

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**SOME MICHIGAN CHILD CARE
HOME PROVIDERS DID NOT
ALWAYS COMPLY WITH STATE
HEALTH AND SAFETY LICENSING
REQUIREMENTS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



Gloria L. Jarmon
Deputy Inspector General
for Audit Services

July 2014
A-05-13-00031

Office of Inspector General

<https://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <https://oig.hhs.gov>

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

The 20 providers that we reviewed did not always comply with applicable State licensing 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 recent 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 audited 20 licensed family and group child care homes (providers) that received CCDF funding in Michigan. We conducted this review in conjunction with our review of 3 child care centers (report number A-05-13-00053).

OBJECTIVE

The objective of this review was to determine whether the Michigan Department of Education's (State agency) onsite monitoring ensured that providers that received CCDF funds complied with State licensing requirements related to the health and safety of children.

BACKGROUND

The CCDF authorized by the Child Care and Development Block Grant Act and the Social Security Act § 418 assists low-income families, families receiving temporary public assistance, and families transitioning from public assistance to obtain childcare 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, is approximately \$5.2 billion.

The State agency is the lead agency designated to administer the CCDF program, which helps low-income families in Michigan pay for childcare. The Michigan Department of Human Services, Bureau of Children and Adult Licensing (State licensing agency), is responsible for onsite monitoring of licensed family care home providers.

As the lead agency, the State agency must monitor licensed providers. According to the *Child Care and Development Fund Plan for Michigan*, the State licensing agency is responsible for childcare licensing and enforcement personnel, who conduct inspections to ensure that providers meet basic health and safety standards. State regulations mandate that the State licensing agency must conduct inspections of providers at least once a year for group child care homes and at 10 percent of family child care homes in each county in each year.

WHAT WE FOUND

Although the State agency conducted the required inspections at all 20 of the providers that we reviewed, this onsite monitoring did not ensure that providers that received CCDF funds complied with State licensing requirements related to the health and safety of children. We determined that all 20 of the providers that we reviewed did not comply with 1 or more State licensing requirements to ensure the health and safety of children. Specifically, we found 19 providers did not always comply with requirements related to the physical condition of the provider homes, 16 providers did not comply with records and supervision requirements, and 10 providers did not comply with required criminal records and protective services checks.

WHAT WE RECOMMEND

We recommend that the State agency work with the State licensing agency to:

- ensure adequate oversight by reducing licensing inspectors' caseloads,
- ensure through more frequent onsite monitoring that providers comply with health and safety regulations,
- develop a mandatory training program to improve provider compliance with health and safety regulations, and
- ensure that providers obtain required criminal record checks and protective services checks for all child care employees who provide direct services to children.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency partially concurred with our first recommendation acknowledging the benefits of a reduced caseload. However, according to the State agency, nearly tripling the number of licensing inspectors to reduce the caseload is unlikely because it would require additional resources and funding. To address the concerns, the State Agency discussed some alternative approaches including conducting a thorough analysis of the current inspection process to identify potential efficiencies to ensure the optimal utilization of existing licensing inspection staff. The State agency concurred with the remaining three recommendations.

TABLE OF CONTENTS

INTRODUCTION	1
Why We Did This Review	1
Objective	1
Background	1
Michigan Childcare Services.....	2
Related Office of Inspector General Work.....	2
Child Care Aware of America.....	2
Administration for Children and Families Proposed Regulations.....	2
How We Conducted This Review	3
FINDINGS	3
Providers Did Not Always Comply With Physical Conditions Requirements	4
State Requirements.....	4
Providers Did Not Comply With Physical Conditions Requirements	4
Fire Safety	4
Physical and Environmental Safety.....	5
Providers Did Not Always Comply With Records and Supervision Requirements	7
Staff Records	7
Supervision.....	8
Providers Did Not Always Comply With Required Criminal Records and Protective Services Checks	9
State Requirements.....	9
Providers Did Not Comply With Required Criminal Records and Protective Services Checks	9
Cause of Noncompliance.....	10
RECOMMENDATIONS	10
STATE AGENCY COMMENTS.....	11
APPENDIXES	
A: Audit Scope and Methodology	12
B: Federal Regulations and State Licensing Regulations	13

C: Photographic Examples of Noncompliance With
Physical Conditions Requirements19

D: Instances of Noncompliance at Each Child Care Home.....24

E: State Agency Comments25

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 recent 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 audited 20 licensed family² and group³ child care homes (providers) that received CCDF funding in Michigan. We conducted this review in conjunction with our review of 3 child care centers (report number A-05-13-00053).

OBJECTIVE

The objective of this review was to determine whether the Michigan Department of Education's (State agency) onsite monitoring ensured that providers that received CCDF funds complied with State licensing requirements related to the health and safety of children.

BACKGROUND

Authorized by the Child Care and Development Block Grant (CCDBG) Act (42 U.S.C. 9859 et. seq.) and section 418 of the Social Security Act (42 U.S.C. 618), the CCDF assists low-income families, families receiving temporary public assistance, and families transitioning from public assistance to obtain childcare 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, is approximately \$5.2 billion.

The CCDBG Act and (implementing) 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)-(G) and 45 CFR 98.15(b)(5)-(6)).

Federal regulations (45 CFR 98.10) require States to designate a lead agency to administer the CCDF program.

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

² A "family child care home" means a private home in which one but fewer than seven minor children are received for care and supervision for compensation for periods of less than 24 hours a day. Michigan Compiled Law § 722.111(1)(i)(iii).

