

A More Strategic Approach is Needed to Combat Child Care Subsidy Fraud in Milwaukee County

June 2009

Committee on Finance and Audit

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June 12, 2009

To the Honorable Chairman
of the Board of Supervisors
of the County of Milwaukee

At your direction, we have completed an audit of the Program Integrity Unit (PIU) within the Milwaukee County Department of Health and Human Services (MCDHHS). Under the Wisconsin Shares Program, the PIU is responsible in Milwaukee County for preventing and correcting improper child care subsidy payments, establishing and collecting overpayments, and for determining which clients and providers should be referred to law enforcement authorities for fraud investigation and/or criminal prosecution.

The report identifies the need for the PIU to develop a more comprehensive, strategic approach to detect and pursue child care fraud. The report also notes that the Milwaukee County District Attorney's Office has inadequate resources to investigate and pursue prosecution of potential fraud cases identified by the Program Integrity Unit.

On May 26, 2009 the Governor signed legislation authorizing the State to take over administration of public assistance programs in Milwaukee County, including operation of the Milwaukee County Program Integrity Unit. The legislation creates the possibility of returning administrative responsibility for the programs to Milwaukee County at a future date. Regardless of which entity administers the program, we make observations for improving PIU performance.

A response from MCDHHS is included as Exhibit 2. We appreciate the cooperation extended by staff from MCDHHS, the State Bureau of Early Care Regulation, and the State Program Integrity section of the Department of Children and Families during the course of this audit.

Please refer this report to the Committee on Finance and Audit.

Jerome J. Heer
Director of Audits

JJH/DCJ/cah

Attachment

cc: Milwaukee County Board of Supervisors
Scott Walker, Milwaukee County Executive
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Terrance Cooley, Chief of Staff, County Board Staff
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A More Strategic Approach is Needed to Combat Child Care Subsidy Fraud in Milwaukee County

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Summary

In 2008, the Milwaukee County Department of Health and Human Services (MCDHHS) and the District Attorney's Office contacted the Department of Audit to obtain assistance related to a child care fraud case under active investigation. The investigative team also included detectives from the City of Milwaukee Police Department and the Milwaukee County Sheriff's Office. To date, that effort has resulted in the documentation of \$860,000 in fraudulent child care payments and the felony conviction of one individual. In December 2008, the Chairman of the Milwaukee County Board directed the Department of Audit to initiate a review of Milwaukee County's administration of the Wisconsin Shares Child Care Subsidy program.

Under the Wisconsin Shares Program, Milwaukee County is responsible for preventing and correcting improper child care subsidy payments, establishing and collecting overpayments, and for determining which clients and providers should be referred to law enforcement authorities for fraud investigation and/or criminal prosecution. We focused our review on the Program Integrity Unit (PIU) at MCDHHS, which is largely responsible for these activities.

We make the following observations for improving the Milwaukee County Program Integrity Unit's performance.

- **The Milwaukee County Program Integrity Unit needs a more comprehensive, strategic approach to detect and pursue child care fraud.**
 - o Although management has taken some positive steps in recent months that begin to address past shortcomings, we found little in the way of a coherent approach to fraud investigations. Rather, the Milwaukee County PIU's past efforts are more accurately described as individual staff diligently pursuing specific leads with the primary objective of processing overpayments for administrative recovery. These efforts have been pursued with little strategic guidance, overall prioritization or coordination with law enforcement or trained fraud investigators.
 - o To date, the PIU unit has not developed any formal fraud profiles, or 'red flags,' to routinely identify suspicious attendance patterns or other indicators of potential fraud.
 - o Our discussions with State Program Integrity staff indicates additional efforts will be needed to interface existing databases to create more meaningful 'red flag' reports. For instance, there is general acknowledgement that providers who employ a disproportionate number of child care subsidy clients raise suspicions of possible collusion. However, there currently is no ability to cross-match provider payroll data available to the State Department of Revenue, or provider employment data maintained by the State Department of Workforce Development, with State Client Assistance Re-Employment and Economic Support (CARES) data on child care subsidy clients.

- o The environment established by state regulations emphasizes administrative recoupments and restrictions, rather than pursuit of fraud investigation.
- o In recent months, the Milwaukee County PIU manager has initiated several positive steps toward addressing the lack of a cohesive, strategic approach to detecting and pursuing child care subsidy fraud. These include:
 - Initiated meetings with District Attorney's Office and local law enforcement. As of May 2009, the Milwaukee County PIU was actively working nine cases in cooperation with the City of Milwaukee Police Department, including one case with involvement from the Milwaukee County District Attorney's Office.
 - Meeting monthly with State Program Integrity section staff to coordinate activity.
 - Submitted an updated Program Monitoring and Quality Assurance plan to the State that details additional initiatives to develop and implement fraud detection techniques.
- **The Milwaukee County District Attorney's Office has inadequate resources to investigate and pursue prosecution of potential fraud cases identified by the Program Integrity Unit.**
 - o Current prospects for additional resources within the Milwaukee County District Attorney's Office to combat child care fraud do not appear to be good.
 - o A precise dollar figure cannot be placed on the extent of fraud with the Milwaukee County Child Care Subsidy Program. However, there are several indicators that it is a significant and growing problem.
 - In 2006, there were no child care providers in Milwaukee County for whom child care subsidy overpayments of \$50,000 or more were calculated. In 2007, overpayments of \$50,000 or more were calculated for two providers. In 2008, there were four providers with overpayments of \$50,000 or more, and an additional provider for whom \$49,250 in overpayments were calculated.
 - If a State licensor is unable to access a facility (e.g., no one is present or answers the door), a return visit is made. If unable to access a facility after three attempts, a warning letter is issued. Such warning letters were sent to 47 providers in Milwaukee County in 2008. Payments to the 47 providers totaled \$2.5 million in 2008, including six that were paid at least \$100,000. One provider was paid \$441,000.
 - During two periods of budgetary constraints, the State temporarily imposed an attendance policy referred to as 'UU-50' (under-utilization of 50%). The UU-50 policy reduced payments for 'enrollment-based' providers (i.e., providers paid based on the number of authorized children enrolled) to actual attendance for those children attending less than 50% of the hours for which they were authorized. For a 30-week period during April through October 2007, the State recorded savings of \$6.7 million statewide due to this policy. For a seven-week period during March through May 2008, the State recorded savings of \$1.2 million due to the UU-50 policy. The UU-50 savings accrued from withholding payments for children that are not in attendance, whether for legitimate or fraudulent reasons. Providers argue that they must staff for the number of hours children are authorized, and that UU-50 creates an unfair financial hardship for providers.

- After peaking at just under 50,000 in 2003, the number of children under the age of 12 that lived below the federal poverty threshold in Milwaukee County has declined in three of the following four years, to just over 40,000 in 2007 (latest data available from the U.S. Census Bureau). Yet during that same four-year period, children served under the Child Care Subsidy Program increased steadily, from about 23,600 to about 28,300. Based on the first four months of 2009, we project approximately 30,400 Milwaukee County children will be served this year.
- Offers of cash bonuses, free rent and vacation getaways are among those advertised by providers in Milwaukee County for enrolling children in their child care facilities (see **Appendix B**). The offers are particularly targeted to child care subsidy recipients and seems inconsistent with the program's establishment of co-payment obligations.
- **Weak child care authorization and payment controls result in overpayments caused by excess authorizations.**
 - o From February–June 2008, one licensed family provider was overpaid \$74,157 in subsidized child care payments because it claimed more children than its licensed capacity permits. From 2006–2008, more than \$3.5 million in overpayments had been calculated for 767 providers in Milwaukee County. Stronger controls in the state child care authorization system and provider payment system could have substantially reduced the overpayments for this and many other providers that were paid in excess of their capacity.
 - o One problem with this and similar overpayment cases is the process for authorizing children to attend selected providers once the parents are determined to be eligible to participate. The controls limiting child authorizations for certified and family licensed providers are routinely overridden.
 - o The problem of excess authorizations on the front end of the system could be minimized with stronger payment controls on the back end. Such controls would include limiting payments based on provider capacity levels. However, these controls do not exist. Providers receive full payment for all authorized children enrolled.
- **State standards for acceptable income verification require vigilance and follow-through to be effective.**
 - o A separate unit of six Quality Assurance Technicians (QA Techs) at MCDHHS focuses on client overpayments. We reviewed 25 cases, totaling approximately \$450,000 in actual overpayments, to review the nature of the employment documentation submitted by clients that resulted in fraud investigations. Two of those cases included forgeries in which employment activity was falsified on company letterhead. Child care benefit overpayments calculated based on these types of investigations have totaled \$6.4 million for 1,601 clients during the three-year period 2006—2008.
 - o We could not verify from case notes that the County worker had verified that the employer had a Federal Employer Identification Number, or that state employment computer files had been checked regarding worker's compensation or unemployment insurance for six of 24 cases. These verification steps went into effect October 29, 2008 and were reinforced by State child care administration officials in March 2009.

