splinters and exposed bolts.

Section 3290.123 – Agreement

An agreement signed by the operator and the parent must specify

- The amount of fee to be charged per day or week.
- The services to be provided to the family and the child
- The child's arrival and departure times.

Section 3290.151 – Health assessment

- A facility person providing direct care, who comes in contact with the children or who works with food preparation shall have a health assessment on file at the facility.
- A health assessment shall be conducted and a report written and signed by a physician, physician's assistant, or CRNP [certified registered nurse practitioner].

Section 3290.182 – Content of records

A child's record must contain ... signed parental consent for emergency medical care for the child.

**APPENDIX C: PHOTOGRAPHIC EXAMPLES OF NONCOMPLIANCE WITH
PHYSICAL CONDITIONS REQUIREMENTS**



Photograph 1: Unsanitary toilet with mold and damaged floor and walls shows that surfaces were not kept clean and in good repair.



Photograph 2: Water-damaged ceiling where water leaked into the light fixture shows that childcare area was not in good repair.



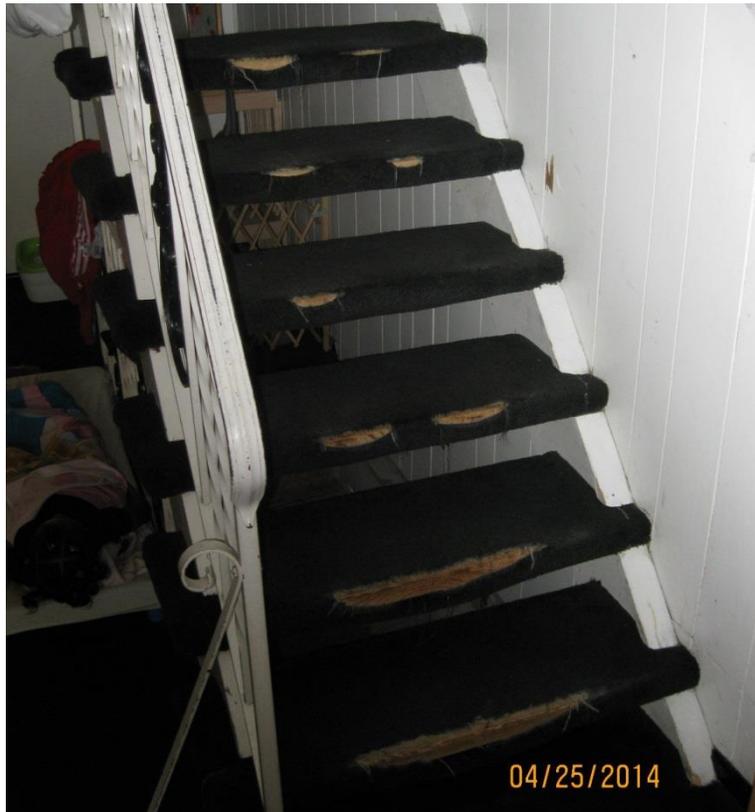
Photograph 3: Sharp tree-trimming saw was stored by the back door, which children used to enter the outside play area.



Photograph 4: Bleach and all-purpose cleaner were stored on kitchen floor accessible to children.