³ A "group child care home" means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day. Michigan Compiled Law § 722.111(1)(i)(iv).

Michigan Childcare Services

The State agency is the lead agency designated to administer the CCDF program, which helps low-income families in Michigan pay for childcare. The Michigan Department of Human Services, Bureau of Children and Adult Licensing (State licensing agency), is responsible for childcare licensing. The State agency shall certify that there are health and safety requirements that apply to all providers caring for children receiving CCDF services that also may be covered by licensing requirements.

According to the *Child Care and Development Fund Plan for Michigan FFY 2012–2013*, the State licensing agency is responsible for childcare licensing and enforcement personnel, who conduct inspections to ensure that providers meet basic health and safety standards. State regulations mandate that the State licensing agency must conduct inspections of providers at least once a year for group child care homes and to 10 percent of family child care homes in each county in each year (Michigan Compiled Laws 722.118a and 722.119a).

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 may and do 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 America (CCAA)⁴ reviewed and ranked State regulations for small family childcare homes.⁵ 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 inspections of providers to at least once a year and that States reduce the caseload for licensing inspectors to a ratio of 1:50.

Administration for Children and Families Proposed Regulations

ACF recently proposed amending current CCDF regulations to improve childcare health, safety, and quality.⁶ The proposed changes include a requirement that States’ “lead agencies” perform

⁴ In 2012, the National Association of Child Care Resource & Referral Agencies changed its name to Child Care Aware of America.

⁵ CCAA works with more than 600 State and local Child Care 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.

⁶ 78 Fed. Reg. 29441 (May 20, 2013).

an initial onsite monitoring visit and at least one annual unannounced onsite visit of providers that have received CCDF subsidies. The proposal also requires providers responsible for the health and safety of children to receive specific and basic training commensurate with their professional responsibilities. In addition, ACF stated that it strongly encourages lead agencies to establish requirements for ongoing provider training.

HOW WE CONDUCTED THIS REVIEW

Of the 2,584 providers that received CCDF funding for the quarter ended March 31, 2013, we selected 20 providers for our review. We based this selection on the availability of State licensing consultants and their unannounced inspection dates. We accompanied State licensing consultants on unannounced visits to homes that were due for inspection. We conducted fieldwork in Lansing, Portage, Muskegon, Twin Lakes, Niles, Kalamazoo, Oak Park, Ortonville, Marysville, Pontiac, Southfield, Waterford, Farmington Hills, and Sterling Heights, Michigan. We conducted unannounced site visits from June 13 to August 6, 2013.

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 A contains details of our audit scope and methodology, Appendix B contains details on the Federal regulations and State licensing health and safety requirements that pertain to providers, and Appendix C contains photographic examples of noncompliance with physical conditions requirements.

FINDINGS

Although the State agency conducted the required inspections at all 20 of the providers that we reviewed, this onsite monitoring did not ensure that providers that received CCDF funds complied with State licensing requirements related to the health and safety of children. We determined that all 20 of the providers that we reviewed did not comply with 1 or more State licensing requirements to ensure the health and safety of children. Specifically, we found 19 providers did not always comply with requirements related to the physical condition of the provider homes, 16 providers did not comply with records and supervision requirements, and 10 providers did not comply with required criminal records and protective services checks.

Appendix D displays a table that contains the instances of noncompliance at each provider we reviewed.

PROVIDERS DID NOT ALWAYS COMPLY WITH PHYSICAL CONDITIONS REQUIREMENTS

State Requirements

Family home applicants receive a certificate of registration after submitting a complete application, attending an orientation session, and submitting the statement of registration (provided at the orientation session). The statement of registration must be submitted after the applicant has determined that he/she is in compliance with the Child Care Organizations Act (1973 PA 116) and the licensing rules for operating a family child care home.

Group child care home applicants must submit a complete application, attend an orientation session, and be in full compliance with the Child Care Organizations Act and the licensing rules for operating a group child care home.

Appendix B contains all relevant State licensing regulations.

Providers Did Not Comply With Physical Conditions Requirements

We determined that 19 of the 20 providers that we reviewed did not comply with applicable requirements related to fire safety or the physical and environmental safety of the provider homes to ensure the health and safety of children.

Fire Safety

State Requirements

The State requires providers to ensure, among other requirements:

- At least one exit from each floor level shall provide a direct, safe means of unobstructed travel to the outside at street or ground level (R 400.1943(1-2,11)).
- All electrical outlets accessible to children shall have safety covers. Electrical cords shall be arranged so they are not hazards to children (R 400.1942(2-3)).
- A home shall have at least one functioning multipurpose fire extinguisher properly mounted (R 400.1944(3)).
- Operable smoke detectors shall be installed and maintained on each floor of the home (R 400.1944(1)).
- A carbon monoxide detector shall be placed on all levels approved for childcare (R 400.1934(3)).

- A written plan for the care of children shall be established and posted for fire evacuation, tornado watches and warnings, serious accident or injury, and water emergencies, if applicable (R 400.1945(1)(a-d)).

Providers Did Not Comply With Fire Safety Requirements

We determined that 14 of the 20 providers that we reviewed had 1 or more instances of noncompliance with fire safety requirements. Examples of noncompliance included:

- cluttered or blocked pathways or inadequate exits that would be used to escape a fire (Appendix C, photograph 1),
- electrical outlets and cords presenting a hazard to children (Appendix C, photograph 2),
- a fire extinguisher that was not mounted on a wall as required and was difficult for the caregiver to locate,
- inoperable carbon monoxide and smoke detectors, and
- written emergency plans were not posted.