On May 26, 2009 the Governor signed legislation authorizing the State to take over administration of public assistance programs in Milwaukee County, including operation of the Milwaukee County Program Integrity Unit. The legislation creates the possibility of returning administrative responsibility for the programs to Milwaukee County at a future date. Regardless of which entity administers the program, we make the following observations for improving PIU performance.

1. *Develop a more detailed timekeeping system for PIU Child Care Specialists to facilitate improved management of staff resources.*
2. *Obtain staff training in the essential elements of fraud investigation.*
3. *Obtain competent legal representation on behalf of Milwaukee County for fair hearing challenges to PIU enforcement actions.*
4. *Continue meeting with appropriate parties such as the District Attorney's Office, local law enforcement agencies, State Program Integrity staff and others with the specific objective of developing strategies for more effectively profiling potential child care subsidy fraud.*
5. *Seek additional investigative positions within the Milwaukee County District Attorney's Office that are dedicated to the pursuit of potential child care subsidy fraud.*
6. *Seek a legislative prohibition against child care subsidy providers giving cash or other items of value to clients in return for their subsidized child care business.*
7. *Implement controls that would reduce the potential for providers to be granted authorization in excess of their established capacity. At a minimum, require County workers to follow existing procedures requiring providers to submit documentation supporting the ability to handle authorizations in excess of their capacity. Also, the State should consider programming enhancements that would provide ESS workers with warnings if the capacity of licensed group providers is being exceeded with new authorizations.*
8. *Consider implementing payment controls that would prevent provider payments due to overcapacity. This would require capturing time of day attendance data.*
9. *Issue the Employer Verification of Earnings (EVOE) form directly to the employer and require that any applicant that provides hand-written documents as proof of employment/income be verified with the employer via telephone, fax, e-mail or mail (obtaining adequate qualifying information).*
10. *Require that newly self-employed applicants supplement the self-prepared income statement provided with other documentation of self-employment such as:*
 - *Invoices, deposit slips, customer/client lists, sales or service contracts.*
 - *Tax or Business ID number or application.*
 - *A third-party verification of business activity.*
 - *Any form of business or liability insurance.*
 - *A list of assets (tools used in the trade) to generate income.*
11. *Document all employer verification steps taken, including computer data exchange queries, to ensure required steps are being followed.*

A management response from the Milwaukee County Department of Health and Human Services is included as **Exhibit 2**. We wish to acknowledge the cooperation of staff from MCDHHS, the State Bureau of Early Care Regulation, and the State Program Integrity section of the Department of Children and Families during the course of this audit.

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Background

In 2008, the Department of Health and Human Services (MCDHHS) and the District Attorney's Office contacted the Department of Audit to obtain assistance related to a child care fraud case under active investigation. The investigative team also included detectives from the City of Milwaukee Police Department and the Milwaukee County Sheriff's Office. To date, that effort has resulted in the documentation of \$860,000 in fraudulent child care payments and the felony conviction of one individual. In December 2008, the Chairman of the Milwaukee County Board directed the Department of Audit to initiate a review of Milwaukee County's administration of the Wisconsin Shares Child Care Subsidy program.

We have conducted similar audits of MCDHHS' contract obligations in providing childcare services in the past. Two reports addressing Milwaukee County child care services issued in January and May 1998 highlighted several of the concerns noted in recent newspaper stories. The issues of financial accountability appear very similar to those raised in the media.

Prior to 2008, program integrity functions were performed within DHHS to help identify overpayments in all Wisconsin Income Maintenance programs, including Medical Assistance, FoodShare and W2, as well as Child Care Subsidy. This included activities such as responding to hotline calls and calculating overpayments for individual and providers that received benefits to which they were not entitled. The Program Integrity Unit (PIU) was organized within MCDHHS in 2008 to specifically address fraudulent activity in the Child Care Subsidy program. This action had the effect of formalizing and expanding many of the activities that were already occurring.

Under a contract with the State of Wisconsin Department of Children and Families (WDCF), the PIU is charged with the responsibility for monitoring fraud activity within the County. Management and staff have the following three primary responsibilities:

- Fraud prevention
- Fraud detection and investigation
- Performing appropriate fraud collections, sanctions or revocations

Funding for child care administration for 2009 is about \$8.6 million. This includes funding for PIU staffing consisting primarily of four Child Care Specialists, (recently increased to six) and one supervisor position that has other program responsibilities. An Administrative Coordinator provides

overall supervision for all Child Care Subsidy program activities, including certifying providers and performing required background checks.

Our review focused primarily on the efforts of Child Care Specialists reviewing fraud at the provider level. Other MCDHHS staff are involved with aspects of program integrity, though not specifically assigned to the PIU unit. Client overpayments, generally due to misrepresenting income or other pertinent household information, are performed by Quality Assurance Technicians. Staff responsible for processing provider payments often calculate overpayments when they determine providers may be billing for children in excess of their established capacity.

Statistical Background Information

Growth in Child Care Subsidy program participation in Milwaukee County during the past five years is shown in **Table 1**.

Table 1 Wisconsin Shares Child Care Participation Milwaukee County 2004 - 2008			
	<u>2004</u>	<u>2008</u>	<u>Percent Increase</u>
No. of Families	12,346	14,010	13.5%
No. of Children	23,601	28,318	20.0%
Payments to Providers	\$157,841,007	\$199,468,244	26.4%
Note: Families and Children served figures are monthly averages.			
Source: Wisconsin Department of Children and Families.			

Child care is provided in the community by either certified or licensed providers. Certified providers fall into two categories, regular and provisional. The primary difference is the amount of training that regular certified providers have received. The reimbursement for regular certified providers is 75% of the licensed family provider rate, compared to the 50% received for provisional certified providers. Both regular and provisional providers can provide no more than 16 hours of care daily to no more than a maximum of six children. This maximum number of children can drop depending on the age of the children in care. Certified providers are recertified for two years by MCDHHS.

Licensed providers also fall into two categories, family and group providers. Licensed family providers can care for no more than eight children at any one time, whereas the capacity of a licensed group child care provider varies based on a number of factors, which is calculated by state licensing staff. Licenses are issued for two years upon successful completion of a six-month probationary period. **Table 2** shows the number of providers falling into these categories over the past three years.

Table 2 Number of Providers in Milwaukee County By Category 2006–2008			
	<u>2006</u>	<u>2007</u>	<u>2008</u>
Certified Providers:			
Regular	663	476	428
Provisional	<u>141</u>	<u>148</u>	<u>100</u>
Total Certified Providers	804	624	528
Licensed Providers:			
Family Child Care	1,034	1,023	1,019
Group Child Care	<u>498</u>	<u>506</u>	<u>512</u>
Total Licensed Providers	1,532	1,529	1,531
Total Providers	2,336	2,153	2,059
Note: All figures are monthly averages.			
Source: Wisconsin Department of Families and Children.			

The majority of provider payments in Milwaukee County are to licensed providers, as shown in **Table 3**.

Table 3
Payments by Type of Provider
for Milwaukee County
2006 - 2008

	<u>Certified Providers</u>	<u>%</u>	<u>Licensed Providers</u>	<u>%</u>	<u>Total Payments</u>
2006	\$11,666,377	6.7%	\$162,757,977	93.3%	\$174,424,354
2007	\$9,594,027	5.2%	\$173,219,098	94.8%	\$182,813,125
2008	\$8,827,679	4.4%	\$189,658,079	95.6%	\$198,485,758

Note: Total payments in this table differ slightly from Table 1. According to state officials, Table 1 represents payments on behalf of Milwaukee County families, regardless of where care was provided. Table 3 data reflects payments to providers located within Milwaukee County, regardless of where the family resides.

Source: Wisconsin Department of Families and Children.

State Takeover

In a letter from the State to the County Executive dated February 3, 2009, the State announced its intention to assume administration of the child care program effective January 1, 2010. The letter cited sustained poor performance spanning from 2005 through 2009, and raised serious concerns over Milwaukee County's failure to provide critical services to residents, depriving them of food assistance, eligibility for medical care, and assistance with subsidized child care. On May 26, 2009 the Governor signed legislation to implement the State takeover.

Our audit was coordinated with a concurrent statewide audit of Wisconsin Shares child care program performed by the Wisconsin Legislative Audit Bureau (LAB). We appreciate LAB's professionalism and willingness to work with us to ensure that our mutual audit issues were addressed in an efficient and effective manner.

