

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**SOME MAINE FAMILY CHILD DAY 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](mailto:Public.Affairs@oig.hhs.gov).*



Gloria L. Jarmon  
Deputy Inspector General  
for Audit Services

August 2014  
A-01-13-02507

# *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

*We determined that 16 of 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 child day care home providers (providers) that received CCDF funding in Maine. We conducted this review of the Maine Department of Health and Human Services (State agency) in conjunction with our review of six child day care centers (report number A-01-13-02503).

The objective of this review was to determine whether the State agency's 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, was approximately \$5.2 billion.

The State agency is the lead agency, which helps low- to moderate-income families in Maine pay for childcare. Parents may select a childcare provider that satisfies the applicable State and local requirements, including basic health and safety requirements.

As the lead agency, the State agency must monitor licensed providers. The Division of Licensing, Childcare Licensing Unit (State licensing division), is responsible for issuing childcare provider certificates and monitoring provider compliance with regulations set by the State agency under direction of the Maine Legislature. Additionally, the State licensing division is responsible for childcare licensing and enforcement personnel, who conduct inspections to ensure that providers meet basic health and safety standards. State regulations mandate the State licensing division to conduct at least one unannounced inspection of providers between 6 and 18 months after the issuance of the license.

## WHAT WE FOUND

The State agency's licensing division conducted the required inspections at 18 of the providers that we reviewed, but it did not conduct the required inspections at 2 of the providers within the required timeframe of 18 months. The State licensing division's onsite monitoring did not always ensure that providers that received CCDF funds complied with State licensing requirements related to the health and safety of children. We determined that 16 of the providers did not comply with 1 or more State licensing requirements to ensure the health and safety of children. Specifically, we found that 14 providers did not comply with requirements related to the physical conditions of their facilities, 10 providers did not comply with inspection procedures and other administrative requirements, and 5 providers did not comply with requirements to obtain criminal history and child protection reports.

## WHAT WE RECOMMEND

We recommend that the State agency:

- ensure through more frequent and thorough onsite monitoring that providers comply with health and safety requirements;
- consider State regulatory changes to ensure unannounced inspections are required to be conducted at least annually;
- ensure adequate oversight by reducing licensing inspectors' caseloads; and
- ensure criminal history and child protection reports are obtained for each individual applicant; paid, unpaid, temporary, or regular staff member or volunteer; and any adult living in or frequenting the premises.

## STATE AGENCY COMMENTS AND OUR RESPONSE

In written comments on our draft report, the State agency generally concurred with our findings and explained its plans for addressing our recommendations. The State agency stated it conducted unannounced inspections at least annually. The State agency also indicated that with implementation of differential monitoring and decreased caseloads, it plans to conduct annual inspections and mid-cycle reviews using a risk-based differential score.

While the State agency's goal may be to conduct annual unannounced inspections, the *Rules for the Certification of Family Child Care Providers, effective July 1, 2009* (10-148 CMR Chapter 33 § 4.5), state that the State agency must make at least one unannounced inspection of a provider during the term of the certificate. The inspection must take place between 6 and 18 months after the issuance of the certificate. This allows for inspections to be conducted 18 months (instead of 12 months) after the issuance of the certificate. Furthermore, the State agency could not provide documentation to support that it conducted the required inspections at two providers. The approach outlined by the State agency addresses our recommendations.

## TABLE OF CONTENTS

INTRODUCTION .....	1
Why We Did This Review .....	1
Objective .....	1
Background .....	1
Maine Childcare Services.....	2
Related Office of Inspector General Work.....	2
Child Care Aware of America.....	2
Administration for Children and Families Proposed Regulations.....	3
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 .....	5
Providers Did Not Always Comply With Inspection Procedures and Other Administrative Requirements.....	6
State Requirements.....	6
Providers Did Not Comply With Inspection Procedures and Other Administrative Requirements.....	6
Providers Did Not Always Comply With Requirements To Obtain Criminal History and Child Protection Reports .....	7
State Requirements.....	7
Providers Did Not Comply With Requirements To Obtain Criminal History and Child Protection Reports .....	7
Causes of Noncompliance .....	7
RECOMMENDATIONS .....	8
STATE AGENCY COMMENTS.....	8
OFFICE OF INSPECTOR GENERAL RESPONSE .....	8
APPENDIXES	
A: Audit Scope and Methodology .....	9