Physical and Environmental Safety

State Requirements

The State requires providers to ensure, among other requirements:

- A child care home shall provide not less than 35 square feet per child of safe, usable, accessible indoor floor space, not including bathrooms and storage areas (R 400.1915(1)).
- All bedding and equipment shall be in accordance with U.S. Consumer Product Safety Commission standards (R 400.1916(1)).
- A child care home shall provide a clean, safe, and hazard free outdoor play area, on the premises or within a reasonable walking distance of the home (R 400.1920(1)).
- The caregiver shall ensure that barriers exist to prevent children from gaining access to any swimming pool, ... or other body of open water located on or adjacent to the property where the child care home is located (R 400.1921(1)).
- All caregiving staff shall wash their hands appropriately before and after preparing and serving food, eating, and feeding (R 400.1924(1)(a)(i)).
- Food shall be prepared, served, and stored in a safe and sanitary manner (R 400.1931(4)(b)).

- The structure, premises, and furnishings of a child care home shall be in good repair and maintained in a clean, safe, and comfortable condition. All dangerous and hazardous materials or items shall be stored securely and out of the reach of children. There shall be no flaking or deteriorating paint on interior and exterior surfaces, equipment, and toys accessible to children (R 400.1932(1,2,6)).
- Litter boxes, pet food and dishes, and pet toys shall be inaccessible to children (R 400.1936(5)).
- All flame-producing and heat-producing equipment, including, but not limited to a furnace and water heater shall be maintained in a safe condition and shielded to protect against burns (R 400.1941(1)(a-b)).
- A caregiver shall post the current license in a conspicuous place (R 400.1903(1)(g)).

Providers Did Not Comply With Requirements for Physical and Environmental Safety

We determined that 18 of the 20 providers that we reviewed had 1 or more instances of noncompliance with physical and environmental safety requirements. Examples of noncompliance included:

- outdoor play areas or walkways that were not kept free from hazards (e.g., chemicals, wooden fences with exposed nails, sheds not in good repair, rakes, fire pits, spare siding and other sharp objects in the play area) (Appendix C, photographs 3–6);
- outdoor play equipment covered in dirt and that had chipped and peeling paint (Appendix C, photograph 7);
- outdoor play equipment that did not have enough wood chips or other absorbent material underneath and had protruding bolts that were not adequately shielded from the children;
- a swimming pool located next to the children’s outdoor play area and accessible to children by a broken wooden gate;
- dog feces found in the outdoor play area;
- indoor play areas not kept free from hazards (e.g., household cleaners, medication, pet waste, scissors, and other sharp objects were accessible to children);
- furniture or other items or structures that were not stable or secured to prevent tipping onto a child (e.g., a large box television set on an unstable stand close to a play area and a bathroom cabinet that was not anchored to the wall);
- a basement sump pump not properly shielded by a cover and accessible to children;
- chemicals labeled “flammable” were stored near the furnace and water heater;

- household clutter on kitchen and dining room tables, desks, countertops, and near the furnace and water heater (Appendix C, photograph 8);
- food in the kitchen sink (Appendix C, photograph 9), a soiled diaper, and trash were not disposed of properly;
- caregivers did not wash their hands before preparing food for the children and worked in an unsanitary environment (a kitchen with dirty dishes stored on a stovetop and a cutting board with pet food on it used to cut an apple for the children to eat) (Appendix C, photograph 9);
- pet food and water bowls were accessible to children;
- children had insufficient indoor play space because the living room area where children were being cared for was congested with furniture, and there was not enough space to ensure appropriate activities, safety, and comfort for the children;
- insufficient children’s bathroom lighting (e.g., light broken and no window);
- food in the kitchen not kept covered (e.g., perishable food left sitting on the counter during our entire visit, which lasted well over an hour);
- meals prepared on a stovetop directly below a water-damaged ceiling that was flaking paint and sheetrock (Appendix C, photograph 10);
- inadequate sleeping arrangements (e.g., providers using recalled cribs that did not comply with Consumer Product Safety Commission standards); and
- a provider did not post their license in a place where parents could see it and was unable to locate it at all.

PROVIDERS DID NOT ALWAYS COMPLY WITH RECORDS AND SUPERVISION REQUIREMENTS

We determined that 16 of the 20 providers that we reviewed did not comply with applicable requirements related to staff records and supervision requirements to ensure the health and safety of children.

Staff Records

State Requirements

Providers shall ensure that they and their assistant caregivers have proof of valid cardiopulmonary resuscitation (CPR), first aid, and bloodborne pathogen training. In addition, the provider shall complete not less than 10 clock hours of training each year related to child development, program planning, and administrative management for a childcare business and

ensure each assistant caregiver completes not less than 5 clock hours of training each year related to child development and caring for children. Specifically, the State requires providers to ensure, among other requirements:

- caregiver CPR training (R 400.1902(1)(d)),
- caregiver and assistant caregiver annual training (R 400.1905(1,2,7)),
- records of caregiving staff (R 400.1906(1)(b-c,g)), and
- a self-certifying statement confirming compliance with these rules is required for any assistant caregiver under the age of 18, including those who are household members.⁷

Providers Did Not Comply With Requirements for Staff Records

We determined that 15 of the 20 providers that we reviewed had 1 or more instances of noncompliance with staff record requirements. Examples of noncompliance included lack of current CPR, first aid, bloodborne pathogens, and annual training for both providers and assistant caregivers. In addition, providers were missing medical clearances and signed statements by several assistant caregivers indicating at the time of hiring that they were aware that abuse and neglect of children is unlawful and that the law mandates them to report child abuse and neglect.