Section 1: The Milwaukee County Program Integrity Unit needs a more comprehensive, strategic approach to detect and pursue child care fraud.

A comprehensive, strategic approach to fraud prevention, detection and pursuit is essential.

Under the Wisconsin Shares Program, Milwaukee County is responsible for preventing and correcting improper child care subsidy payments, establishing and collecting overpayments, and for determining which clients and providers should be referred to law enforcement authorities for fraud investigation and/or criminal prosecution. This responsibility largely rests with six (expanded from four in April 2009) Child Care Specialists reporting to two mid-level managers that have additional areas of responsibility. With approximately \$200 million in annual payments to more than 1,500 licensed and 500 certified child care providers within Milwaukee County, a comprehensive, strategic approach to fraud prevention, detection and pursuit is essential.

Past Efforts Have Lacked Cohesion

Although management has taken some positive steps in recent months that begin to address past shortcomings, we found little in the way of a coherent approach to fraud investigations. Rather, the Milwaukee County Program Integrity Unit's (PIU's) past efforts are more accurately described as individual staff diligently pursuing specific leads with the primary objective of processing overpayments for administrative recovery. These efforts have been pursued with little strategic guidance, overall prioritization or coordination with law enforcement or trained fraud investigators.

For instance, during initial interviews with PIU staff and management, the following basic management information was not compiled:

- Number of active cases assigned to and completed by each Child Care Specialist.
- Prioritization of active and/or pending cases.
- Number of cases completed in prior year or current year to date.
- Average number of staff hours required to work a case.
- Number of child care centers whose licenses or certifications have been revoked as a result of PIU activities.

The current PIU supervisor assumed her duties in November 2008 and began requiring Child Care Specialists to maintain an ongoing record of active assignments shortly thereafter. These records contain some basic information, such as case initiation/completion dates, overpayment recoveries, and information related to provider/client appeals. This information provides a good foundation for more proactive management of PIU staff resources.

We were unable to compile meaningful summary data from individual PIU staff case activity records.

However, we were unable to compile meaningful summary data from individual PIU staff case activity records. We found varying degrees of detail and rigor in maintaining the information among staff members.

PIU Staff Activity

While PIU staff do not keep detailed time records, **Table 4** presents staff members' estimates of the percentage of their work time devoted to various activities.

Table 4
PIU Staff
Estimated Time Devoted to Activities

Attendance Reviews/Overpayment Calculations	68%
Systems Data Review	15%
Fair Hearings Participation	6%
On-site Provider Visits	5%
Administrative Activities	2%
Training	1%
Other	3%
Total	100%

Source: Estimates by individual PIU staff members.

As shown in **Table 4**, approximately two-thirds (68%) of PIU staff members' time is spent reviewing and entering attendance data to calculate overpayments. From 2006—2008, PIU staff calculated approximately \$2.7 million in overpayments for 405 providers in Milwaukee County. (An additional \$800,000 in Milwaukee County provider overpayments was automatically calculated during that period by a state computer program that identifies consecutive two-week periods of non-attendance.) Very little time (1%) is devoted to training. According to staff, training consists primarily of familiarization with data systems and program regulations. There is no formal training on fraud investigation techniques.

The PIU unit has not developed any formal fraud profiles, or 'red flags,' to routinely identify suspicious attendance patterns or other indicators of potential fraud.

Fraud Profiles

To date, the PIU unit has not developed any formal fraud profiles, or 'red flags,' to routinely identify suspicious attendance patterns or other indicators of potential fraud. PIU staff uses the following reports, generated by the State, on a regular basis to investigate the possibility of overpayments.

- Excess Enrollment Reports
 - o Certified Providers with more than six children enrolled
 - o Licensed Family providers with more than 12 children enrolled

These monthly reports identify providers whose enrollments potentially exceed the capacity of their certification/license status. PIU staff must investigate to determine each facility's hours of operation (e.g., is this a one-shift or two-shift operation?), review attendance records in relation to hours of

operation, and verify parental employment hours in relation to attendance hours.

- **Address Match Reports**
These quarterly reports identify providers whose addresses match those of a child care subsidy client. PIU staff must investigate to ensure that providers are not paid to care for their own children, which is a program violation.

In addition, an Excessive Authorization Report is generated monthly. Quality Assurance Techs in another MCDHHS unit use this report to identify and eliminate duplicate child care authorizations, and to recover any overpayments, if applicable.

Another report generated by the State that would appear to highlight potential fraudulent billings identifies facilities that have submitted records indicating an attendance rate of 95%—100% during the past eight-week period. However, the Milwaukee County PIU unit does not routinely investigate facilities on this list. The PIU manager acknowledged that the report has been used to identify one or two of the significant fraud cases currently under review, but indicated an inability to fully utilize the report due to a lack of staff resources.

Our discussions with State Program Integrity staff indicates additional efforts will be needed to interface existing databases to create more meaningful ‘red flag’ reports.

Our discussions with State Program Integrity staff indicates additional efforts will be needed to interface existing databases to create more meaningful ‘red flag’ reports. For instance, there is general acknowledgement that providers who employ a disproportionate number of child care subsidy clients raise suspicions of possible collusion. However, there currently is no ability to cross-match provider payroll data available to the State Department of Revenue, or provider employment data maintained by the State Department of Workforce Development, with State CARES data on child care subsidy clients.

Regulatory Environment

The Milwaukee County PIU Unit's concentration of time on the calculation of provider overpayments is consistent with the

regulatory environment described in the State Child Care Assistance Manual.

- **Section 2.2.1 Client Fraud** states:
“For an IPV (Intentional Program Violation) to be established, 1 of the following must occur:
 1. IPV or conviction of fraud is found in a Court of Law.
 2. Administrative hearing found IPV.
 3. Client signed IPV waiver of Administrative Disqualification form (DES-10797).

After 3 separate IPVs, the AG (client) is ineligible for further child care benefits. This provision does not end eligibility until after the 3rd IPV occurrence. After 3 separate IPV findings, the agency shall permanently deny payments to the entire AG.”

- **Section 2.2.3 Inaccurate Attendance Reports** states: “If a provider has been paid on the basis of questionable attendance reports that later prove to be false, the agency must recover the overpayment and may at their discretion:

Suspend the provider from the Wisconsin Shares program for a period of 6 months or

Convert all authorizations to a licensed provider to attendance-based

A notice must be sent to the provider before taking either of these actions.”

The environment established by these regulations emphasizes administrative recoupments and restrictions, rather than pursuit of fraud investigation.

Fair Hearings

Child care providers subjected to enforcement actions such as overpayment recoupments, suspensions or certification/license revocations are entitled to a fair hearing. According to State licensors, an increasing number of providers appeal enforcement actions with the assistance of legal counsel. A major concern expressed by both PIU staff and management, and echoed by State regulators, is the lack of legal representation on behalf of PIU staff in the fair hearing process. As a quasi-judicial

An increasing number of providers appeal enforcement actions with the assistance of legal counsel.

proceeding before an administrative law judge, rules of evidence and other legal protocols are followed. One PIU staff member recounted a recent fair hearing experience where information she thought relevant to Milwaukee County's position was not permitted in the record. Currently, one PIU staff has six cases totaling more than \$300,000 in suspected overpayments pending a fair hearing review.

The value of potential recoveries merits consideration of obtaining legal representation, whether in-house, contracting with a private attorney, or perhaps sharing a position with another governmental unit, for fair hearings involving overpayments exceeding a specified threshold.

Referrals to District Attorney's Office

PIU efforts have tended to focus on recouping overpayments and pursuing provider suspensions.

During our initial interview with PIU management, we inquired about the unit's working relationship with the District Attorney's Office. PIU management indicated that the DA's Office had no resources to investigate potential fraud, and the burden thus fell to PIU staff to build prosecutable fraud cases. As a result, PIU efforts have tended to focus on recouping overpayments and pursuing provider suspensions. Suspensions could potentially lead to State revocation of a child care facility's license or County revocation of a facility's certification, but such revocations for attendance-related purposes are rare. In 2008, for instance, the State of Wisconsin revoked the licenses of just 10 child care facilities in Milwaukee County for attendance issues. Provider suspensions are more common, although precise data on the number of suspensions related to attendance issues is not maintained or readily available. It should be noted that a six-month suspension of child care subsidy authorizations could, in effect, put a child care facility out of business.

We address the role of the Milwaukee County District Attorney's office in child care fraud investigations in **Section 2** of this report.