B: Federal Regulations and State Licensing Regulations .....	10
C: Photographic Examples of Noncompliance With Physical Conditions Requirements .....	13
D: Instances of Noncompliance at Each Provider .....	19
E: State Agency Comments .....	20

## 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,<sup>1</sup> 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 child day care home providers (providers) that received CCDF funding in Maine. We conducted this review of the Maine Department of Health and Human Services (State agency) in conjunction with our review of six child day care centers (report number A-01-13-02503).

### OBJECTIVE

Our objective was to determine whether the State agency's 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. 9858, 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, was approximately \$5.2 billion.

The CCDBG 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)).

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

Federal regulations at 45 CFR §§ 98.11 (b)(4) and (6) state that 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 monitors programs and services;

---

<sup>1</sup> *Review of 24 Head Start Grantees' Compliance With Health and Safety Requirements* (A-01-11-02503, issued December 12, 2011).

## **Maine Childcare Services**

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

As the lead agency, the State agency must monitor providers. Within the State agency, the Division of Licensing, Childcare Licensing Unit (State licensing division), is responsible for issuing childcare center licenses, family child day care home certificates,<sup>2</sup> and nursery school licenses. The State licensing division is also responsible for monitoring compliance with regulations set by the State agency under the direction of the Maine Legislature. The State licensing division is also responsible for childcare licensing and enforcement personnel, who conduct inspections to ensure that providers meet basic health and safety standards. The State licensing division must conduct at least one unannounced inspection of providers between 6 and 18 months after the issuance of their licenses (State licensing requirements, chapter 33, § 4.5).

## **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**

The National Association of Child Care Resource & Referral Agencies (NACCRRRA) (now known as Child Care Aware of America (CCAA))<sup>3</sup> published a 2012 update, *Leaving Children to Chance: NACCRRRA's Ranking of State Standards and Oversight of Small Family Child Care Homes*, that reviewed and ranked State regulations for small family childcare homes. NACCRRRA stated that without inspections or monitoring of providers, regulations alone have limited value. NACCRRRA added that when providers are not inspected, it is difficult for a State

---

<sup>2</sup> "Family childcare provider" means the person who has received a certificate from the department to operate a Family Child Care Program. The provider is legally responsible for the operation of the program. The provider must reside at the residence being operated as a family childcare program (10-148 Code of Maine Rules (State licensing requirements), chapter 33, § 1.7). A family childcare program certificate permits a qualified person to care for 3 to 12 children between the ages of 6 weeks and 13 years, according to age groups and staffing requirements (10-148 State licensing requirements, chapter 33, § 2.6). Any person who provides childcare in that person's home on a regular basis for 3 to 12 children under 13 years of age, who are not the children of the provider, must have a certificate from the Department of Health and Human Services (10-148 State licensing requirements, chapter 33, § 2.1).

<sup>3</sup> Child Care Aware of America works with more than 600 State and local Child Care Resource and Referral agencies nationwide. Child Care Aware of America 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.

to enforce its regulations and suspend or revoke the licenses of individuals who are not in compliance. NACCRRA recommended that States increase inspections of providers to at least quarterly 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.<sup>4</sup> The proposed changes include a requirement that State lead agencies perform 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 training.

### **HOW WE CONDUCTED THIS REVIEW**

Of the 259 providers that received CCDF funding from July through September 2012, we selected 20 providers for our review. We based this selection on the consideration of certain risk factors, including the State agency's input on identifying high-risk providers.