Supervision

State Requirements

The ratio of caregiving staff to children present in the home at any one time shall be not less than one caregiving staff person to six children. The ratio shall include all unrelated children in care and specified children who are less than 7 years of age (R 400.1910(1,2)).

Providers shall assure appropriate care and supervision of children at all times. A caregiver or adult assistant caregiver shall be present in the home and know the location of each child at all times when children are in care (R 400.1911(1,2,4,6)).

Providers Did Not Comply With Requirements for Supervision

At one provider, nine children were in the care of just the provider. After a few minutes, a backup assistant caregiver arrived. The assistant caregiver left to run errands when only six children were present. Shortly after, three more children arrived earlier than their normal time, causing the provider to exceed the children-to-staff ratio.

Another provider was away from the home on a field trip with a few of the children when we arrived. The assistant caregivers were present with the rest of the children. About half an hour into our visit, we inspected the upper level of the house and discovered an additional child

⁷ See Michigan Department of Human Services, *Assistant Caregiver Certifications*, BCAL-4595 (Rev. 8-13).

sleeping in a pack-n-play in a bedroom not normally used by daycare children. The provider and assistant caregivers were unaware the child was there.

PROVIDERS DID NOT ALWAYS COMPLY WITH REQUIRED CRIMINAL RECORDS AND PROTECTIVE SERVICES CHECKS

State Requirements

In Michigan, the regulations require criminal record checks to assess the good moral character and suitability of the childcare home family (R 400.1903(5,7)). Per changes to the Child Care Organizations Act (116 PA 1973) effective December 22, 2010, providers must perform a criminal history clearance on an individual using the Michigan State Police Internet Criminal History Access Tool (ICHAT) before making a final offer of employment to that individual.⁸ Caregivers shall maintain a file for the caregiver and each assistant caregiver, including a statement signed by each assistant caregiver that he or she has not been convicted of either child abuse or child neglect or a felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire (R 400.1906(1)(e)). To demonstrate compliance with this rule, the caregiver must have a copy of the ICHAT results for each assistant caregiver per the Child Care Organizations Act. In addition, providers must obtain a Central Registry Clearance on the individual directly from the State licensing agency documenting that the assistant caregiver has not been involved in substantiated child abuse or neglect⁹ (R 400.1906(1)(f)).

Providers Did Not Comply With Required Criminal Records and Protective Services Checks

We determined that 10 of the 20 providers that we reviewed had 1 or more assistant caregivers who lacked 1 or more of the required criminal records checks. Specifically, we found that of these 33 assistant caregivers:

- 6 did not have a criminal history check completed at all;
- 8 criminal history checks were not completed until after an offer of employment was made;
- 2 criminal history checks were not completed until after our site visit; and
- 2 had criminal history checks, but we were unable to determine completion before an offer of employment was made.

⁸ Michigan Compiled Law § 722.115d.

⁹ Michigan Compiled Law § 722.119.

We determined that 5 of the 20 providers that we reviewed had 1 or more assistant caregivers who lacked 1 or more of the required protective services checks. Specifically, we found that of these 33 assistant caregivers, 6 Central Registry Clearances were not completed at all.

CAUSE OF NONCOMPLIANCE

On the basis of our discussion with State officials and our review of the State licensing regulations, noncompliance with State requirements occurred because the State licensing agency is required to make unannounced visits of providers at least once a year for group child care homes and at 10 percent of family child care homes in each county in each year. In Michigan, the average ratio of licensing inspectors to programs is 1:172. Special investigations, initiated by complaints, delay regular, unannounced visits. CCAA recommended that States increase inspections of providers to at least once per year and that States reduce the caseload for licensing inspectors to a ratio of 1:50.

Our discussions with State officials confirmed that additional provider training would help to educate providers on health and safety regulations. Currently, the licensing department discusses these regulations at the time of initial inspection and again at the time of an unannounced visit. Because unannounced inspections occur once a year for group childcare homes and at 10 percent of family childcare homes in each county in each year, the licensing department does not often identify health and safety violations when they first occur or identify when a provider might need additional training. Therefore, some health and safety violations may exist several years before a State licensing inspector discovers a problem that places children at risk.

RECOMMENDATIONS

We recommend that the State Agency work with the State licensing agency to:

- ensure adequate oversight by reducing licensing inspectors' caseloads,
- ensure through more frequent onsite monitoring that providers comply with health and safety regulations,
- develop a mandatory training program to improve provider compliance with health and safety regulations, and
- ensure that providers obtain required criminal record checks and protective services checks for all child care employees who provide direct services to children.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency partially concurred with our first recommendation acknowledging the benefits of a reduced caseload. However, according to the State agency, nearly tripling the number of licensing inspectors to reduce the caseload is unlikely because it would require additional resources and funding. To address the concerns, the State Agency discussed some alternative approaches including conducting a thorough analysis of the current inspection process to identify potential efficiencies to ensure the optimal utilization of existing licensing inspection staff. The State agency concurred with the remaining three recommendations.

The State agency's comments are included in their entirety as Appendix E.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Of the 2,584 providers in Michigan that received CCDF funding for the quarter ended March 31, 2013, we selected 20 providers for our review. We based this selection on the availability of State Licensing Consultants and their unannounced inspection dates. We accompanied State Licensing Consultants on unannounced visits to homes due for inspection.