Recent Improvements

In recent months, the Milwaukee County PIU manager has initiated several positive steps toward addressing the lack of a cohesive, strategic approach to detecting and pursuing child care subsidy fraud. These include:

- Initiated meetings with District Attorney's Office and local law enforcement. As of May 2009, the Milwaukee County PIU was actively working nine cases in cooperation with the City of Milwaukee Police Department, including one case with involvement from the Milwaukee County District Attorney's Office.
- Meeting monthly with State Program Integrity staff to coordinate activity.
- Submitted an updated Program Monitoring and Quality Assurance plan to the State that details additional initiatives to develop and implement fraud detection techniques.

In addition, the State Department of Children and Families is recruiting to fill five newly-created positions to support State Program Integrity efforts.

Recent positive steps provide a foundation upon which a cohesive, strategic approach to identifying child care subsidy fraud can be developed.

These recent positive steps provide a foundation upon which a cohesive, strategic approach to identifying child care subsidy fraud can be developed.

Observations for Additional Improvement

On May 26, 2009 the Governor signed legislation authorizing the State to take over administration of public assistance programs in Milwaukee County, including the Child Care Subsidy program. This legislation creates the possibility of returning administrative responsibility for the programs to Milwaukee County at a future date. Regardless of which entity administers the program, we make the following observations for improving the Milwaukee County Program Integrity Unit's performance, and recommend that Milwaukee County DHHS management work cooperatively with the State to achieve the following objectives.

1. *Develop a more detailed timekeeping system for PIU Child Care Specialists to facilitate improved management of staff resources.*
2. *Obtain staff training in the essential elements of fraud investigation.*
3. *Obtain competent legal representation on behalf of Milwaukee County for fair hearing challenges to PIU enforcement actions.*
4. *Continue meeting with appropriate parties such as the District Attorney's Office, local law enforcement agencies, State Program Integrity staff and others with the specific objective of developing strategies for more effectively profiling potential child care subsidy fraud.*

Section 2: The Milwaukee County District Attorney's Office has inadequate resources to investigate and pursue prosecution of potential fraud cases identified by the Program Integrity Unit.

A collaborative fraud investigation spanned approximately 14 months and consumed hundreds of hours of staff time.

During an initial interview in late February of this year, Milwaukee County Program Integrity Unit management told us that virtually all of the PIU activity culminates in the processing of overpayment recoveries because the Milwaukee County District Attorney's Office did not have the resources to prosecute child care fraud. A lone exception was the referral, investigation and successful prosecution of an \$860,000 fraud scheme involving Tender Moments Child Care, a licensed facility. That collaborative investigation spanned approximately 14 months and consumed hundreds of hours of staff time from the County PIU, State Department of Children and Families, Milwaukee Police Department, Milwaukee County Sheriff's Office, the Milwaukee County Department of Audit, and the District Attorney's Office. According to the PIU manager, 15 cases of potential child care subsidy fraud referred to the DA's Office in 2007 were declined due to lack of resources.

The Assistant District Attorney (ADA) overseeing the Milwaukee County DA's Public Integrity Unit (DAPIU) confirmed the lack of resources to aggressively pursue child care fraud. Prior to the establishment of the DAPIU, three investigators within the DA's Office were dedicated to investigate white collar crime, and the Sheriff's Office investigated allegations of child care fraud. Since early 2007, the DA investigators have been placed in a pool arrangement, resulting in additional demands on their time from competing interests in the DA's Office, and the Sheriff's Office has not had detectives dedicated to child care fraud issues. The DAPIU was established at that time as a collaboration of the Milwaukee County District Attorney's Office, the Milwaukee County Sheriff's Office, the Milwaukee County Department of

Audit and the City of Milwaukee Police Department to coordinate resources for fighting white collar crime and public corruption in Milwaukee County. However, commitment of resources to the DAPIU is voluntary on the part of participants, and must compete with other priorities.

According to the ADA, Milwaukee County DHS administrators approached him in the fall of 2007 with concerns about a small number of child care providers. It was determined that the Tender Moments Child Care case would be pursued on a “trial basis.” Based on that case, as well as his previous experience in prosecuting instances of fraud, the ADA listed the following criteria for pursuing a potential child care fraud case:

- A minimum of \$50,000 in potential fraud. This is not a hard and fast rule, but in light of the resources necessary to investigate and prosecute each case, it would be a general guideline. In 2008, there were six child care providers in Milwaukee County for which overpayments between \$44,800 and \$171,000 were administratively processed for recovery by the Milwaukee County Child Care Program Integrity Unit.
- Either surveillance recordings or witness interviews. The ADA indicated he would not pursue a fraud prosecution based on attendance records alone because of the difficulty in proving intent.

Prospects for Additional Resources

Current prospects for additional resources within the Milwaukee County District Attorney’s Office to combat child care fraud do not appear to be good.

Current prospects for additional resources within the Milwaukee County District Attorney’s Office to combat child care fraud do not appear to be good. While the office requested an additional 19 prosecutorial positions for the 2009—2011 Biennium, the Governor’s proposed budget includes a 3% reduction in the office’s overall salary appropriation, plus an additional 1% across-the-board reduction.

Need for Additional Resources

A precise dollar figure cannot be placed on the extent of fraud within the Milwaukee County Child Care Subsidy program.

However, there are several indicators that it is a significant and growing problem.

- Increasing number of large overpayment calculations.
- 'No Access' incidents.
- Savings from State 'UU-50' Policy
- Milwaukee County demographic data.
- Anecdotal evidence.

Increasing Number of Large Overpayment Calculations

The Milwaukee County ADA indicated a general minimum guideline of \$50,000 in potential fraud to consider a case for investigation. In 2006, there were no child care providers in Milwaukee County for whom child care subsidy overpayments of \$50,000 or more were calculated. In 2007, overpayments of \$50,000 or more were calculated for two providers. In 2008, there were four providers with overpayments of \$50,000 or more, and an additional provider for whom \$49,250 in overpayments were calculated.

'No Access' Incidents

State Bureau of Early Care Regulation staff (licensors) are required to make unannounced site visits to each licensed child care facility, including those accepting Child Care Subsidy clients, at least once every two years. If a licensor is unable to access a facility (e.g., no one is present or answers the door), a return visit is made. If unable to access a facility after three attempts, a warning letter is issued to the provider stating that their license may be in jeopardy if they do not contact the Bureau.

If a state licensor is unable to access a facility after three attempts, a warning letter is issued to the provider.

In 2008, 'no access' warning letters were issued to 47 providers in Milwaukee County.

In 2008, a total of 48 'no access' warning letters were issued to 47 providers in Milwaukee County. Of the 47 providers, we obtained attendance reports covering the days in question for 37. Of those 37 providers, 28 (76%) claimed that children were in

attendance for the days licensors cited in the 'no access' warning letters.

Payments to the 47 providers that received 'no access' warning letters totaled \$2.5 million in 2008, including six that were paid at least \$100,000. One provider was paid \$441,000 in 2008.

Subsequent enforcement actions specifically related to the warning letters are difficult to track. However, various enforcement letters were sent to at least 37 of the 47 providers that received 'no access' warning letters in 2008. A review of those enforcement letters showed that sanctions related to attendance issues were imposed on at least two providers.

Suspect attendance is but one of many issues confronting state licensors in their regulation of child care facilities.

In reviewing the enforcement letters, it became evident that suspect attendance is but one of many issues confronting state licensors in their regulation of child care facilities. Issues including gunshots and other serious affairs are noted in letters sometimes spanning months of operations. Summaries of three cases highlighting such concern are provided as **Appendix C**. The Legislative Audit Bureau is scheduled to perform a review of child care regulations, including State and County enforcement actions, later this year.

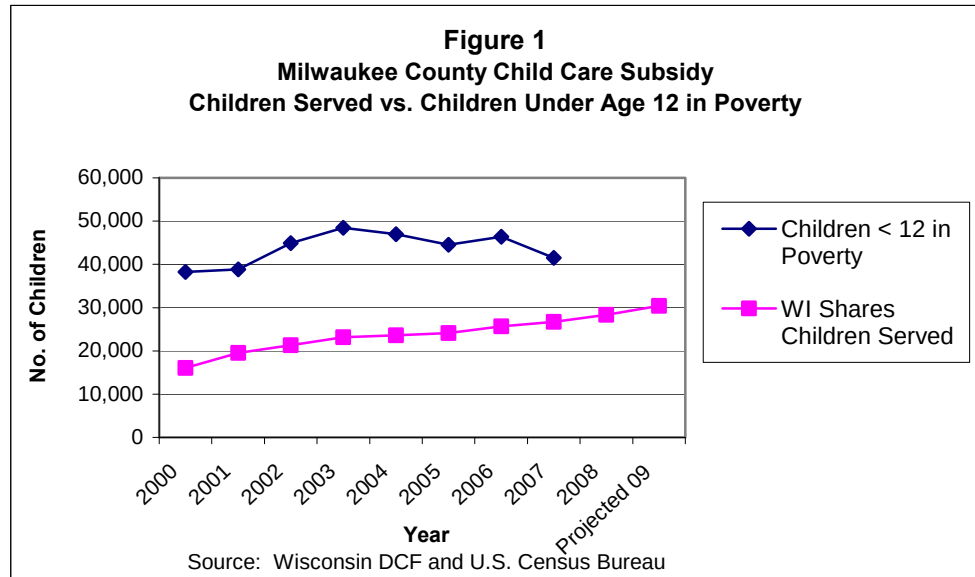
Milwaukee County Demographic Data

While not conclusive evidence of fraud, trends for subsidized child care in Milwaukee County do not appear to be consistent with trends in the County's number of children below the poverty level.