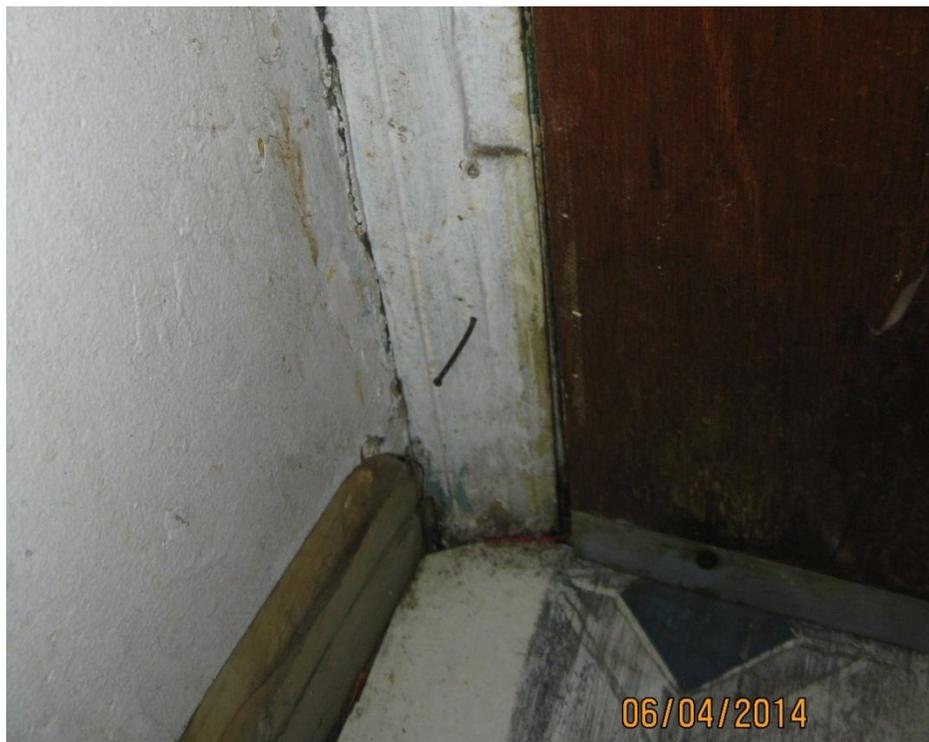
Photograph 5: Smoke detector was detached and missing.



Photograph 6: Stairs to the second floor where bathroom was located had no risers, and the carpeting was torn, posing a hazard to the children.



Photograph 7: Rusty broken vent on floor of the children’s play area posed a hazard.



Photograph 8: Rusty nails on the door frame and peeling paint on the walls posed a hazard.



Photographs 9 and 10: Glass was missing and paint was peeling on window in children’s outside play area.



Photograph 11: A rusty drum with sharp edges posed a hazard in the children’s outdoor play area.



Photograph 12: A moldy pail of liquid and other material in the children’s outdoor play area showed that all trash was not removed from the premise on a weekly basis.



Photograph 13: A fence rail in the children’s outdoor play area was broken.



Photograph 14: Exposed area under a deck contained cigarette butts and sharp objects.



Photograph 15: A broken mirror in an outdoor play area was a hazard to children.



Photograph 16: An outdoor swimming pool play area lacked fencing to restrict children from unsafe areas.



Photograph 17: Sharp garden fence stakes posed a hazard in the children's outdoor play area.



Photograph 18: A rusted propane tank for grilling was stored in the outdoor play area by the entrance to the children’s play room.



Photograph 19: Broken beer bottle glass and a sharp gardening tool were left on a grill in an outdoor play area accessible to children.

**APPENDIX D: INSTANCES OF NONCOMPLIANCE AT EACH
FAMILY CHILD DAY CARE HOME PROVIDER**

Family Childcare Provider #	Date of Last Inspection¹²	Potentially Hazardous Conditions	Administrative Responsibilities	Criminal History and Child Protection Report Checks	Total
1	1/17/2013	6	1	0	7
2	2/1/2011	0	0	0	0
3	Never	8	5	0	13
4	Never	6	5	1	12
5	Never	5	2	0	7
6	4/11/2011	1	1	0	2
7	6/5/2012	11	3	0	14
8	7/17/2012	14	2	0	16
9	8/21/2013	2	3	5	10
10	9/10/2010	5	0	0	5
11	10/9/2013	5	4	0	9
12	4/1/2010	9	2	0	11
13	5/20/2011	8	2	0	10
14	9/28/2011	0	0	0	0
15	Never	N/A	N/A	N/A	N/A
16	2/6/2012	0	0	0	0
17	Never	1	3	0	4
18	11/29/2012	11	1	1	13
19	Never	5	1	0	6
20	Never	4	0	2	6
Total		101	35	9	145

We visited provider number 15 but were unable to gain access to the facility to review it. However, this provider had not complied with State requirements. (The provider had pending criminal charges and had submitted a falsified application to renew her certificate of registration.)