We conducted fieldwork in Princeton, Lewiston, Buxton, North Waterboro, Sanford, Lyman, Arundel, Machias, Brunswick, Gorham, Windsor, Hampden, Auburn, Portland, and Carmel, Maine. We conducted these unannounced site visits from February 10 to March 7, 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, Appendix C contains photographic examples of noncompliance with physical conditions requirements, and Appendix D contains instances of noncompliance at each provider we reviewed.

### **FINDINGS**

The State agency's licensing division conducted the required inspections at 18 of the providers that we reviewed, but it did not conduct the required inspections at 2 of the providers within the required timeframe of 18 months. The State licensing division's onsite monitoring did not always ensure that providers that received CCDF funds complied with State licensing requirements related to the health and safety of children. We determined that 16 of the providers did not comply with 1 or more State licensing requirements to ensure the health and safety of children. Specifically, we found that 14 providers did not comply with requirements related to

---

<sup>4</sup> 78 Fed. Reg. 29441 (May 20, 2013).

the physical conditions of their facilities, 10 providers did not comply with inspection procedures and other administrative requirements, and 5 providers did not comply with requirements to obtain criminal history and child protection reports.

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**

A prospective provider applies for a Family Child Care Provider certificate by completing, signing, and submitting to the State licensing division an application to obtain a Family Child Care Provider certificate (State licensing requirements, chapter 33, § 2.1). The application form includes an acknowledgment that the applicant has read the State licensing requirements, agrees to abide by them, and will allow full, unannounced inspections by the State licensing division's staff. State licensing requirements include the following requirements related to the physical conditions of family childcare providers:

- The provider must have a first-aid kit and a current first-aid manual. The type and quantity of supplies are to be determined by current guidelines of the American Red Cross or other recognized health organization (section 13.4).
- The family childcare building and surrounding premises must show evidence of routine maintenance. Repairs of wear and tear must be made in a timely fashion (section 14.1.1).
- Heating units must be safeguarded in a manner to prevent injuries and burns (section 14.3.2.2).
- The provider must ensure that electrical outlets in areas used by infants, toddlers, and preschool children are protected by safety caps, plugs, or other means (section 14.3.5.3).
- The provider must keep medications, cleaning supplies, toxic substances, matches, lighters, power tools, and other dangerous items out of the reach of children (section 14.3.5.6).
- The play area must not be located near hazardous areas (such as busy streets, wells, or open water) unless protected by either natural boundaries or fencing (section 14.4.2).
- Outdoor play equipment must be safely constructed and of a size suitable to the age and needs of all children. Play equipment, including pools, must be adequately spaced apart to prevent injuries (section 14.4.6).
- The premises must be free of pet odors, and waste must be disposed of regularly. All indoor and outdoor areas used by children must be free from pet waste (section 14.6).

Appendix B contains all relevant State licensing requirements.

### **Providers Did Not Comply With Physical Conditions Requirements**

We determined that 14 of the 20 providers that we reviewed had 1 or more instances of noncompliance with requirements to protect children from potentially hazardous conditions. Specifically, we found 39 instances of noncompliance with State licensing requirements related to physical conditions. Examples of noncompliance included:

- expired medications not removed from the first-aid kit and discarded per American Red Cross guidelines (Appendix C, photograph 1);
- pet food and water, a bag of trash, and stained carpeting in the children’s indoor play area indicated a lack of routine maintenance (Appendix C, photograph 2);
- a missing ceiling tile exposed a sewage pipe above the children’s play area (Appendix C, photograph 3);
- an unfinished bathroom with exposed pipes that was used by children (Appendix C, photograph 4);
- walls with chipped paint (Appendix C, photograph 5) that indicated a lack of routine maintenance at the facility;
- an electric heater in a cluttered children’s play area (Appendix C, photograph 6);
- electrical outlets without protective covers;
- dangerous items (including knives, scissors, wooden skewers, and cleaning and personal hygiene products) stored in unlocked drawers and cabinets that were accessible to children (Appendix C, photographs 7 and 8);
- fencing not in good repair at two of the providers’ homes, and three of the providers did not have any fencing or natural boundaries around their outdoor play areas to prevent children from hazardous areas (Appendix C, photograph 9);
- a broken slide in a play area with a sharp edge that could have presented a hazard (Appendix C, photograph 10);
- a play area in a basement cluttered with appliances and other hazardous items (Appendix C, photograph 11); and
- outdoor play areas not free from pet waste.