While not conclusive evidence of fraud, trends for subsidized child care in Milwaukee County do not appear to be consistent with trends in the County's number of children below the poverty level.

As shown in **Figure 1**, after peaking at just under 50,000 in 2003, the number of children under the age of 12 that lived below the federal poverty threshold has declined in three of the following four years, to just over 40,000 in 2007 (latest data available from the U.S. Census Bureau). Yet during that same four-year period, children served under the Child Care Subsidy

Program increased steadily, from about 23,600 to about 28,300. Based on the first four months of 2009, we project approximately 30,400 Milwaukee County children will be served this year.



The trend shown in **Figure 1** may change with the recent downturn in the economy. However, one would expect a more direct relationship between children living in poverty and the number served by Wisconsin Shares. This data is worth monitoring as a potential 'macro' indicator of fraud.

Anecdotal Evidence

During its investigation of the Tender Moments fraud scheme (see **Appendix A**), DAPIU investigators began hearing accounts of fraud schemes targeting child care subsidy programs nationwide. According to the ADA, in part due to a 'crackdown' locally on drug trafficking, a portion of the criminal element is finding it less risky to engage in child care fraud than the illicit drug market.

One woman asked for payment of \$1,000 in return for enrolling her seven children in a provider's child care facility.

More specifically, at a public meeting at the Milwaukee Public Schools Administration building in April 2009, a local child care provider stated that a woman had approached her, asking for payment of \$1,000 in return for enrolling her seven children in the provider's child care facility. When the provider declined, the

women indicated she would get the money from a competing provider.

Offers of cash bonuses, free rent and vacation getaways are among those advertised by child care providers in Milwaukee County.

Such offers are not just anecdotal. Offers of cash bonuses, free rent and vacation getaways are among those advertised by providers in Milwaukee County for enrolling children in their child care facilities (see **Appendix B**). The offers are particularly targeted to child care subsidy recipients, as evidenced by one offer to “Receive CASH Bonus Everytime You Are Re-Authorized.” While these types of offers are perfectly acceptable for private pay customers, we question the appropriateness of allowing such incentives in a publicly subsidized program. In addition, allowing monetary rewards for child care subsidy client patronage seems inconsistent with the program’s establishment of co-payment obligations.

Savings from State ‘UU-50’ Policy

During two periods of budgetary constraints, the State temporarily imposed an attendance policy referred to as ‘UU-50’ (under-utilization of 50%). The UU-50 policy reduced payments for ‘enrollment-based’ providers (i.e., providers paid based on the number of authorized children enrolled) to actual attendance for those children attending less than 50% of the hours for which they were authorized. For a 30-week period during April through October 2007, the State recorded savings of \$6.7 million statewide due to this policy. For a seven-week period during March through May 2008, the State recorded savings of \$1.2 million due to the UU-50 policy. The UU-50 savings accrued from withholding payments for children that are not in attendance, whether for legitimate or fraudulent reasons. Providers argue that they must staff for the number of hours children are authorized, and that UU-50 creates an unfair financial hardship for providers.

For a 30-week period in 2007, the State recorded savings of \$6.7 million statewide due to the ‘UU-50’ policy.

Observations for Improvement

Regardless of which entity administers the program, we make the following observations for improving the Milwaukee County Program Integrity Unit's performance, and recommend that Milwaukee County DHHS management work cooperatively with the State to achieve the following objectives.

5. *Seek additional investigative positions within the Milwaukee County District Attorney's Office that are dedicated to the pursuit of potential child care subsidy fraud.*
6. *Seek a legislative prohibition against child care subsidy providers giving cash or other items of value to clients in return for their subsidized child care business.*

Section 3: Weak child care authorization and payment controls result in overpayments caused by excess authorizations.

From February–June 2008, one licensed family provider was overpaid \$74,157 in subsidized child care payments because it claimed more children than its licensed capacity permits. Stronger controls in the state child care authorization system and provider payment system could have substantially reduced the overpayments for this and many other providers that were paid in excess of their capacity.

Weak Child Care Authorization Controls

The controls limiting child authorizations for certified and licensed family providers are routinely overridden.

One problem with this and similar overpayment cases is the process for authorizing children to attend selected providers once the parents are determined to be eligible to participate. The controls limiting child authorizations for certified and licensed family providers are routinely overridden. **Table 5** indicates the maximum capacities based on the type of provider.

**Table 5
Capacity Limits and
Basis of Payment by
Provider Type**

<u>Provider Group</u>	<u>Provider Approved By</u>	<u>Maximum No. of Children</u>	<u>Basis of Payment</u> ¹
Certified providers	County	6	Actual Attendance
Licensed family providers	State	8	Enrollment
Licensed group providers	State	Varies ²	Enrollment

Note 1: DHHS can restrict payments to actual attendance for some children attending licensed facilities, based on their circumstances.

Note 2: The number of children that may be cared for by a licensed group provider varies based on the amount of available space at the facility for the care of children, as calculated by state licensors.

Source: Wisconsin Administrative Code - DCF 202, 250 & 251.

Once approved by MCDHHS Economic Support Specialists (ESS) to participate in the program, parents are asked to select a child care provider. As the authorization is processed, the system gives the ESS worker a warning message if the new authorization request will exceed capacity limits of six and eight children for certified providers and licensed family providers, respectively.

However, ESS workers routinely ignore the warning and allow the new authorizations to be issued. In the above overpayment example, the authorized capacity for the licensed family provider was eight children, but PIU staff identified up to 53 children as authorized and billed in some billing periods.

The excess authorization problem can be more pronounced for licensed group providers.

The excess authorization problem can be more pronounced for licensed group providers. The licensed capacity for each provider varies, based on a number of factors that are calculated by a state licensor. However, the child care authorization system does not have access to this information, which is maintained on a separate state computer system. Thus, the system does not provide the ESS worker with a warning if new authorizations exceed a provider's capacity.

It is important to note that the disparity between authorized capacity and enrollment for this, as well as any other provider, does not necessarily mean that the provider has exceeded capacity. Rather, it shows the potential for this to occur. Child care facilities may run more than one shift. Also, some children only attend child care on a part-time basis. Both factors can contribute to the false appearance of being overcapacity. The authorization system does not have enough information on each provider's operations to know the point where the provider exceeds its established capacity.

According to the Wisconsin Shares Child Care Assistance Manual, local agencies should not authorize additional children

to certified or licensed family providers that appear to be over their group size until the provider has been able to show that they are not over their capacity. Providers can show that they are not over their group size by submitting information listing the children in care, the hours of care, the children's age and their relationship to the provider.

According to ESS staff, workers have not been trained properly in what to do when the warning screen appears. There was an understanding that ESS workers could ignore the warning, and that vendor liaison workers would address the problem when processing payment requests. However, nothing on this matter could be substantiated in writing. Proper controls at this point of the system would limit a provider's ability to bill for excess authorizations later. Conversely, ignoring these warnings creates opportunities for overpayments. MCDHHS management points out that the state system's excess authorization warning is impractical, because the effort required to ascertain provider operating hours and attendance patterns is not readily available.

The problem of excess authorizations on the front end of the system could be minimized with stronger payment controls on the back end.

Weak Payment Controls

The problem of excess authorizations on the front end of the system could be minimized with stronger payment controls on the back end. Such controls would include limiting payments based on provider capacity levels. However, these controls do not exist. With few exceptions, providers receive full payment for all authorized children enrolled.

Calculating Overpayments When Capacity Is Exceeded

The State generates periodic reports indicating providers that have been issued authorizations that may have exceeded their capacities. For example, each month a report is run listing certified providers who have received more than six authorizations. Similarly, another monthly report notes all licensed family providers who have received more than 12 child authorizations.

The State has introduced a new report that uses a different approach but has the same effect of highlighting providers that may have exceeded capacity. It calculates an annualized payment per child care slot for each provider, taking into consideration the provider's payment history, known capacity, hours of operation (including night shift, if applicable) and days of service, and reported attendance. The resulting report lists the providers with the highest annualized payment per child.

