

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**SOME MAINE 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  
[Public.Affairs@oig.hhs.gov](mailto:Public.Affairs@oig.hhs.gov).*



**Gloria L. Jarmon  
Deputy Inspector General  
for Audit Services**

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# *Office of Inspector General*

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## EXECUTIVE SUMMARY

*The six 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 six licensed child day care centers (providers) in Maine that received CCDF funding. We conducted this review of the Maine Department of Health and Human Services (State agency) in conjunction with our review of 20 family day care homes (report number A-01-13-02507).

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. Within the State agency, the Division of Licensing, Childcare Licensing Unit (State licensing division), is responsible for issuing child day care center licenses. The State licensing division is also responsible for monitoring compliance with requirements 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 requirements indicate that the State licensing division must conduct at least one unannounced inspection of providers between 6 and 18 months after the issuance of the license.

## **WHAT WE FOUND**

Although the State agency's licensing division conducted the required inspections at all six 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 the six providers did not comply with one or more State licensing requirements to ensure the health and safety of children. Specifically, we found that all six of the providers did not always comply with State licensing requirements related to the physical conditions of child day care centers, five of the providers did not always comply with inspection procedures or other administrative requirements, and four of the 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 that providers obtain criminal history and child protection reports for all employees who provide direct services to children.

## **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.

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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 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 six licensed child day care centers<sup>2</sup> (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 20 family day care homes (report number A-01-13-02507).

### 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.

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

<sup>2</sup> "Child day care center" means a house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age, or any location or locations operated as a single childcare program or by a single person or persons when there are more than 12 children being cared for (Code of Maine Rules 10-148, (State licensing requirements), chapter 32, § 1.4).



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;

### **Maine Childcare Services**

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 providers. Within the State agency, the Division of Licensing, Childcare Licensing Unit (State licensing division), is responsible for issuing child day care center licenses. The State licensing division is also responsible for monitoring compliance with requirements 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 requirements indicate that the State licensing division must conduct at least one unannounced inspection of providers between 6 and 18 months after the issuance of the license. (State licensing requirements, chapter 32, § 2.14.2).

### **Related Office of Inspector General Work**

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

### **Child Care Aware of America**

Child Care Aware of America (CCAA) (formerly the National Association of Child Care Resource & Referral Agencies) published a 2013 update, *We Can Do Better*, that reviewed and ranked State childcare center regulations and oversight.<sup>3</sup> CCAA stated that effective monitoring policies are important for child safety and center accountability for compliance with State licensing requirements. CCAA added that making inspection reports 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 with 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

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<sup>3</sup> 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, offers comprehensive training to childcare professionals, undertakes research, and advocates childcare policies that positively impact the lives of children and families.

recommended that States reduce the caseload for licensing inspectors to a ratio of 1:50 (1 inspector for 50 cases).

## **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 313 providers that received CCDF funding from July through September 2012, we selected 6 providers for our review. We based this selection on the consideration of certain risk factors, including previous health and safety findings and the number of children being served by the provider. We conducted our fieldwork in Bangor, Augusta, Lewiston, East Machias, Bucksport, and Portland, Maine. We conducted unannounced site visits from February 8 to March 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 of 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's licensing division conducted the required inspections at all six 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 the six providers did not comply with one or more State licensing requirements to ensure the health and safety of children. Specifically, we found that all six of the providers did not always comply with one or more requirements related to the physical conditions of the child day care centers, five of the providers did not always comply with inspection procedures or other administrative requirements, and four of the providers did not comply with requirements to obtain criminal history and child protection reports.

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

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 child day care center license by completing, signing, and submitting to the State licensing division an application to obtain the license (State licensing requirements, chapter 32, § 2.6). The application form includes an acknowledgment from the applicant that the applicant has read the State licensing requirements, agrees to abide by them, and will allow full and unannounced inspections by the State licensing division's staff. State licensing requirements include the following requirements related to the physical conditions of child day care centers:

- Formula and breast milk must be labeled with the child's name, dated, stored in the refrigerator, and discarded within 48 hours. Frozen breast milk must be discarded within 2 weeks (section 22.4.2).
- All medications, cleaning supplies, toxic substances, matches, lighters, power tools, and items dangerous to children must be stored in such a way as to be inaccessible to children, even in rooms that are not used by children (section 18.4.3.5).
- The facility must be equipped with at least one easily accessible first-aid kit and a current manual of first-aid measures. The type and quantity of supplies is to be determined by current guidelines of the American Red Cross or other recognized health organization or by the facility's health consultant (section 18.4.7).
- The facility and surrounding premises must show evidence of routine maintenance. Repair of wear and tear must be made in a timely fashion (section 18.1.1).
- The play area must be free of hazards and inspected by staff daily, prior to children having access to the area (section 18.5.8).
- All contaminated food must be disposed of promptly. Swelled, rusted, dented, or leaky canned food or drink must not be consumed and must be disposed of promptly (section 19.2.29).
- At least two feet of space must be provided between mats, cots, and cribs when in use (section 18.4.5.4).
- Bathrooms are not to be used for preparing foods or washing dishes (section 19.2.20).
- There must be at least one designated wheeled evacuation crib (section 22.8.12).

Appendix B contains all relevant State licensing requirements.

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

We determined that all six of the providers we reviewed had one or more instances of noncompliance with the requirements to protect children from potentially hazardous conditions. Specifically, we found 28 instances of noncompliance with State licensing requirements related to physical conditions. Examples of noncompliance included:

- frozen breast milk not discarded within 2 weeks (Appendix C, photograph 1);
- hazardous chemicals (shaving cream and bingo blotters) (Appendix C, photograph 2) and dangerous items, such as uncovered electrical outlets, space heaters, and dangling wires accessible to children;
- expired medications not removed from the first-aid kit and discarded per current recognized health organization guidelines (Appendix C, photograph 3);
- a lack of routine maintenance at the facility, as indicated by a duct-taped heater and a wall with chipped paint (Appendix C, photograph 4), water stains on the ceiling, a broken gate for an outdoor play area that was held closed by a line of string (Appendix C, photograph 5), and outdoor play equipment in disrepair;
- a broken and rusted chair on the playground accessible to children (Appendix C, photograph 6);
- expired condiments in the refrigerator;
- less than two feet of space between mats that were in use during nap time;
- a bathroom sink that was used to wash dishes; and
- a designated wheeled evacuation crib that was filled with toys.

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

#### **State Requirements**

Providers must comply with State licensing requirements related to inspection procedures and other administrative requirements, including the following:

- Childcare facilities must have an annual screening for potential lead hazards (section 18.2.4).

- The facility must submit, prior to initial operation and annually thereafter, a written satisfactory water analysis report completed by the Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health, or other approved laboratory, if the facility's water is from any source other than an approved public water supply (section 18.2.3).
- Fire evacuation drills using at least two means of exit must be conducted at least once a month for all children and adults present (section 18.6.1).
- The facility must adopt a written policy for handling suspected instances of child abuse or neglect in accordance with Maine law (section 21.2).

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

We determined that five of the six providers either did not always follow inspection procedures or perform other administrative requirements. Specifically, we found nine instances of noncompliance with State licensing requirements related to inspection procedures and other administrative requirements. Examples of noncompliance included:

- no annual screening for potential lead hazards,
- no written satisfactory water analysis report submitted,
- no record of monthly fire drills available for inspection, and
- no written policy for handling suspected instances of child abuse or neglect.

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

#### **State Requirements**

In Maine, providers must obtain State criminal history reports and child protection reports for each license applicant and for each paid, unpaid, temporary, or regular staff member, director, or volunteer in a childcare facility (State licensing requirements, chapter 32, § 2.21).

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

We determined that 11 employees at 4 providers lacked some or all of the required criminal history and child protection reports. Specifically, we found that:

- 11 employees did not have the required State criminal history report and
- 7 of those employees also lacked a State child protection report.

## **CAUSES OF NONCOMPLIANCE WITH HEALTH AND SAFETY REQUIREMENTS**

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 childcare centers before licensing (before children are admitted into care) at least quarterly and when there is a complaint. Additionally, the State licensing division'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 licensing division to ensure more frequent and thorough onsite monitoring of childcare providers.

## **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 that providers obtain criminal history and child protection reports for all employees who provide direct services to children.