We conducted a review of the provider's records and facilities as of August 2013. To gain an understanding of the State Agency's operations, as they relate to child care providers, we limited our review to the State Agency's internal controls as they related to our objective.

We conducted fieldwork in Lansing, Portage, Muskegon, Twin Lakes, Niles, Kalamazoo, Oak Park, Ortonville, Marysville, Pontiac, Southfield, Waterford, Farmington Hills, and Sterling Heights, Michigan. We conducted these unannounced site visits from June 13 to August 6, 2013.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, State statutes, and regulations for licensing providers and the applicable Michigan CCDF State plan approved by ACF;
- interviewed the CCDF program staff to determine how Michigan monitored its providers;
- developed a health and safety check list as a guide for conducting site visits;
- conducted unannounced site visits (inspections) at the 20 providers we selected for review;
- interviewed providers to obtain a listing of staff to determine whether all required criminal history records checks were conducted; and
- discussed the results of our review with State licensing officials and State 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 LICENSING REGULATIONS

FEDERAL REGULATIONS

One of the goals of CCDF is to assist States in implementing the health, safety, licensing, and registration standards established in State regulations (45 CFR pt. 98.1(a)(5)).

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 pt. 98.15(b)(5)).

STATE STATUTES AND REGULATIONS

The CCDF plan for Michigan requires the State licensing agency to conduct inspections to ensure that providers meet basic health and safety requirements. The State licensing agency is the State agency responsible for licensing of child care homes.

Michigan General Statutes

Michigan Compiled Law 722.111(1)(i)(iii) – Family Child Care Home

A family child care home is a private home in which 1 but fewer than 7 minor children are received for care and supervision for compensation for periods of less than 24 hours a day.

Michigan Compiled Law 722.111(1)(i)(iv) – Group Child Care Home

A group child care home is a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day.

The State Licensing Rules for Family and Group Child Care Homes are within sections R 400.1901 through R 400.1963. Within these licensing rules, we used the sections listed below to identify the instances of noncompliance.

Fire Safety

R 400.1934(3,5) – Heating; ventilation; lighting

A carbon monoxide detector, bearing a safety certification mark of a recognized testing laboratory such as UL (Underwriters Laboratories) or ETL (Electrotechnical Laboratory), shall be placed on all levels approved for child care. All child-use areas shall have adequate natural and/or artificial lighting.

R 400.1942(2,3) – Electrical service; maintenance

All electrical outlets, including outlets on multiple outlet devices, accessible to children shall have safety covers. Electrical cords shall be arranged so they are not hazards to children.

*Some Michigan Child Care Home Providers Did Not Always Comply
With State Health and Safety Licensing Requirements (A-05-13-00031)*

R 400.1943(1,2,11) – Exit and escape requirements for each floor level used by children

All child care homes shall have at least 2 remotely located exits for every floor level occupied by children. At least 1 exit from each floor level shall provide a direct, safe means of unobstructed travel to the outside at street or ground level. Only steps and platforms shall be used to access a basement window exit and shall be permanently secured to the wall or floor. Ladders shall not be used as a means for exiting.

R 400.1944(1,3) – Smoke detectors; fire extinguishers

Operable smoke detectors approved by a nationally recognized testing laboratory shall be installed and maintained on each floor of the home, including the basement, and in all sleeping areas and bedrooms used by children in care. A home shall have at least 1 functioning multipurpose fire extinguisher, with a rating of 2A-10BC or larger, properly mounted not higher than 5 feet from the floor to the top of the fire extinguisher, on each floor level approved for child use.

R 400.1945(1,3,4) – Fire; tornado; serious accident and injury plans

A written plan for the care of children shall be established and posted for each of the following emergencies:

- Fire evacuation,
- Tornado watches and warnings,
- Serious accident or injury,
- Water emergencies, if applicable.

Fire drills shall be practiced at least once a month and a written record that includes the date and time it takes to evacuate shall be maintained. Tornado drills shall be practiced once a month, April to October, and a written record that includes the date shall be maintained.

Physical and Environmental Safety

R 400.1903(1)(g) – Caregiver responsibilities

A caregiver is responsible for posting the current license or certificate of registration in a conspicuous place.

R 400.1903(8) – Caregiver responsibilities

The caregiver shall assure that smoking does not occur in the child care home and on the premises while children are in care and conspicuously post on the premises a notice stating that smoking is prohibited on the premises during child care hours.

R 400.1913(1) – Discipline and child handling

The caregiver shall develop and have on file a written policy regarding the discipline of children.

R 400.1915(1) – Indoor space; play equipment and materials

A child care home shall provide not less than 35 square feet per child of safe, usable, accessible indoor floor space, not including bathrooms and storage areas.

R 400.1916(1,9,10,12) – Bedding and sleeping equipment

All bedding and equipment shall be in accordance with U.S. Consumer Product Safety Commission (<http://www.cpsc.gov/>) standards as approved for the age of the child using the equipment and shall be clean, comfortable, safe, and in good repair.

Children 12 to 24 months of age shall rest or sleep alone in an approved crib, porta-crib, or on a cot or mat sufficient for the child's length, size, and movement.

Infant car seats, infant seats, infant swings, bassinets, highchairs, waterbeds, adult beds, soft mattresses, sofas, beanbags, or other soft surfaces are not approved sleeping equipment for children 24 months of age or younger.