If overcapacity is suspected, either based on these state-generated reports or any other source, PIU staff takes steps to verify if capacity has been exceeded. This is a labor-intensive procedure that includes the following steps, at a minimum:

- Requesting providers to submit daily attendance sign-in sheets which they are required to maintain, for the period in question;
- Obtaining the scheduled hours of attendance for children paid on the enrollment basis and comparing for absence. This comes into play for determining if a provider has too many authorizations based on its capacity;
- Manually entering the scheduled and actual hours of attendance for each authorized child into detailed spreadsheets from the sign-in sheets; and
- Calculating the overpayments. This calculation takes into account all children (subsidized and private pay, if reported), and whether or not they are in attendance. The resulting overpayment could be due to too many authorizations, or more seriously, an overcapacity situation. The calculation is done for every half hour of operation.

PIU staff often performs several additional steps when investigating a provider. For example, they may contact parents and employers regarding work schedules to confirm information on the sign-in sheets.

Staff that process provider payments often recognize instances in the course of their work where claims appear to involve an overcapacity issue. They can look up information on a provider's

capacity and hours of operation to calculate total capacity, compare it to the billed hours, and limit the payment if the amount billed exceeds available capacity.

Overpayments Due to Excess Authorizations

From 2006–2008, more than \$3.5 million in overpayments had been calculated for 767 providers in Milwaukee County. It is unknown how much of this amount was for excess authorizations. However, according to PIU staff, some of the largest provider overpayments involved excess authorizations.

It is likely that many payments relating to excess authorizations go unchallenged.

These overpayments do not reflect the full extent of this problem. It is likely that many payments relating to excess authorizations go unchallenged, with no attempt made to calculate overpayments and seek recovery. As an example, the report generated monthly listing licensed family providers with more than 12 authorizations for the four-week period ending April 25, 2009, contained 251 providers. The report of certified providers with more than six children authorized for the four-week period ending March 28, 2009, contained 72 providers. Each of these has the potential to involve overpayments, but would require the labor-intensive effort of PIU staff to manually calculate the potential overpayment. According to the PIU manager, none of the providers from these or other monthly reports over the past year have been assigned to staff because of higher priority work.

Possible Solutions

Action needs to be taken to curtail overpayments related to excess authorizations. Implementing one or more of the following controls could significantly reduce overpayments associated with this problem.

- Follow existing procedures relating to establishing authorizations.
- Link the authorization system to information on licensed group providers to warn ESS workers of potential excess authorization conditions.

- Require all providers to submit attendance data that shows the actual hours of attendance.
- Link the payment system with licensed group provider capacity information for purposes of limiting payment relating to overcapacity
- Create an excess authorization report for licensed group providers, similar to reports currently generated for certified and licensed family providers.

The easiest of these controls to implement is to simply require ESS workers to follow existing child authorization procedures more diligently. Also, the system that identifies excess authorizations for certified and licensed family providers should be expanded to licensed group providers, the category receiving up to 95% of all provider payments.

The control with the best chance to limit overpayments is one that uses time-of-day attendance data and capacity information.

The control with the best chance to limit overpayments is one that uses time-of-day attendance data and capacity information to limit excess authorization payments before they occur. However, this would require a major change from the manner in which the State currently requires providers to report. Providers submit bi-weekly attendance reports that contain only the *number of hours* of care per day for each child whom they have been authorized to provide care.

The benefits of this practice can be seen with the procedures currently in place for certified providers. Certified providers submitting claims for more than six children must submit their sign-in sheets showing time-of-day data for all children. Vendor liaisons use this information to determine if an overcapacity situation exists. If so, the payment is limited to their authorized capacity. As a result, according to PIU management, very few of the overpayments that MCDHHS has processed for certified providers involve excess authorizations.

If these controls were implemented, the need to calculate overpayments based on too many children in attendance could

be essentially eliminated. This would free up a significant amount of PIU staff time to focus on identifying other types of fraudulent activities.

It would also eliminate associated collection activity generated by the overpayments. Of the \$3.5 million in calculated provider overpayments, over \$1.9 million has yet to be recovered. While it is unknown how much of this uncollected balance is related solely to excess authorizations, it is a more cost-effective practice to prevent such overpayments rather than allow them to occur and try to recover them later.

One of the controls that the State has announced it will implement is a swipe card system.

Swipe Card

One of the controls that the State has announced it will implement is a swipe card system. We contacted officials from the Oklahoma Department of Human Services, where a swipe card system is used. The system has the ability to prevent overpayments to providers based on excess capacity because it can control not only the number of children authorized for the location, but also the time of day a the child is authorized to attend. It can also record the actual time-of-day attendance data automatically, eliminating the need for providers to submit the data. This combination of controls, if functioning as described, would address the problems cited in this report relating to excess authorizations and the resulting potential overpayments.

Observations for Improvement

Regardless of which entity administers the program, we make the following observations for improving the Milwaukee County Program Integrity Unit's performance, and recommend that Milwaukee County DHHS management work cooperatively with the State to achieve the following objectives:

7. *Implement controls that would reduce the potential for providers to be granted authorization in excess of their established capacity. At a minimum, require ESS workers to follow existing procedures requiring providers to submit*

documentation supporting the ability to handle authorizations in excess of their capacity. Also, the State should consider programming enhancements that would provide County workers with warnings if the capacity of licensed group providers is being exceeded with new authorizations.

- 8. Consider implementing payment controls that would prevent provider payments due to overcapacity. This would require capturing time of day attendance data.*

Section 4: State standards for acceptable income verification have been strengthened but vigilance and follow-through are necessary.

Part of Milwaukee County's responsibility under its contract with the State for the administration of the Wisconsin Shares program is to prevent fraudulent issuance of benefits through front-end scrutiny of client eligibility. To qualify for child care, parents must meet financial guidelines and participate in one of several eligible Wisconsin Shares activities that would necessitate child care. One of those activities is employment, either on a full-time or part-time basis. Income verification is a key component of this effort in regards to eligibility for child care benefits.

Child care benefit overpayments based on client investigations have totaled \$6.4 million for 1,601 clients during the three-year period 2006—2008.

A separate unit of six Quality Assurance Technician positions (QA Techs) at MCDHHS focuses on client overpayments. We reviewed 25 cases, totaling approximately \$450,000 in actual overpayments, to review the nature of the employment documentation submitted by clients that resulted in fraud investigations. Two of those cases included forgeries in which employment activity was falsified on company letterhead. Child care benefit overpayments calculated based on these types of investigations have totaled \$6.4 million for 1,601 clients during the three-year period 2006—2008. According to staff, the primary reasons for overpayment calculations are:

- Falsified employment.
- Unreported marriage or two-parent household.
- Provider collusion.

Income Verification Requirements

The Wisconsin Shares Child Care Assistance Manual lists the acceptable forms of employment verification, including:

- Paycheck stubs

- Letter from the employer stating the client's earnings containing the company name and employer signature
- Self-employment business tax records
- Self-employment Income Report Form
- CARES data exchange/unemployment insurance query
- Any other document that verifies earned income

We sampled an additional 25 cases, involving 24 clients claiming to be employees, and one that was self-employed. We found none of the 24 employed clients provided employment documentation that might have raised any immediate red flags as to the legitimacy of the claimed employment.

However, one issue of concern was the practice of having the client obtain employment data from the employer instead of contacting the employer directly. The State CARES system generates an Employer Verification of Earnings form that is mailed to the client or applicant instead of the employer. These are often completed in hand-writing and returned by the client, which could raise questions as to its validity if not presented with other valid employment documentation, such as pay stubs.

Also, we could not verify from case notes that the ESS worker had verified that the employer had a Federal Employer Identification Number, or that state employment computer files had been checked regarding worker's compensation or unemployment insurance for six of the 24 cases. These verification steps went into effect October 29, 2008 and were reinforced by State Child Care administrators in March 2009.

We also had a concern with the one client case involving self employment. Clients reporting self employment but not having self-employment tax forms covering the previous tax year can complete a Self-Employment Form as acceptable proof of employment. Self-employment situations require the applicant to

verify that it is a profit making activity. However, cases that are approved (confirmed) pending the client responsibility to submit monthly proof of employment/income are not being tracked on a timely basis, instead relying on the system's six-month review to confirm valid self-employment activity.

Observations for Improvement

Regardless of which entity administers the program, we make the following observations for improving the Milwaukee County Program Integrity Unit's performance, and recommend that Milwaukee County DHHS management work cooperatively with the State to achieve the following objectives.