## **PROVIDERS DID NOT ALWAYS COMPLY WITH INSPECTION PROCEDURES AND OTHER ADMINISTRATIVE REQUIREMENTS**

### **State Requirements**

State licensing requirements state that family childcare programs must:

- have an annual screening as prescribed in Title 22 of Maine Revised Statutes Annotated (MRSA) section 1314, et seq., for potential lead hazards (section 14.3.5.5). A family childcare program is exempt from this screening if:
  - the building was constructed in 1978 or later,
  - the building has been certified as “lead safe” within the previous 12 months by a lead inspector licensed by the Department of Environmental Protection,
  - the building has been certified as “lead free” by a lead inspector licensed by the Department of Environmental Protection, or
  - the building does not serve any children under 6 years of age;
- conduct fire evacuation drills at least once a month for all children and adults present using at least two means of exit (section 14.5.1);
- have available a record of drills for inspection by the Maine Department of Public Safety, Office of the State Marshal, and local fire inspectors (section 14.5.3); and
- ensure that staff supervision is adequate to protect the safety of the children and animals when animals are on the premises, there is proof of rabies vaccinations for household dogs and cats, and pets do not present a danger to children or guests (section 14.6).

### **Providers Did Not Comply With Inspection Procedures and Other Administrative Requirements**

We determined that 10 of the 20 providers did not always follow inspection procedures or perform other administrative requirements. We found 13 instances of noncompliance with State licensing requirements related to inspection procedures and other administrative requirements.

The 10 providers had 1 or more instances of noncompliance with the following requirements:

- no annual screening for potential lead hazards,
- no record of monthly fire drills available for inspection, and
- no record of rabies certificates for the pets in the facility.

## **PROVIDERS DID NOT ALWAYS COMPLY WITH REQUIREMENTS TO OBTAIN CRIMINAL HISTORY AND CHILD PROTECTION REPORTS**

### **State Requirements**

In Maine, the State agency must obtain criminal history reports, motor vehicle reports, Out-of-Home Investigations Unit<sup>5</sup> reports, and child protection reports for each individual applicant for a certificate and for each paid, unpaid, temporary, or regular staff member or volunteer in a family childcare provider. Criminal history reports, Out-of-Home Investigations Unit reports, and child protection reports must also be obtained for any adult<sup>6</sup> (household members) living in or frequenting the premises (State licensing requirements, § 2.22.2).

### **Providers Did Not Comply With Requirements To Obtain Criminal History and Child Protection Reports**

We determined that seven household members or employees at five providers lacked some or all of the required criminal history and child protection reports. Specifically, we found:

- four household members or employees lacked a State child protection report and an Out-of-Home Investigations Unit report and
- three household members or employees lacked a State criminal history report, a child protection report, and an Out-of-Home Investigation Unit report.

### **CAUSES OF NONCOMPLIANCE**

State regulations require the State licensing division to conduct unannounced inspections of providers between 6 and 18 months after licensing. This can result in some providers, including new providers, not having an unannounced inspection conducted by the State licensing division for more than 1 year. CCAA recommended that States require inspections of family childcare homes before licensing (before children are admitted into care), at least quarterly, and when there is a complaint. Additionally, the State agency's average ratio of licensing inspectors to programs is 1:179. CCAA recommended that States reduce the caseload for licensing inspectors to a ratio of 1:50. Reducing the licensing inspectors' caseload would enable the State agency to ensure more frequent and thorough onsite monitoring of childcare providers.