## **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's comments are included in their entirety as Appendix E.

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

### **SCOPE**

Of the 313 providers that received CCDF funding from July through September 2012, we selected 6 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 at six providers. The selected providers were located in Bangor, Augusta, Lewiston, East Machias, Bucksport, and Portland, Maine. We conducted these unannounced site visits from February 8 to March 6, 2013.

### **METHODOLOGY**

To accomplish our objective, we:

- reviewed applicable Federal laws, State statutes, and requirements 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 six providers we selected for review;
- interviewed providers to obtain a listing of center 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 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 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 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 REQUIREMENTS**

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 licensing of childcare centers.

#### **General Statutes of Maine**

*Maine Revised Statutes, Title 22, § 7706 – Criminal Background Checks*

Beginning October 2010, a facility or health care provider subject to the licensing or certification processes of chapter 1663, a nursery school subject to chapter 1675, or a hospice provider subject to chapter 1681 must obtain, prior to hiring an individual who will work in direct contact with a consumer, criminal history record information on that individual, including, at a minimum, criminal history record information from the Department of Public Safety, State Bureau of Identification. The entity seeking to employ the individual must pay for the criminal background check required by this section.

#### **State Licensing Requirements**

*Code of Maine Rules, 10-148, Chapter 32*

The following requirements are applicable to this review's identification of instances of noncompliance:

##### *Section 1.5 – Childcare Facilities*

A childcare facility is a house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for three



or more children under 13 years of age. Any program for children under 5 years of age that is located in a private school and programs that contract with one or more child-development services system sites are required to be licensed as a childcare facility.

Childcare facilities include “childcare centers.”

#### *Section 1.4 – Childcare Center*

A childcare center is:

- (1) a house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age; or
- (2) any location or locations operated as a single childcare program or by a single person or persons when there are more than 12 children being cared for.

Within the State licensing requirements, we used the following sections to identify the instances of noncompliance:

#### *Section 22.4.2 – Feeding*

Formula and breast milk must be labeled with the child’s name, dated, stored in the refrigerator, and discarded within 48 hours. Frozen breast milk must be discarded within 2 weeks.

#### *Section 19.2.29 – Disposing Contaminated Food*

All contaminated food must be disposed of promptly. Swelled, rusted, dented, or leaky canned food or drink must not be consumed and must be disposed of promptly.

#### *Section 18.4.3.5 – General Safety*

All medications, cleaning supplies, toxic substances, matches, lighters, power tools, and items dangerous to children must be stored in such a way as to be inaccessible to children, even in rooms that are not used by children.

#### *Section 18.4.7 – First Aid*

The facility must be equipped with at least one easily accessible first-aid kit and a current manual of first-aid measures. The type and quantity of supplies is to be determined by current guidelines of the American Red Cross or other recognized health organization or by the facility’s health consultant.

#### *Sections 18.1.1 and 18.1.2 – General Condition of the Facility and Surrounding Premises*

- (1) The facility and surrounding premises must show evidence of routine maintenance. Repair of wear and tear must be made in a timely fashion.

- (2) The facility must take immediate steps to correct any condition in the physical facility or on the premises, which poses a danger to children's life, health, or safety.

*Sections 18.5.2 and 18.5.8 – Outdoor Play Area*

- (1) Where hazardous conditions exist in the outdoor play area, the children must be protected from those conditions by fencing or other appropriate barriers.
- (2) The play area must be free of hazards and inspected by staff daily, prior to children having access to the area.

*Section 18.4.5.4 – Furnishings*

At least two feet of space must be provided between mats, cots, and cribs when in use.

*Section 19.2.20 – Sinks*

Proper sinks with approved plumbing and hot and cold water under pressure must be available in all rooms where food or drink is prepared or utensils are washed. Bathrooms are not to be used for preparing foods or washing dishes.

*Section 22.8.12 – Cots, Cribs, and Bedding*

There must be at least one designated wheeled evacuation crib.

*Section 18.2.4 – Satisfactory Lead Levels*

Childcare facilities must have an annual screening for potential lead hazards. A facility may be exempt from this screening if:

- (1) the facility was constructed in 1978 or later,
- (2) the facility has been certified as lead-safe within the previous 12 months,
- (3) the facility has been certified as lead-free, or
- (4) the facility does not serve any children under 6 years of age.