9. *Issue the Employer Verification of Earnings (EVOE) form directly to the employer and require that any applicant that provides hand-written documents as proof of employment/income be verified with the employer via telephone, fax, e-mail or mail (obtaining adequate qualifying information).*
10. *Require that newly self-employed applicants supplement the self-prepared income statement provided with other documentation of self-employment such as:*
 - *Invoices, deposit slips, customer/client lists, sales or service contracts.*
 - *Tax or Business ID number or application.*
 - *A third-party verification of business activity.*
 - *Any form of business or liability insurance.*
 - *A list of assets (tools used in the trade) to generate income.*
11. *Document all employer verification steps taken, including computer data exchange queries, to ensure required steps are being followed.*

Collaborative Fraud Investigation and Prosecution Effort of Tender Moments Child Care Subsidy Case

In 2008, the Department of Health and Human Services (DHHS) and the District Attorney's Office contacted the Department of Audit to obtain assistance related to a child care fraud case under active investigation. The investigative team also included detectives from the City of Milwaukee Police Department and the Milwaukee County Sheriff's Office. We agreed to provide assistance in reviewing thousands of transactions related to six bank accounts maintained by a licensed child care center and the individuals under investigation.

Our review of the bank account transactions resulted in compiling the following information that, along with other evidence, was of critical importance in developing the District Attorney's Office fraud case.

- Identification of payments received from the City of Milwaukee Rent Assistance program.
- Identification of various lending institutions that received mortgage payments from the child care center.
- Identification of payments made to various family members of the individuals under investigation.
- Identification of payments to various child care center employees.
- Identification of the source of funds deposited into the various bank accounts.

In October 2008, the District Attorney charged the owner of the child care center and her mother with three counts of theft by fraud (value greater than \$10,000)--party to a crime. According to the criminal complaint, the two defendants recruited women to enroll their children at the child care center. One of the defendants would supply the women with documentation, falsely indicating that they were employed at the child care center. This helped establish their eligibility for W-2 child care benefits. The defendants would then report the children as attending the child care center, whether they attended or not.

The defendants also purchased a large number of rental properties. As part of the recruitment scheme, women were often offered housing. One of the defendants provided false employment verification information to help establish rent assistance eligibility with the City of Milwaukee. The women were not, in fact, charged any rent beyond the subsidy received from the City of Milwaukee.

It is suspected that the defendants obtained the assistance of a DHHS employee, who provided child care authorizations for the families involved and placed the children at the child care center.

For the period September 2006 through September 2007, DHHS determined that more than \$860,000 in state/federal payments to the child care center were not supported by required daily sign-in sheets. There were multiple instances in which there were no sign-in forms, multiple instances where children were not listed on the sign-in forms and multiple instances in which children were listed as absent but were listed as in attendance on invoices submitted to the State of Wisconsin.

As of this writing, one defendant pleaded guilty in April 2009, with sentencing scheduled in June. The other defendant is scheduled for a jury trial. The DHHS employee suspected in the fraud was suspended without pay in September 2007 and the District Attorney's Office is still investigating the employee's role in the fraud.

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5:30 A.M.

- 4 Hispanics Today
5 15 17 18 24 27 35 36 47 49 51 55
Paid Program
6 The Sunday Mass
7 Cheers
8 Feed the Children
9 The Beltway Boys
10 Spinning and Weight Loss: the Perfect Fit

6:00 A.M.

- 4 News
5 Your Baby Can Read
6 9 15 24 47 49 75 Paid Program
7 Dr. Frederick K. Price
8 Good Morning America
9 Step by Step
10 Our World With Black Enterprise
11 The El True Hollywood Story
12 SportsCenter
13 Joseph Prince: Destined to Reign
14 The Practice
15 Hardball Weekend
16 FOX and Friends Sunday
17 Internet Millions
18 Is Colon Detox Hype?

6:05 A.M.

- 3 Movie "A Knight's Tale" An English commoner dons the armor of a dead jousting and, with the help of friends, competes against nobles in 14th-century France.

6:30 A.M.

- 5 6 47 51 59 73 Paid Program
9 Amazing Facts
10 The Coral Ridge Hour
11 Step by Step
12 Every Woman
13 Jericho, The Church Without Walls
14 Changing Your World
15 House Call With Dr. Sanjay Gupta
16 Your Business
17 Select Comfort

7:00 A.M.

- 4 Today
5 Strawberry Shortcake
6 Pets.TV
7 Living Word Christian Center
8 Key of David
9 News
10 Turning Point With Dr. David Jeremiah
11 Sabrina, the Teenage Witch
12 24 49 51 Paid Program
13 30 Most Outrageous Celebrity Feuds
14 Outside the Lines
15 Movie "Sad News Bears" A single mother recruits a former baseball player to coach a ragtag team of misfit Little Leaguers.
16 Ed Young Television
17 The Practice
18 Hour of Power
19 Newsroom
20 MSNBC News Live
21 Ten Minute Trainer
22 Internet Millions
23 Captured

7:30 A.M.

- 5 Care Bears: Adventures in Care-A-Lot
6 Jack Hanna's Into the Wild
7 18 24 49 Paid Program
8 Billy Graham Special
9 Day of Discovery
10 Sabrina, the Teenage Witch
11 Sports Reporters
12 Joel Osteen
13 Foreclosure Profits
14 55 P90X: The Proof
15 Snapped

8:00 A.M.

- 4 News
5 CBS News Sunday Morning
6 FOX News Sunday With Chris Wallace
7 24 47 49 Paid Program
8 Jimmy Swaggart
9 In Touch With Dr. Charles Stanley
10 Movie "The Karate Kid" A New Jersey teen moves to California, meets bullies and learns karate from a handyman, Mr. Miyagi.
11 Time of Grace
12 Bobby Jones Gospel Hour
13 SportsCenter
14 Law & Order: Criminal Intent
15 Spin City
16 Celebrity Ab Secrets
17 State of the Union With John King
18 MSNBC News Live
19 Married... With Children
20 WCG Ultimate Gamer
21 Snapped

8:30 A.M.

- 7 18 24 49 Paid Program
35 Spin City
36 Health Corner
47 P90X: The Proof



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**Timeline of Child Care Notices
Case Number 1
Multiple Violations
Subsidy Overpayment of \$56,990**

<u>Date</u>	<u>Notice of Violation or Action Taken</u>
July 6, 2007	A report was made to Milwaukee Police Department that the child care center van driver was allegedly involved in a shooting. Wisconsin Department of Health and Families Services (WDHFS) orders child care center to stop transportation services.
July 9, 2007	WDHFS received credible evidence that the center was operating without a license and received the complaint that a shooting occurred at the center.
July 10, 2007	Child care center licensee volunteers to temporarily close during Milwaukee Police Department and Bureau of Milwaukee Child Welfare investigations of child abuse and neglect charges.
July 10, 2007	Wisconsin State Licenser went to the child care center and was informed that child care center moved 6 months ago. WDHFS attempted to deliver an "Order to Stop Operating" and a "Temporary Closure of the child care center Pending Investigation."
July 12, 2007	Bureau of Milwaukee Child Welfare provides credible information that child care center has been operating without a license since March of 2007.
July 13, 2007	WDHFS ordered child care center to stop operating without a license and informs provider of rights to an appeal.
July 21, 2007	WDHFS received a complaint alleging the child care center's van driver was the person doing the shooting in the earlier incident. A "Notice of Sanctions Letter" sent to licensee.
August 20, 2007	Child care provider was issued a probationary license due to substantial non-compliance.
March 1, 2008	Child care provider issue second probationary license effective March 1, 2008 through August 31, 2008 in order to provide an opportunity to demonstrate ability to meet minimum requirements for a regular license.
May 1, 2008	A warning letter was sent to the provider for violations of non-compliance related to: 1. Licensee not maintaining a background file on each employee completed prior to the employee's first day of employment. 2. Licensee not maintaining a complete caregiver's background checks at the time of the monitoring. 3. Materials harmful to children were not properly marked in containers and stored in areas inaccessible to children. Clorox wipes and baby wipes labeled "Keep Out of The Reach of Children" were observed on a shelf under the diaper-changing surface in the toilet room and were accessible to children in care. 4. Fire alarms and smoke detectors are to be maintained in good working order and be tested weekly and a record shall be kept of the test results. Smoke detectors were not tested weekly in February 2008. This rule was previously cited on January 9, 2008. 5. Child care workers did not document changes in a child's development and routines every 3 months based on discussion with the parent. This rule was previously cited on January 9, 2008. 6. Self-contained classroom or area serving infants or toddlers who are diapered shall have a sink with hot and cold running water, which is not used for food preparation or dishwashing within the room or area. A sink was not observed in the room that staff indicated had been used during the day to provide care to children under the age of 2 years. This rule was previously cited on January 9, 2008.

