

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**SOME PENNSYLVANIA CHILD DAY
CARE CENTERS 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
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**Gloria L. Jarmon
Deputy Inspector General
for Audit Services**

**September 2015
A-03-14-00251**

Office of Inspector General

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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 three child day care centers that we reviewed in Pennsylvania 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 December 2011 report summarizing the results of 24 audits of Head Start grantees, we described multiple health and safety issues that put children at risk. To determine whether similar health and safety risks exist at childcare providers that received CCDF funding, we reviewed three licensed child day care centers (providers) in Pennsylvania that received CCDF funding for December 2013. We conducted this audit of the Pennsylvania Department of Human Services (State agency) in conjunction with our review of 20 registered family day care home providers (report number A-03-14-00250).

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

BACKGROUND

The CCDF (authorized by the Child Care and Development Block Grant Act and section 418 of the Social Security Act) assists low-income families, families receiving temporary public assistance, and families transitioning from public assistance to obtain child care so that they may work or obtain training or education. Combined funding for the CCDF program for fiscal year 2012, including the block grant's discretionary fund and the CCDF mandatory and matching funds, was approximately \$5.2 billion. On November 19, 2014, after our fieldwork, the Child Care and Development Block Grant Act of 2014 (P.L. No. 113-186) reauthorized the CCDF program and improved childcare health, safety, and quality requirements. Among other things, the law requires that States' lead agencies perform an initial onsite monitoring visit and at least one annual unannounced onsite visit of providers that have received CCDF subsidies. Lead agencies must maintain a ratio of inspectors to providers sufficient to ensure timely inspections. (Child Care Aware of America (CCAA), a national association that works with childcare agencies, recommended a ratio of 1:50 (1 inspector for 50 providers).)

The State agency is the lead agency designated to administer the CCDF program, which helps low-income families in Pennsylvania pay for child care. As the lead agency, the State agency must ensure that the program complies with the approved Plan and all Federal requirements and must monitor programs and services. Accordingly, the State agency is responsible for issuing certificates of compliance for child day care centers. The State agency is also responsible for inspecting childcare providers to ensure that they meet basic health and safety standards set by the State agency under direction of the Pennsylvania Code. State requirements indicate that the State must conduct at least one inspection of a provider every 12 months.

WHAT WE FOUND

The State agency conducted the required inspections at all three of the providers that we reviewed and ensured that all three providers complied with the administrative and background check requirements. However, this onsite monitoring did not ensure that the providers complied with all State licensing requirements related to the health and safety of children. Specifically, we found that all three providers did not comply with requirements related to the physical conditions of their child day care centers.

The State agency lacked a sufficient number of inspectors to identify all areas of noncompliance. At the time of our review, the State agency's average ratio of inspectors to providers was 1:143, which far exceeds the 1:50 ratio recommended by CCAA. Reducing the inspectors' caseload would enable the State agency to ensure more frequent and thorough onsite monitoring of childcare providers.

WHAT WE RECOMMEND

We recommend that the State agency:

- correct the specific health and safety issues with the providers noted in this report and
- ensure more thorough onsite monitoring of providers' compliance with health and safety requirements by reducing licensing inspectors' caseloads.

STATE AGENCY COMMENTS

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

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INTRODUCTION

WHY WE DID THIS REVIEW

The Administration for Children and Families (ACF) provides Federal grants through several programs, including Head Start and the Child Care and Development Fund (CCDF). In a December 2011 report summarizing the results of 24 audits of Head Start grantees,¹ we described multiple health and safety issues that put children at risk. To determine whether similar health and safety risks exist at childcare providers that received CCDF funding, we reviewed three licensed child day care centers² (providers) in Pennsylvania that received CCDF funding for December 2013. We conducted this audit of the Pennsylvania Department of Human Services (State agency)³ in conjunction with our review of 20 registered family day care home providers (report number A-03-14-00250).

OBJECTIVE

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

BACKGROUND

Child Care and Development Fund

The CCDF (authorized by the Child Care and Development Block Grant Act and section 418 of the Social Security Act) assists low-income families, families receiving temporary public assistance, and families transitioning from public assistance to obtain 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 Child Care and Development Block Grant 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. The plan must also certify that procedures are in effect to ensure that childcare providers comply with these requirements (42 U.S.C. §§ 9858c(c)(2)(F) and (G) and 45 CFR §§ 98.15(b)(5) and (6)).

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

² "Child day care center" is defined as the premises in which care is provided, at any one time, for seven or more children unrelated to the operator (55 Pa. Code § 3270.4).