Children over 24 months of age shall have an individual, age appropriate, clean, comfortable and safe place to sleep or rest. The floor shall be used only when padded, warm, and free from drafts and when there is a mat, sleeping bag, blanket, or similar piece of bedding between the floor and the child.

R 400.1920(1,5) – Outdoor play area and equipment

A child care home shall provide a clean, safe, and hazard free outdoor play area, on the premises or within a reasonable walking distance of the home.

When swings, climbers, slides, and other similar play equipment with a designated play surface above 30 inches are used, they shall not be placed over concrete, asphalt, or a similar surface, such as hard-packed dirt or grass.

R 400.1921(1) – Water hazards and water activities

The caregiver shall ensure that barriers exist to prevent children from gaining access to any swimming pool, drainage ditch, well, natural or constructed pond or other body of open water located on or adjacent to the property where the child care home is located. Such barriers shall be of a minimum of 4 feet in height and appropriately secured to prevent children from gaining access to such areas.

R 400.1924(1) – Hand washing

All caregiving staff shall wash their hands appropriately before and after preparing and serving food, eating, and feeding.

R 400.1931(4) – Food preparation and service

Food shall be prepared, served, and stored in a safe and sanitary manner. Prepared food that has not been served to individuals or placed in family-style containers shall be promptly covered after preparation and stored appropriately.

R 400.1932(1,2,6) – Home maintenance and safety

The structure, premises, and furnishings of a child care home shall be in good repair and maintained in a clean, safe, and comfortable condition. All dangerous and hazardous materials or items shall be stored securely and out of the reach of children. There shall be no flaking or deteriorating paint on interior and exterior surfaces, equipment, and toys accessible to children.

R 400.1936(5) – Animals and pets

Litter boxes, pet food and dishes, and pet toys shall be inaccessible to children.

R 400.1941(1) – Heat-producing equipment

All flame-producing and heat-producing equipment, including, but not limited to a furnace and water heater shall be maintained in a safe condition and shielded to protect against burns.

Staff Records

R 400.1902(1) – Caregiver and child care home family

An applicant shall have proof of valid infant/child/adult [CPR], first aid, and blood-borne pathogen training.

R 400.1905(1,2, 4,7) – Training

The caregiver shall complete not less than 10 clock hours of training each year related to child development, program planning, and administrative management for a child care business, not including CPR, first aid, and blood-borne pathogen training.

Each assistant caregiver shall complete not less than 5 clock hours of training each year related to child development and caring for children, not including CPR, first aid, and blood-borne pathogen training.

Infant, child, and adult CPR and first aid training shall be maintained each year for CPR and every 36 months for first aid.

R 400.1906(1) – Records of caregiving staff and child care home family; record maintenance

The caregiver shall maintain a file for the caregiver and each assistant caregiver including all of the following:

- A statement signed by a licensed physician or his or her designee and which attests to the individual's mental and physical health.
 - For the caregiver, within 1 year before issuance of the certificate of registration or initial license and at the time of subsequent renewals.
 - For the assistant caregivers, within 1 year prior to caring for children and at the time of subsequent renewals.
- Written evidence of freedom from communicable tuberculosis (TB):
 - For the caregiver, before issuance of the certificate of registration or initial license.
 - For the assistant caregivers, prior to caring for children.
- Training records.
- A written statement signed and dated by the assistant caregiver at the time of hiring indicating all of the following information:
 - The individual is aware that abuse and neglect of children is unlawful.
 - The individual knows that he or she is mandated by law to report child abuse and neglect.
 - The individual has received a copy of the discipline policy.

Supervision

R 400.1910(1,2) – Ratio of caregiving staff to children

The ratio of caregiving staff to children present in the home at any 1 time shall be not less than 1 caregiving staff person to 6 children. The ratio shall include all unrelated children in care and any of the following children who are less than 7 years of age:

- Children of the caregiver.
- Children of the assistant caregiver.

- Children related to any member of the child care home family by blood, marriage, or adoption.

For each caregiving staff person, not more than 4 children shall be under the age of 30 months, with not more than 2 of the 4 children under the age of 18 months.

R 400.1911(1,2,4,6) – Supervision

The caregiver shall assure appropriate care and supervision of children at all times. A caregiver or adult assistant caregiver shall be present in the home at all times when children are in care. Caregiving staff shall know the location of each child at all times. A caregiver or adult assistant caregiver shall at all times directly supervise children who are engaged in water activities or are near collections or bodies of water.

Criminal Record and Protective Services Checks

R 400.1903(5,7) – Caregiver responsibilities

The caregiver shall assure that all assistant caregivers shall be of good moral character and be suitable to assure the welfare of children. The caregiver shall authorize the department to conduct a criminal history and protective service background check to assess the good moral character and suitability of the child care home family.