*Section 18.2.3 – Satisfactory Water*

The facility must, prior to initial operation and annually thereafter, submit a written satisfactory water analysis report completed by the Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health, or other approved laboratory, if the facility's water is from any source other than an approved public water supply.

*Section 18.6 – Fire Evacuation Drills*

- (1) Fire evacuation drills must be conducted at least once a month for all children and adults present using at least two means of exit.
- (2) Fire drills must be conducted according to policies and procedures that are posted in each room utilized by children.
- (3) A record of drills must be available for inspection by the Department of Health and Human Services, the Department of Public Safety, State fire marshal's office, and local fire inspectors.

*Section 21.2 – Policy for Handling Suspected Instances of Child Abuse or Neglect*

The facility must adopt written policy for handling suspected instances of child abuse or neglect in accordance with Maine law.

*Section 2.21 – Criminal History and Child Protection Reports*

Criminal history reports, out of home abuse investigation reports, and child protection reports must be obtained for each individual applicant for a license and for each paid, unpaid, temporary, or regular staff member, director, or volunteer, in a childcare facility as required by section 11. Criminal history reports, out of home abuse investigation reports, and child protection reports must also be obtained for governing body members, trustees, partners, corporate officers, owners, or operators who serve in a child caring capacity at the facility.

*Section 2.14.2 – Unannounced Inspections*

The department must make at least one unannounced inspection of the childcare facility licensed under Maine Revised Statutes, title 22, chapter 1673, § 8301-A, subsection 2, during the term of the license. The inspection must take place between 6 and 18 months after the issuance of the license.

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



**Photograph 1: Expired frozen breast milk dated February 23, 2012, which was almost 1 year old at the time of our visit, February 8, 2013.**



**Photograph 2: Potentially hazardous chemicals (shaving cream and bingo blotters) labeled “Keep Out of the Reach of Children” on a shelf within reach of children.**



**Photograph 3: Expired Benadryl dated January 1999 found inside the first-aid kit.**



**Photograph 4: Wall heating unit not in good repair held together by duct tape, with chipped paint on the walls and unit.**





**Photograph 5: A broken gate for an outdoor playground held closed by a line of string and ribbon.**



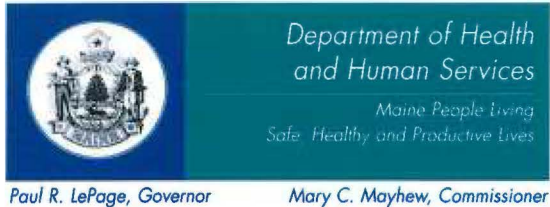
**Photograph 6: Rusted and broken chair discarded in an outdoor playground.**

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

<b>Center #</b>	<b>Date of Last Inspection</b>	<b>Potentially Hazardous Conditions</b>	<b>Annual Screenings and Other Administrative Responsibilities</b>	<b>Criminal History and Child Protection Report Checks</b>	<b>Total</b>
1a	11/29/12	4	2	0	6
1b	8/28/12	6	1	0	7
1c	9/17/12	4	1	0	5
2	4/17/12	4	0	3	7
3	11/5/12	1	1	3	5
4	6/20/11	5	1	2	8
5	11/6/12	3	1	3	7
6	11/6/12	1	2	0	3
<b>Total</b>		<b>28</b>	<b>9</b>	<b>11</b>	<b>48</b>

Notice: We provided to the State agency under a separate cover the specific names of the providers we audited. Center #1 had three locations, which we have labeled as 1a, 1b, and 1c in the table above.

## 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 Child Day Care Centers Did Not Always Comply  
With State Health and Safety Licensing Requirements –  
Report Number A-01-13-02503.***

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 7 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:**

Although the State licensing agency conducted the required inspections at all six 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 the six providers did not comply with one or more State licensing requirements to ensure the health and safety of children. Specifically, we found that all six of the providers did not always comply with State licensing requirements related to the physical conditions of child day care centers, five of the providers did not always comply with inspection procedures or other administrative requirements, and four of the 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 providers obtain criminal history and child protection reports for all employees who provide direct services to children.

**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 child day care centers. We believe this effort will enable us to perform this function more accurately in the future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mary C. Mayhew".

Mary C. Mayhew  
Commissioner

MCM/klv