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

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

Pennsylvania Childcare Services

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

As the lead agency, the State agency is responsible for issuing certificates of compliance for child day care centers. The State agency certifies childcare facilities through the Office of Child Development and Early Learning's (OCDEL), Bureau of Certification Services.⁴ The State agency issues a certificate of compliance after an inspection and before the day care center opens at a specified location. The State agency is also responsible for inspecting childcare providers at least once every 12 months to ensure that they meet basic health and safety standards (55 Pa. Code § 3270.11(e)). At the time of our review, the State agency's average ratio of inspectors to providers was 1:143.⁵

Related Office of Inspector General Work

On July 11, 2013, The Office of Inspector General issued to ACF an Early Alert Memorandum Report entitled *License-Exempt Child Care Providers in the Child Care and Development Fund Program* (OEI-07-10-00231). The report 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)⁶ published a 2013 update, *We Can Do Better*, that reviewed and ranked State childcare center regulations and oversight.⁷ CCAA stated that effective monitoring policies are important for child safety and provider accountability for compliance with State licensing requirements. CCAA added that making inspection reports

⁴ OCDEL is housed in the State agency and the Department of Education and coordinates childhood services provided through the various agencies.

⁵ Providers inspected by the State agency include child daycare centers, group childcare homes, and family childcare homes that have a certificate of compliance or a certificate of registration.

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

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

public is an important form of consumer education because parents cannot make informed selections among childcare settings unless they have access to compliance information. Otherwise, they assume that a State license is a seal of approval. CCAA also suggested that, because of the important role effective monitoring plays in promoting child safety and program compliance with licensing, the number of programs that each licensing inspector monitors needs to be reduced, not increased. CCAA recommended that States reduce the caseload for licensing inspectors to a ratio of 1:50 (1 inspector for 50 providers).

Child Care and Development Block Grant Act of 2014

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

HOW WE CONDUCTED THIS REVIEW

Of the 3,850 providers that received CCDF funding for the month of December 2013, we selected 3 providers for our review. We based our selection on risk factors including those identified in the OCDEL *Program Reach and Risk Assessment State Fiscal Year 2011–2012*,⁹ which provides information on the level of risk for school failure for children (based on 15 risk factors) and the availability of OCDEL programs for children in each county and school district in Pennsylvania.

We conducted unannounced site visits in Bethlehem, Harrisburg, and Philadelphia, Pennsylvania, from August 5 through September 12, 2014.

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

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

⁸ P.L. No. 113-186 (Nov. 19, 2014).

⁹ OCDEL, *Program Reach and Risk Assessment State Fiscal Year 2011–2012* (May 2013). Available online at http://www.ocdelresearch.org/Reports/Reach_and_Risk/2011-12/Reach_and_Risk_2011-2012_final_release_05022013.pdf. Accessed on August 18, 2015.

FINDINGS

The State agency conducted the required inspections at all three of the providers that we reviewed and ensured that all three providers complied with the administrative and background check requirements. However, this onsite monitoring did not ensure that the providers complied with all State licensing requirements related to the health and safety of children. Specifically, we found that all three providers did not comply with requirements related to the physical conditions of their child day care centers.

The State agency lacked a sufficient number of inspectors to identify all areas of noncompliance. At the time of our review, the State agency's average ratio of inspectors to providers was 1:143, which far exceeds the 1:50 ratio recommended by CCAA. Reducing the inspectors' caseload would enable the State agency to ensure more frequent and thorough onsite monitoring of childcare providers.

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

PROVIDERS DID NOT ALWAYS COMPLY WITH REQUIREMENTS FOR PHYSICAL CONDITIONS

State Requirements

A prospective provider for a Child Day Care Center must comply with the application requirements of 55 Pa. Code chapter 20 to obtain a certificate of compliance (55 Pa. Code § 3270.11). The application form includes an acknowledgment that the applicant agrees to abide by State requirements. State requirements (55 Pa. Code Chapter 3270) include the following provisions related to the physical conditions of child day care centers:

- Conditions at the facility must not pose a threat to the health or safety of the children (§ 3270.21).
- If unsafe areas or conditions are in or near outdoor play areas, fences are required to restrict children's access to the unsafe areas (§ 3270.63).
- Protective covers must be used on electrical receptacles accessible by children aged 5 or younger (§ 3270.65).
- Cleaning materials shall be kept in an area that is locked or made inaccessible to children (§ 3270.66).
- Trash must be removed from the facility at least once per day and from the facility grounds once per week (§ 3270.67).

- Floors, walls, ceilings, and other surfaces shall be kept clean, in good repair, and free from visible hazards (§ 3270.76).
- Peeled or damaged paint or plaster is prohibited on indoor and outdoor surfaces in the facility (§ 3270.77).
- Toys and other indoor or outdoor equipment used by the children must be clean, in good repair, and free from rough edges, sharp corners, pinch and crush points, splinters, and exposed bolts (§ 3270.102).