---

<sup>5</sup> In Maine, the Out-of-Home Investigations Unit means the Division of Licensing and Regulatory Services unit that is responsible for investigating reports of suspected abuse and neglect of children by persons or in facilities subject to licensure or certification, including family child care providers, pursuant to 22 MRSA, § 4088 (State licensing requirements, § 1.11).

<sup>6</sup> "Adult" means a person 18 years old and over (State licensing requirements, § 1.2).

## RECOMMENDATIONS

We recommend that the State agency:

- ensure through more frequent and thorough onsite monitoring that providers comply with health and safety requirements;
- consider State regulatory changes to ensure unannounced inspections are required to be conducted at least annually;
- ensure adequate oversight by reducing licensing inspectors' caseloads; and
- ensure criminal history and child protection reports are obtained for each individual applicant; paid, unpaid, temporary, or regular staff member or volunteer; and any adult living in or frequenting the premise.

## STATE AGENCY COMMENTS

In written comments on our draft report, the State agency generally concurred with our findings and explained its plans for addressing our recommendations. The State agency stated it conducted unannounced inspections at least annually. The State agency also indicated that with implementation of differential monitoring and decreased caseloads, it plans to conduct annual inspections and mid-cycle reviews using a risk-based differential score. The State agency's comments are included in their entirety as Appendix E.

## OFFICE OF INSPECTOR GENERAL RESPONSE

While the State agency's goal may be to conduct annual unannounced inspections, the *Rules for the Certification of Family Child Care Providers, effective July 1, 2009* (10-148 State licensing requirements, chapter 33 § 4.5), state that the State agency must make at least one unannounced inspection of a provider during the term of the certificate. The inspection must take place between 6 and 18 months after the issuance of the certificate. This allows for inspections to be conducted 18 months (instead of 12 months) after the issuance of the certificate. Furthermore, the State agency could not provide documentation to support that it conducted the required inspections at 2 providers. The approach outlined by the State agency addresses our recommendations.

## **APPENDIX A: AUDIT SCOPE AND METHODOLOGY**

### **SCOPE**

Of the 259 providers that received CCDF funding from July through September 2012, we selected 20 family childcare providers for our review. We based this selection on the consideration of certain risk factors, including the State agency's input on identifying high-risk providers.

We conducted a review of the providers' records and facilities as of March 2013. 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 in Princeton, Lewiston, Buxton, North Waterboro, Sanford, Lyman, Arundel, Machias, Brunswick, Gorham, Windsor, Hampden, Auburn, Portland, and Carmel, Maine. We conducted these unannounced site visits from February 10 to March 7, 2013.

### **METHODOLOGY**

To accomplish our objective, we:

- reviewed applicable Federal laws, State regulations, and regulations for licensing providers and the most recent Maine CCDF State plan approved by ACF;
- interviewed the CCDF program manager to determine how Maine monitored its providers;
- obtained a letter from the State agency to give to the providers in our review that explained our audit;
- 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;
- interviewed providers to determine whether all required criminal history records checks were conducted; and
- discussed the results of our review with each of the providers, 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 § 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 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 LICENSING REGULATIONS**

The CCDF Plan for Maine requires the State licensing division to conduct inspections to ensure that providers meet basic health and safety requirements. The State licensing division is responsible for the licensing of family home child day care providers.

#### **Rules for the Certification of Family Childcare Providers (10-148 State Licensing Requirements, Chapter 33)**

##### *Section 1.7 – Family Childcare Provider*

Family childcare provider means the person who has received a certificate from the department to operate a family childcare program. The provider is legally responsible for the operation of the program. The provider must reside at the residence being operated as a family childcare program.

Within the State licensing requirements, we used the sections listed below to identify the instances of noncompliance.

##### *Section 2.1 – Certificate Required*

Any person who provides childcare in that person's home on a regular basis, for consideration, for 3 to 12 children under 13 years of age who are not the children of the provider must have a certificate from the Department of Health and Human Services.