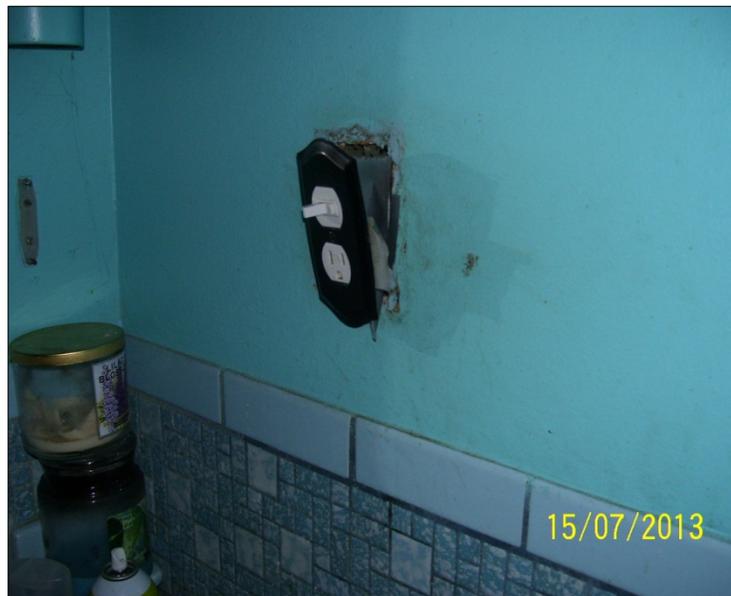
R 400.1906(1)(e-g) – Records of caregiving staff and child care home family; record maintenance.

The caregiver shall maintain a file for the caregiver and each assistant caregiver including a statement signed by each assistant caregiver that he or she has not been convicted of either of child abuse or child neglect or a felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire. The caregiver shall also maintain documentation for each assistant caregiver from the Department of Human Services that the assistant caregiver has not been involved in substantiated child abuse or neglect. In addition, the assistant caregiver must sign and date at the time of hire that the individual is aware abuse and neglect of children is unlawful, is mandated by law to report child abuse and neglect, and has received a copy of the discipline policy.

APPENDIX C: PHOTOGRAPHIC EXAMPLES OF NONCOMPLIANCE WITH PHYSICAL CONDITIONS REQUIREMENTS



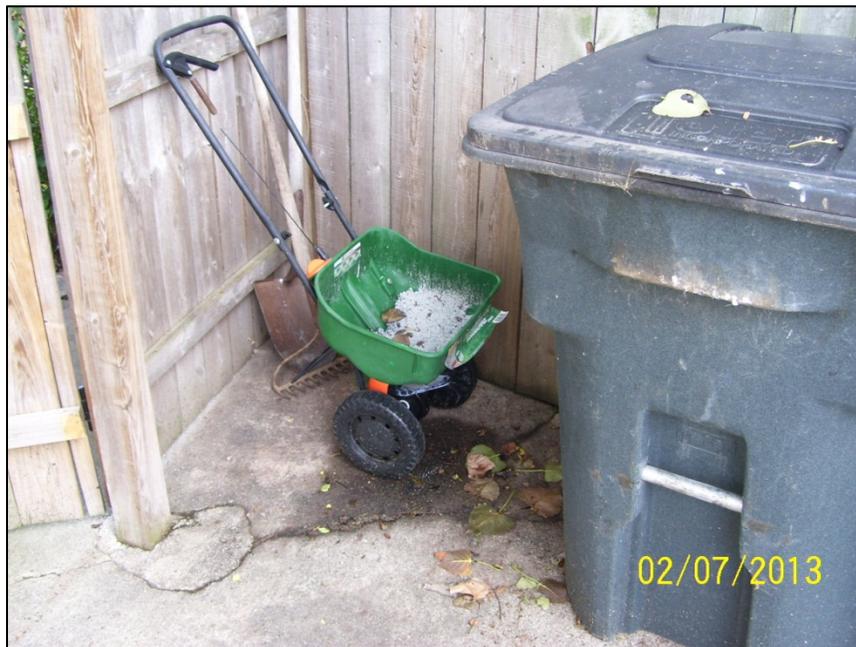
Photograph 1: Emergency exit blocked by laundry chemicals and with no handrail on the steps.



Photograph 2: An electrical outlet protruding from the wall and covered with duct tape.



Photograph 3: Chemicals in outdoor shed accessible to children.



Photograph 4: Yard fertilizer and rusty lawn tools within reach of children.



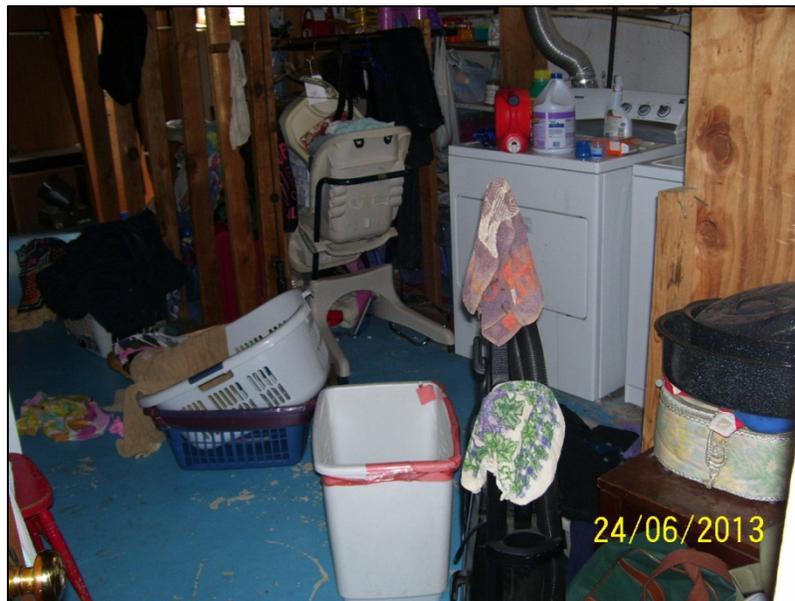
Photograph 5: Boards with exposed rusty nails accessible to children.



Photograph 6: Sharp edges of broken fire pit accessible to children.