Noncompliance With Requirements for Physical Conditions

We determined that all three providers in our review had instances of noncompliance with the requirements to protect children from potentially hazardous conditions. Specifically, we found 34 instances of noncompliance with State requirements related to physical conditions. Examples of noncompliance included:

- mold growing on building walls and stagnant water in the outdoor play area posing a threat to the health and safety of the children (Appendix C, photographs 1 and 2);
- an unsecured grounding wire from a transformer causing an electrical hazard in the playground area (Appendix C, photograph 3);
- fencing with missing sections and sharp edges in a play area posing a threat to the safety of children (Appendix C, photograph 4);
- old fencing with many sharp metal edges abandoned in the children’s play area posing a threat to the safety of children (Appendix C, photograph 5);
- a string with triangle flags instead of fencing separating the play area from a parking lot (Appendix C, photograph 6);
- the gate in a fence used to enclose the play area insecurely closed, posing a hazard for children (Appendix C, photograph 7);
- an electrical switch missing a switch plate, causing a shock hazard (Appendix C, photograph 8);
- cleaning supplies left out and accessible to children (Appendix C, photograph 9);
- bulk trash items, including broken toys and discarded broken furniture, not removed on a weekly basis¹⁰ (Appendix C, photograph 10);

¹⁰ Center staff advised us that the bulk items had accumulated over several months because of the cost of removal.

- a rusty door with damaged paint used to access an outdoor play area (Appendix C, photograph 11);
- a hole in the ceiling of the activity room, with hanging paint and tape showing that the childcare area was in poor repair (Appendix C, photograph 12);
- a damaged kitchen ceiling with peeling paint showing poor repair (Appendix C, photograph 13);
- chipped and peeling paint on an outdoor wall in the children’s play area (Appendix C, photograph 14); and
- a plastic toy in the children’s play area with a large crack and sharp edge causing a pinch point or other hazard (Appendix C, photograph 15).

CAUSES OF NONCOMPLIANCE

The State agency lacked a sufficient number of inspectors to identify all areas of noncompliance. The State agency’s average ratio of inspectors to providers was 1:143. 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 thorough onsite monitoring of childcare providers.

RECOMMENDATIONS

We recommend that the State agency:

- correct the specific health and safety issues with the providers noted in this report and
- ensure more thorough onsite monitoring of providers’ compliance with health and safety requirements by reducing licensing inspectors’ caseloads.

STATE AGENCY COMMENTS

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

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Of the 3,850 providers that received CCDF funding for December 2013, we selected 3 providers for our review. We based our selection on risk factors including those identified in the OCDEL *Program Reach and Risk Assessment State Fiscal Year 2011–2012*, which provides information on the level of risk for school failure for children (based on 15 risk factors) and the availability of OCDEL programs for children in each county and school district in Pennsylvania.

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

We conducted fieldwork at providers in Bethlehem, Harrisburg, and Philadelphia, Pennsylvania. We conducted these unannounced site visits from August 5 through September 12, 2014.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws and State laws and regulations related to health and safety for licensing child day care centers and the most recent Pennsylvania CCDF State plan approved by ACF;
- interviewed the CCDF program manager to determine how Pennsylvania monitored its providers;
- obtained a list of the 3,850 providers that received CCDF funding for December 2013;
- selected three providers for review;
- developed a health and safety checklist as a guide for conducting site visits;
- conducted unannounced site visits at the three providers we selected for review;
- interviewed providers to obtain a listing of employees whose salaries were funded by CCDF (and who had direct access to children) to determine whether all required criminal history records checks were conducted; and
- discussed the results of our review with each of the selected providers, State agency officials, and State licensing officials.

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

based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: FEDERAL REGULATIONS AND STATE REQUIREMENTS

FEDERAL REGULATIONS

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

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

STATE REQUIREMENTS

CCDF State Plan

Section 3.1.2(a) of the CCDF State Plan for Pennsylvania requires the State agency to conduct onsite inspections to ensure that providers meet basic health and safety requirements prior to issuing a license and once a year thereafter. The State agency is responsible for monitoring of childcare centers.

State Child Day Care Center Regulations

The following sections of Pennsylvania's regulation for Child Day Care Centers (55 Pa. Code chapter 3270) are applicable to this review's identification of instances of noncompliance:

Section 3270.4 – Definitions

Child Day Care Center (facility) means the premises in which care is provided at any one time for seven or more children unrelated to the operator. The section defines a child as a person 15 years of age or younger.