##### *Section 13.4 – First Aid Kit and Manual*

The provider must have a first-aid kit and a current first-aid manual. The type and quantity of supplies are to be determined by current guidelines of the American Red Cross or other recognized health organization.

*Sections 14.1.1 and 14.1.2 – General Condition of the Family Childcare Building and Surrounding Premises*

- The facility and surrounding premises must show evidence of routine maintenance. Repairs of wear and tear must be made in a timely fashion.
- The facility must take immediate steps to correct any condition in the physical facility or on the premises that poses a danger to children’s life, health, or safety.

*Section 14.2 – Sanitation, Health, and Safety*

To ensure the health and safety of the children, the family childcare program’s toys and equipment must be kept clean and in safe working order.

*Section 14.3.1 – Indoor Space Requirements*

The family childcare program must provide a minimum area of 35 square feet of useable indoor space per child. The allowable area includes moveable furniture used by children, but not storage cabinets. Space that is not used by children cannot be counted in the square footage. Areas not counted as usable space include, but are not limited to, bathrooms and closets.

*Section 14.3.2 – Heating and Temperature*

Heating units must be safeguarded in a manner to prevent injuries and burns.

*Section 14.3.5 – General Safety*

- Electrical outlets in areas used by infants, toddlers, and preschool children must be protected by safety caps, plugs, or other means.
- The family childcare program must have an annual screening as prescribed in 22 MRSA, section 1314, et seq., for potential lead hazards.
- Any medications, cleaning supplies, toxic substances, matches, lighters, power tools, and other items dangerous to children must be kept where children cannot see or reach them.
- Strings and cords (e.g., those that are part of a toy or those that are found on window shades) long enough to encircle a child’s neck (6 inches or more) must not be accessible to children.

*Section 14.4 – Outdoor Play Area*

- The play area must not be located near hazardous areas (such as busy streets, wells, or open water) unless protected by either natural boundaries or fencing.

- Outdoor play equipment must be safely constructed and of a size suitable to the age and needs of all children. Play equipment, including pools, must be adequately spaced apart to prevent injuries.

#### *Section 14.5 – Fire Evacuation Drills*

- Fire evacuation drills must be conducted at least once a month for all children and adults present using at least two means of exit.
- Fire drills must be conducted according to policies and procedures that are posted in each room utilized by children.
- A record of drills must be available for inspection by the Maine Department of Public Safety, Office of the State Fire Marshal, and local fire inspectors.

#### *Section 14.6 – Animals*

When animals are on the premises, the provider must ensure that staff supervision is adequate to protect the safety of the children and animals. There must be proof of rabies vaccinations for household dogs and cats. Pets must not present a danger to children or guests. The premises must be free of pet odors, and waste must be disposed of regularly. All indoor and outdoor areas used by children must be free from pet waste.

#### *Section 2.22 – Background Records Checks*

Criminal history reports, motor vehicle reports, Out-of-Home Investigations Unit reports, and child protection reports must be obtained for each individual applicant for a certificate and for each paid, unpaid, temporary, or regular staff member, director, or volunteer in a family childcare program. Criminal history reports, Out-of-Home Investigations Unit reports, and child protection reports must also be obtained for any adult living in or frequenting the premises.

#### *Section 4.5 – Inspection for Compliance*

Regardless of the term and type of certificate, the State licensing division must inspect the certified family childcare program for compliance with applicable laws and rules. The department must make at least one unannounced inspection of a certified provider during the term of the certificate. The inspection must take place between 6 and 18 months after the issuance of the certificate.