Photograph 7: Outdoor play equipment had flaking paint and was very dirty.



Photograph 8: Clutter and laundry chemicals accessible to children.



Photograph 9: Standing water and food in sink, and pet food on the counter where food is prepared for children.



Photograph 10: Water-damaged ceiling with paint and sheetrock flaking off over the cooktop. Food was left sitting open on the counter after lunch was served.

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

Provider Home #	Fire Safety	Physical and Environmental Safety	Staff Records	Supervision	Criminal Record and Protective Services Checks
1	0	1	2	0	0
2	2	12	1	0	0
3	4	7	5	0	1
4	1	3	5	1	6
5	0	1	0	0	0
6	2	1	0	0	2
7	2	8	4	0	0
8	0	2	7	0	4
9	1	1	11	0	4
10	3	2	8	0	1
11	2	1	1	0	0
12	2	5	3	0	1
13	2	0	5	0	0
14	0	1	0	1	0
15	0	2	0	0	1
16	5	5	0	0	2
17	3	9	1	0	0
18	2	6	4	0	0
19	0	0	3	0	0
20	3	8	7	0	2
Total	34	75	67	2	24

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

APPENDIX E: STATE AGENCY COMMENTS



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

RICK SNYDER
GOVERNOR

MICHAEL P. FLANAGAN
STATE SUPERINTENDENT

May 28, 2014

Sheri L. Fulcher
Regional Inspector General for Audit Services
Office of Inspector General
Office of Audit Services, Region V
233 North Michigan, Suite 1360
Chicago, IL 60601

RE: Report Number A-05-13-00031

Dear Ms. Fulcher:

This letter provides the Michigan response to your April 22, 2014 draft report #A-05-13-00031 entitled: Some Michigan Family Day Care Homes Providers Did Not Always Comply With State Health and Safety Licensing Requirements.

We have attached our formal response to your four recommendations. The Michigan Department of Education, lead agency, and the Department of Human Services, regulatory agency for licensing, collaboratively worked on this response and we concur with your recommendations for how we can improve our efforts to ensure the health and safety of children in Michigan.

If you have any further questions or need additional information, please contact Lisa Brewer Walraven at brewer-walravenl@michigan.gov or (517) 373-4116.

Sincerely,

Handwritten signature of Michael P. Flanagan in black ink.

Michael P. Flanagan
State Superintendent
Michigan Department of Education

Handwritten signature of Maura D. Corrigan in black ink.

Maura D. Corrigan
Director
Michigan Department of Human Services

Enclosure

cc: Lisa Brewer Walraven, MDE
Naomi Krefman, MDE
Jane Schultz, MDE
Kyle Guerrant, MDE
Susan Broman, MDE

STATE BOARD OF EDUCATION

JOHN C. AUSTIN – PRESIDENT • CASANDRA E. ULBRICH – VICE PRESIDENT
DANIEL VARNER – SECRETARY • RICHARD ZEILE – TREASURER
MICHELLE FECTEAU – NASBE DELEGATE • LUPE RAMOS-MONTIGNY
KATHLEEN N. STRAUS • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov/mde • (517) 373-3324

State of Michigan Response to Federal OIG HHS Health and Safety Draft Report for Family Home Providers - A-05-13-00031

OIG RECOMMENDATION #1 - Ensure adequate oversight by reducing licensing inspectors' caseloads.

State of Michigan Response – The State of Michigan partially concurs with this recommendation.

The State currently employs 68 child care licensing inspectors responsible for 10,397 child care facilities resulting in a 1:153 caseload ratio. To implement the 1:50 ratio recommended by Child Care Aware of America, the State of Michigan would be required to increase licensing inspector staff by 140 positions (+206%). While the State acknowledges the benefits of the 1:50 recommendation, nearly tripling the number of licensing inspectors is unlikely at this time as it would require additional resources and funding.

However, to address the concerns cited in the audit report, the State will conduct a thorough analysis of the current inspection process to 1.) ensure that existing licensing inspector resources are applied to areas that provide the greatest assurance regarding the health and safety of the children served; and, 2.) identify any potential efficiencies in the inspection process to ensure optimal utilization of existing licensing inspection staff.

OIG RECOMMENDATION #2 - Ensure through more frequent onsite monitoring that providers comply with health and safety regulations.

State of Michigan Response – The State of Michigan concurs with this recommendation.

Michigan law requires onsite visits of a sample of at least 10% of family child care homes in each county each year. The State has surpassed the 10% requirement for the past two years and is on target to exceed this requirement again in 2014.

The State is currently reviewing statutory and policy solutions that will allow even greater inspection frequency.

OIG RECOMMENDATION #3 - Develop a mandatory training program to improve provider compliance with health and safety regulations.

State of Michigan Response – The State of Michigan concurs with this recommendation. The State will begin to explore the development of a training curriculum involving health and safety regulations that will be required for all

licensed child care providers. The State will collaborate with our child care partners to review and enhance existing training opportunities currently available.

OIG RECOMMENDATION #4 -Ensure that providers obtain required criminal record checks and protective services checks for all child day care employees who provide direct services to children.

State of Michigan Response – The State of Michigan concurs with this recommendation. The State has an effective process in place to track and monitor criminal background checks on child care license holders. Michigan relies on license holders to comply with background check requirements regarding their employees. Ensuring that background checks are performed on license holder employees has been, and will continue to be, a point of emphasis during the inspection process. Penalties for non-compliance, up to and including license revocation, will be enforced.