Notice: We provided to the State agency under a separate cover the specific names of the providers we reviewed.

¹² Of the 13 family child day care homes in our sample that the State agency had inspected before our review, 5 were initiated by complaints, and 8 were included in random samples.

APPENDIX E: STATE AGENCY COMMENTS



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE

APR - 9 2015

Mr. Stephen Virbitsky
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General
Office of Audit Services, Region III
Public Ledger Building, Suite 316
150 South Independence Mall West
Philadelphia, Pennsylvania 19106

Dear Mr. Virbitsky:

The Department of Human Services (DHS) has received the draft report number A-03-14-000250 titled, "Some Pennsylvania Family Child Day Care Home Providers Did Not Always Comply with State Health and Safety Requirements." DHS considered the conditions observed in some of the facilities unacceptable and took immediate action to correct the violations, initiate licensure revocations where appropriate and provide technical assistance to the family child day care home providers to support their longer term efforts to remain in compliance with health and safety requirements.

Specifically, DHS has already taken the following steps:

- **Conducted Follow-Up Facility Investigations:** All facilities noted in the report have already had follow up inspections and, in all cases, the violations have been corrected. Full inspections were also conducted at all the family child care homes in the sample to identify and address any violations not observed or noted during the federal audit.
- **Terminated Subsidy Payments for One Provider:** Working with federal reviewers, DHS was able to confirm that Family Child Care Provider #15 was not providing child care service and was fraudulently billing DHS for child care services that were not being provided. DHS terminated subsidy payments immediately and referred the matter to the Pennsylvania Office of Inspector General. The provider is also currently facing several criminal charges from a May 2013 incident.
- **Revoked the License One Provider and Began Revocation for Another:** DHS revoked the Certificate of Registration for Family Child Care Provider #12 following the complaint investigation and verification of

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regulatory violations. DHS began the process of revoking the Certificate of Registration for Family Child Care Provider #15. This case is pending the disposition of the criminal charges, soon to be heard by the Philadelphia Court of Common Pleas. The provider remains ineligible for subsidy payments;

- **Hired Additional Inspectors:** In September 2014, DHS hired 11 additional inspectors to bring the staff complement to 70 and to support an inspector to facility ratio of 1:90. As of March 2015, the selection process to fill 40 additional inspector positions was initiated. This puts DHS on target to achieve an inspector to facility ratio of 1:75, a ratio significantly lower than the one in place at the time of the audit, before the end of the current fiscal year. Once attained, the ratio will support monitoring of regulated child care facilities, including family child care homes, at 100 percent;
- **Implemented Other Staffing Changes:** DHS also recognized the need for increased staffing to ensure the health and safety of the children in care. At present, the annual random sampling of selected family child care homes for fiscal year 2014-2015 is in full process with the objective of targeting at least 15 percent of the caseload or 330 family child care homes. In addition, DHS will be designating the new positions as "home headquartered;"
- **Increased the Use of Technology:** DHS is purchasing mobile devices and making other technology upgrades that will keep the staff in the field. This will ensure that more staff time is spent on licensing activities instead of in transit back to specific office locations to complete paperwork.
- **Began the Process to Change Existing Law:** DHS is taking steps to change state law to establish more stringent inspection requirements for family child care home providers and has begun drafting legislative language that will meet requirements imposed by the recently reauthorized Child Care Development Block Grant (CCDBG). Under the new CCDBG rules, all family child care homes in Pennsylvania must be subject to pre-service inspections and at least one annual inspection, conducted on an unannounced basis, to ensure ongoing compliance. Legislative language is currently in final development and will be championed as a legislative priority of DHS with the General Assembly; and
- **Provided Technical Assistance:** DHS made technical assistance available to the providers to assist them in maintaining compliance with health and safety regulations.