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



**Photograph 1: Expired medications dated February 2012 in a first-aid kit.**



**Photograph 2: Pet food and water, a bag of trash, and a dirty stained carpet next to children's toys in an indoor play area.**



**Photograph 3: An exposed sewage pipe and water stains on the ceiling above the children's play area.**



**Photograph 4: An unfinished bathroom with exposed pipes that was used by children.**



**Photograph 5: Chipped paint and an uncovered electrical outlet accessible to children.**



**Photograph 6: An electric space heater without a protective barrier in a cluttered children's play area.**



**Photograph 7: Knives and other dangerous items in unlocked cabinets accessible to children.**



**Photograph 8: An unlocked bathroom cabinet with cleaners and personal hygiene products accessible to children.**



**Photograph 9: An outdoor play area without fencing to prevent children from wandering into the wooded area or to prevent animals from entering the play area.**



**Photograph 10: A broken slide in an outdoor play area accessible to children.**



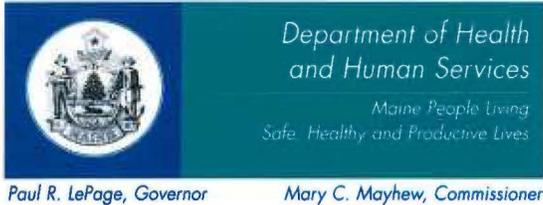
**Photograph 11: A cluttered utility room in the basement next to the children's play area.**

**APPENDIX D: INSTANCES OF NONCOMPLIANCE  
AT EACH PROVIDER**

<b>Family Childcare Provider #</b>	<b>Date of Last Inspection</b>	<b>Potentially Hazardous Conditions</b>	<b>Inspection Procedures and Other Administrative Responsibilities</b>	<b>Criminal History and Child Protection Report Checks</b>	<b>Total</b>
1	12/20/2012	1	1	0	2
2	3/22/2010	3	0	0	3
3	1/7/2013	0	0	2	2
4	6/1/2011	3	0	0	3
5	1/29/2013	2	1	0	3
6	11/5/2012	1	2	1	4
7	2/19/2013	0	0	0	0
8	9/10/2012	0	0	2	2
9	1/29/2013	4	2	1	7
10	2/1/2013	2	2	0	4
11	11/1/2011	2	1	0	3
12	11/19/2012	4	0	0	4
13	6/1/2012	5	1	1	7
14	6/19/2012	0	0	0	0
15	7/27/2012	2	1	0	3
16	3/21/2012	6	1	0	7
17	11/16/2012	0	0	0	0
18	1/28/2013	3	0	0	3
19	1/16/2013	1	1	0	2
20	7/10/2012	0	0	0	0
<b>Total</b>		39	13	7	59

**Notice:** We provided to the State agency under a separate cover, the specific names of the providers we audited. The State agency could not provide documentation to support whether it conducted unannounced inspections at two providers (#2 and #4) within the required timeframe of 18 months.

## APPENDIX E: STATE AGENCY COMMENTS



Department of Health and Human Services  
Commissioner's Office  
221 State Street  
11 State House Station  
Augusta, Maine 04333-0011  
Tel.: (207) 287-3707; Fax (207) 287-3005  
TTY Users: Dial 711 (Maine Relay)

June 16, 2014

Mr. David Lamir, Regional Inspector General for Audit Services  
Office of Audit Services, Region I  
JFK Federal Building  
15 New Sudbury Street, Room 2425  
Boston, MA 02203

**Re: *Some Maine Family Childcare Providers Did Not Always Comply With State Health and Safety Licensing Requirements – Report Number A-01-13-02507***

Dear Mr. Lamir:

The Department of Health and Human Services (DHHS) appreciates the opportunity to respond to the above mentioned draft audit report. We offer the following comments in relation to the recommendations on Page 8 of this report.

For your convenience, below we include the summary finding and list each recommendation followed by our response. Each response includes the State's proposed corrective action plan which we believe will bring the State into compliance with Federal requirements.

**Finding:**

The State agency conducted the required inspections at 18 of the providers that we reviewed, but it did not conduct the required inspections at 2 of the providers until more than 18 months prior to our inspection. The State agency's onsite monitoring did not always ensure that providers that received CCDF funds complied with State licensing requirements related to the health and safety of children. We determined that 16 of the providers did not comply with 1 or more State licensing requirements to ensure the health and safety of children. Specifically, we found that 14 providers did not comply with requirements related to the physical conditions of their facilities, 10 providers did not comply with inspection procedures or other administrative requirements, and 5 providers did not comply with requirements to obtain criminal history and child protection reports.