Section 3270.11 Application for and issuance of a certificate of compliance

A legal entity shall obtain a valid certificate of compliance to operate at a specific location. An application for a certificate of compliance must be submitted in accordance with State licensure requirements (55 Pa. Code chapter 20). The licensure requirements state that a certificate of compliance will be issued to the legal entity after an inspection and determination that requirements for a certificate of compliance are met (55 Pa. Code § 20.51). The certificate of compliance will be issued by the State agency to a legal entity prior to commencement of operation at a specified location (55 Pa. Code § 20.21). A facility will be inspected at least once every 12 months by the State agency.

Section 3270.21 – General health and safety

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

Section 3270.63 – Unsafe areas in outdoor space

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

Section 3270.65 – Protective electrical covers

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

Section 3270.66 – Toxics

Cleaning materials and other toxic material shall be kept in an area or container that is locked or made inaccessible to children.

Section 3270.67 – Sanitation

Trash shall be removed from the facility at least once per day. Trash shall be removed from facility grounds at least once per week.

Section 3270.76 – Building surface requirements

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

Section 3270.77 – Paint

Peeled or damaged paint or damaged plaster is not permitted on indoor or outdoor surfaces in the childcare facility.

Section 3270.102 – Condition of play equipment

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

APPENDIX C: PHOTOGRAPHIC EXAMPLES OF NONCOMPLIANCE WITH PHYSICAL CONDITION REQUIREMENTS



Photograph 1: Mold growing on building walls because of improper drainage from cooling units posed a threat to the health and safety of children.



Photograph 2: Stagnant water in the outdoor play area because of improper drainage from cooling units posed a threat to the health and safety of children.



Photograph 3: An unsecured grounding wire from a transformer caused a potential electrical hazard in the playground area.



Photograph 4: Fencing in the children's play area with pieces missing and sharp wire edges posed a hazard to children.



Photograph 5: Old fencing with many sharp edges abandoned in the children's play area posed a threat to the safety of children.



Photograph 6: A line of string and flags, instead of a fence, separated the playground area from the parking lot.



Photograph 7: Gate in fence enclosing child play area was not securely closed, posing a hazard to children.



Photograph 8: Electrical switch missing a switch plate posed a shock hazard.



Photograph 9: Cleaning supplies were left on the floor by an entrance and were accessible to children.



Photograph 10: Bulk trash items, including broken toys and furniture, had not been removed on a weekly basis.



Photograph 11: Rusty door with damaged paint was used to access the outdoor play area.



Photograph 12: A hole in the ceiling and paint peeling in the all-purpose room showed that the area was in poor repair.



Photograph 13: A damaged kitchen ceiling with peeling paint that could fall into the children’s food showed that the childcare area was in poor repair.



Photograph 14: Paint on a wall by the children’s play area was chipped and peeling.



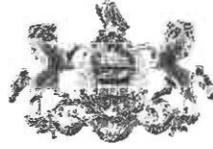
Photograph 15: A plastic toy in the children’s play area had a large crack that caused a pinch point or could otherwise harm children playing on it.

**APPENDIX D: INSTANCES OF NONCOMPLIANCE AT EACH
CHILD DAY CARE CENTER**

Center #	Date of Last Inspection	Potentially Hazardous Conditions	Administrative Requirements	Criminal History and Child Protection Report Checks	Total
1	6/13/14	9	0	0	9
2	6/26/14	16	0	0	16
3	4/28/14	9	0	0	9
Total		34	0	0	34

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

APPENDIX E: STATE AGENCY COMMENTS



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES

AUG - 5 2015

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

Dear Mr. Virbitsky:

The Department of Human Services (DHS) has received the draft report number A-03-14-00251 entitled "Some Pennsylvania Child Day Care Centers Did Not Always Comply With State Health and Safety Licensing Requirements." DHS considered the conditions observed in some of the facilities unacceptable and took immediate action to correct the violations and provide technical assistance to the child day care centers to support their longer term efforts to remain in compliance with health and safety requirements.

DHS concurs with the findings disclosed in the draft report. Our responses to the recommendations are as follows:

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

Department of Human Services Response: DHS has taken appropriate action by conducting full inspections at each of the three facilities and verifying corrections of the physical site violations observed during the audit. Technical assistance has been made available to the child day care centers to assist them in maintaining compliance with health and safety licensing requirements.

Office of Inspector General Recommendation: We recommend that the State agency ensure more thorough onsite monitoring of providers' compliance with health and safety requirements by reducing licensing inspectors' caseloads.

Department of Human Services Response: As of the date of this letter, the department continues to interview and hire additional inspectors to support an inspector

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to facility ratio of 1:75. This ratio, which is significantly lower than the one in place at the time of the audit, will support monitoring of regulated child care facilities at 100 percent.

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

Sincerely,

/Theodore Dallas/
Secretary

c: Mr. Leonard Piccari, Audit Manager, Office of Inspector General
Mr. Charles Hubbs, Office of Inspector General
Ms. Linda Swick