DHS's response demonstrates the importance DHS has placed in correcting the existing concerns. We will continue to strive for improvements in the child care licensing system to ensure the health and safety of the children in care and that subsidy funds are well-spent. Enclosed are DHS's specific responses to each recommendation.

Thank you for the opportunity to respond to this draft audit report. If you have questions or concerns regarding this response, please contact Ms. Linda Swick, Audit Resolution Section, Bureau of Financial Operations, at (717) 783-7218 or lswick@pa.gov.

Sincerely,
/Theodore Dallas/
Acting Secretary for Human Services

Enclosure

c: Mr. Leonard Piccari, Audit Manager
Office of Inspector General
Mr. Charles Hubbs, Office of Inspector General
Ms. Linda Swick, Audit Resolution Section
Bureau of Financial Operations

Office of Inspector General (OIG) report number A-03-14-000250 Department of Human Services (DHS) Responses to Recommendations

OIG Recommendation: We recommend that the State agency correct the specific health and safety issues with the providers noted in this report.

DHS Response: DHS concurs. Beginning in June 2014, follow-up visits were conducted at each of the 17 facilities observed to have violations to verify corrections. Additionally, each of these facilities was selected for a full inspection as part of DHS' annual allocated random review to ensure that any violations that might not have been cited in the federal report were identified and addressed. As of September 2014, all violations cited during the federal audit were verified as corrected. DHS continues to work with the family child care homes by providing technical assistance and supporting efforts to meet and maintain compliance with the state's health and safety rules.

OIG Recommendation: We recommend that the State agency implement policies and practices to ensure that inspections of family child day care homes are conducted before children are placed into care and that at least one annual unannounced onsite visit is conducted in accordance with new Federal requirements.

DHS Response: DHS concurs that it must obtain the authority to conduct initial and annual inspections at family child care homes. Toward that end, legislative changes were introduced in December 2014 and are currently in process. This will ensure compliance with the requirements of the CCDBG reauthorization and will guarantee that basic health and safety features are in place in family child care home settings. We expect to have the authority in place no later than November 2016.

OIG Recommendation: We recommend that the State agency develop and implement State regulations to require that criminal background checks are conducted at least once every five years in accordance with new Federal requirements.

DHS Response: DHS concurs and is pleased to report that as a result of a recent amendments to the Commonwealth's Child Protective Services Law (CPSL), new requirements for background checks for child care providers, including family child care home operators and members of their households, went into effect December 31, 2014. Child care providers must now submit current clearances for the Pennsylvania Child Abuse Registry, a Pennsylvania State Police criminal history, and fingerprint results evaluated against Federal Bureau of Investigation records at initial licensure and updated results every 36 months thereafter. The frequency requirement is more robust than the new federal requirements.

OIG Recommendation: We recommend that the State agency ensure that providers obtain required criminal background checks and child protection reports.

DHS Response: DHS concurs as stated above and has monitoring procedures in place to ensure that child care providers, including family child care home operators and their household members, meet the new state requirements by established deadlines.

OIG Recommendation: We recommend that the State agency ensure adequate oversight by reducing inspectors' caseloads.

DHS Response: DHS concurs that Pennsylvania's ability to provide adequate oversight of child care facilities is contingent on sufficient manpower and resources. Accordingly, 11 additional inspectors were brought on board by September 2014, bringing the inspector to facility ratio to 1:90. The selection process for 40 additional inspectors has been initiated and is on target to be completed before the end of the current state fiscal year. The end result will be an inspector to facility ratio of 1:75, a ratio that will support monitoring of all regulated child care facilities at 100 percent.