**Recommendation:**

Ensure through more frequent and thorough onsite monitoring that providers comply with health and safety requirements.

**Response:** The State of Maine concurs and is currently working with the Federal Office of Child Care to implement a differential monitoring survey process that more comprehensively addresses the foregoing recommendation. Differential monitoring is intended to guide the efficient use of resources by determining the frequency and scope of survey activity based on a historical trending assessment of the provider's level of compliance with regulations. Additionally, Maine has increased licensing surveyor personnel by sixteen (16) positions that will decrease surveyor caseloads from an average of 180 licensees to 80.

**Recommendation:**

Consider State regulatory changes to ensure unannounced inspections are required to be conducted at least annually.

**Response:** The State of Maine conducts unannounced inspections at least annually. Regulations require licensing inspections at least every two years. The practice is to conduct a full inspection every two years, and a mid-cycle (in the off year) unannounced visit for a limited review. With implementation of the differential monitoring and decreased caseloads, Maine intends to conduct annual licensing inspections, and then, depending on the differential score, will also conduct mid-cycle reviews that either constitute another full survey (for poor – marginal performers), and/or targeted visits focusing on specific quality measures that have been identified through state, region, and federal sources.

**Recommendation:**

Ensure adequate oversight by reducing licensing inspectors' caseloads.

**Response:** Effective May 19, 2014, Maine has implemented a staffing pattern that decreases caseloads from an average to 180 to the federally recommended caseload of 80 per licensing surveyor.

**Recommendation:**

Ensure that the State agency obtains criminal history and child protection reports for each individual applicant; paid, unpaid, temporary, or regular staff member or volunteer; and any adult living in or frequenting the premises.

**Response:** Maine concurs. It has always been the objective of licensing personnel to ensure effective management of criminal history and child protective reports.

In addition to the foregoing responses, the Maine Department of Health and Human Services wishes to represent additional changes that have occurred since the time of this audit.

The Department is developing a publically facing web portal for use by parents and guardians to research licensed child care providers. The portal will provide information regarding a provider's licensure status and a history of any licensing actions, including access to statements of deficiencies and plans of correction related to each licensing action. It is anticipated that the portal will be available by the end of 2014.

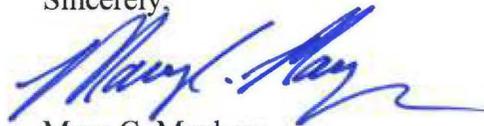
Deficient practices by licensed providers are now reviewed by a child care licensing advisory panel to determine the scope of relevant licensing action. The panel will advise the recommended action, if any, including license revocation when appropriate. The panel will include relevant licensing personnel, investigators, Division management, as well as representation from the Office of the Attorney General as needed.

In an effort to keep parents and guardians aware of deficient practices, conditional licenses are required to be posted in plain sight at the child care location for all parents to view. Conditional licenses are followed-up by licensing personnel within thirty (30) days to confirm implementation of an effective plan of correction. Subsequent unannounced visits occur as warranted by the facts leading to conditional licensure.

The State of Maine aims to focus efforts on reducing the number of unlicensed child care providers. In Maine, a license is required when providing childcare for more than two children. The Division is aware of unlicensed practice, and is evaluating an educational program for unlicensed child care providers that will offer an amnesty period to take the steps necessary to become licensed without fear of reprisal. The effort will also educate parents on the process for reporting child care providers who fail to take advantage of the amnesty period to become compliant with licensure requirements.

We appreciate the time spent in Maine by OIG's staff reviewing Maine's family childcare providers. We believe this effort will enable us to perform this function more accurately in the future.

Sincerely,



Mary C. Mayhew  
Commissioner

MCM/klv