Appendix C

<u>Date</u>	<u>Notice of Violation or Action Taken</u>
May 9, 2008	The Department of Health and Family Services, Bureau of Regulation and Licensing (BRL), sent a notice dated May 1, 2008, issued a Warning Letter of Non-Compliance, for substantial non-compliance in the operation child care center. Based on the documentation provided to the Department regarding the verification of the non-compliances and a follow-up discussion with Licensing Specialist, the BRL withdrew its Warning Letter of Non-Compliance.
September 15, 2008	During this visit, licensee provided to the WDHFS alleged training certificates for staff that had been altered from records maintained by the training agencies, to reflect that required training courses had been completed by staff employed when, in actuality, staff had never enrolled and/or completed the specified training. In addition, the Department obtained credible information that health reports the licensee had on file and provided the WDHFS for staff and children had been falsified cited on September 15, 2008, for numerous and serious violations which consisted of a total of 52 non-compliances, 28 of which were repeat violations related to: - a.) Staff qualifications; - b.) Caregiver background checks; - c.) Attendance records; - d.) Supervision of children; - e.) SIDS risk reduction procedures (e.g., sleep positions, soft bedding); - f.) Hazards and access to harmful materials; - g.) Fire safety; - h.) Sanitation and nutrition; - i.) Transportation; - j.) Diapering; and, - k.) Staff and children's files.
February 12, 2009	Licensee was suspended from participation in the Wisconsin Shares Child Care Subsidy Program for a six month period. Subsidy overpayments of \$56,990 were requested due to inaccurate records and information containing serious discrepancies in attendance and employment records provided to the Milwaukee County Department of Health and Human Services from a period of January 2008 through August 2008.
February 18, 2009	Provider's License was suspended due to an investigation by Milwaukee Police Department alleging that licensee fired a gunshot at a relative February 15, 2009.
February 19, 2009	A notice was issued that the Department intends to permit the reopening of Child Care Center effective immediately. A verbal notice was also provided on February 19, 2009, to another center representative. On February 17, 2009, the Department issued the licensee a notice to summarily suspend the license effective 12:30 a.m. on Wednesday, February 18, 2009, due to an investigation by the Milwaukee Police Department (MPD) alleging that licensee fired a gunshot at a relative on February 15, 2009. The Department confirmed with the Milwaukee County Jail, Office of the District Attorney and/or MPD that the child care provider had been arrested on February 15, 2009 for Endangering Safety by Use of a Dangerous Weapon and that she remained incarcerated with probable cause to hold. On February 19, 2009, the Department conducted a status conference with the Office of the District Attorney and/or MPD and received information that the case was reviewed and the disposition was not processed. Based on this information, the Department is allowing child care center to reopen during the appeal proceedings for which a hearing is currently scheduled for March 3, 2009 before the Division of Hearings and Appeals on the issue of the Department action to revoke the license on October 16, 2008.
February 19, 2009	Notice of amended revocation of group child care license. This case remained under review pending a second part to be scheduled. More documentation was submitted to the Administrative Law Judge.
April 21, 2009	Pre-hearing conducted.
May 19, 2009	Hearing conducted; subsequent hearing date scheduled.

**Timeline of Child Care Notices
Case Number 2
Attendance and Billing Violations
Subsidy Overpayments of \$48,331**

<u>Date</u>	<u>Notice of Violation or Action Taken</u>
June 3, 2008	Licensing Specialist attempted to inspect child care center, but was unable to because no one responded to the doorbell and/or knock on the door.
June 11, 2008	Licensing Specialist attempted to inspect child care center, but was unable to because no one responded to the doorbell and/or knock on the door.
June 23, 2008	Licensing Specialist attempted to inspect child care center, but was unable to because no one responded to the doorbell and/or knock on the door.
June 25, 2008	Licensing Specialist attempted to inspect child care center two times because sign on door indicated that provider would return at 1:30 p.m., but no one responded to the doorbell and/or knock on the door when Licensing Specialist returned at 1:45 p.m.
July 11, 2008	A warning letter that was sent to the child care provider for failed attempts to gain entrance stated that forfeitures ranging from \$10 to \$1000 per day, per violation, or actions to revoke your child care license. In addition if the Licensing Specialist does not hear from provider within three (3) days from the receipt of this warning letter, the WDHFS would initiate action to revoke or close child care license.
September 18, 2008	Licensing Specialist went to the child care center and found that children at one location were in attendance at another location.
September 25, 2008	Milwaukee County DHHS received information from the Department of Children and Families Bureau that children were being transferred between two child care centers owned by the provider.
October 2, 2008	Milwaukee County DHHS and Wisconsin Department of Children Services conducted visits on both site and found no response at one location and children at the other location were not on the attendance sheet. In response to a question about one child, a childcare worker stated that the child had just started attending the center. When the child was asked their name, attendance records showed that the child was not at either site. Child care subsidy shows that the child was billed for as far back as August 25, 2008.
November 10, 2008	Attendance records showed that from a period of May 1, 2008 through July 31, 2008 records were not kept at the correct facility. Furthermore, it was noted that at location 1 and location 2 authorized children were on the same sign in and sign out sheet. Because of the findings, the center was cited for operating over capacity, over reported attendance, billing and being paid for children no longer in attendance and billing for children that were not included in sign in/ sign out sheets.
January 9, 2009	Milwaukee County Program Integrity Unit Specialist issued a letter of sanction to recoup \$48,331 based on payments made from May 11, 2008 through September 27, 2008. Licensee privileges to participate in Wisconsin Shares were suspended. Child care provider was instructed not to accept or enroll any children without approval from WDHFS.
January 23, 2009	A notice of revocation of Family Child Care License was issued for both locations from Wisconsin Dept. of Children and Family Services.
May 7, 2009	A hearing was held before an Administrative Law Judge; a subsequent hearing date was scheduled.

**Timeline of Child Care Notices
Case Number 3
Repeated Sanctions, Penalties and Licensing Code Violations**

<u>Date</u>	<u>Notice of Violation or Action Taken</u>
March 21, 2007	The licensee was cited for a long list of violations including: 1. Failure to maintain a file for each provider, employee, or substitute. The record form was incomplete and inaccurate. 2. Failure to maintain a background file on each employee completed prior to the employee's first day of employment, there was no background file for one employee. 3. Failure to maintain complete caregiver's background checks at the time of the monitoring. 4. Documentation of a TB test was not on file for staff member. 5. Failure to maintain a report that each caregiver is physically able to work with young children. 6. Enrollment forms were incomplete and there were no health history forms on file. 7. Licensee did not maintain a current written record at the center on each child enrolled. Each record shall include written permission from the parents for medical attention to be sought for the child if the child is injured, there was no consent for emergency medical treatment on a form signed by the parent of a child. 8. The licensee did not maintain a written record of the daily attendance that includes the time of arrival and departure and birth date for each child for the length of time the child is enrolled in the program. The daily attendance record was not accurate.
October 2, 2007	Licensee cited for all of the same violations above on March 21, 2007, again on October 2, 2007, plus cited for having additional children without written records of the daily attendance that includes the time of arrival and departure and birth date for each child for the length of time the child is enrolled in the program, the daily attendance record was not accurate.
January 10, 2008	Licensee cited for all of the same violations above on March 21, 2007, again on October 2, 2007, plus licensee had materials harmful to children, including articles labeled hazardous to children, that were not in properly marked containers and stored in areas inaccessible to children. On the contrary products labeled "keep out of reach of children" were accessible to children in the infant room. Also cited for failure to keep the indoor and outdoor child care space free from hazards. Specifically, window blind cords were hanging loose and low in the infant room creating a choking hazard.
November 11, 2008	A monitoring visit was conducted and the above violations were reiterated to the provider.
December 3, 2008	A Non-Compliance Statement Correction Plan was issued for these violations.
January 7, 2009	A letter written from State of Wisconsin to the licensee stating that daily forfeiture amounts may be set ranging from \$10 to \$1,000 per day, per violation. [Records reflect no further action as of June 1, 2009.]

Audit Scope

The Department of Audit conducted an audit of the Child Care Subsidy program administered by Milwaukee County Department of Health and Human Services (DHHS) under contract with the Wisconsin Department of Children and Families (DCF). The audit focused on DHHS' Program Integrity Unit, with the purpose of determining the extent to which the PIU has effectively addressed its contract requirements relating to identifying and preventing child care fraud, especially as it relates to provider fraud. This audit was conducted under the standards set forth in the United States Government Accountability Office *Government Auditing Standards (2007 Revision)*. We limited our review to the areas specified in this Scope Section. During the course of the audit, we:

- Reviewed 2005 through 2009 Adopted Milwaukee County Budgets, County Board and Board committee minutes to identify issues, concerns, recommendations, and County Board Resolutions relating to child care issues.
- Reviewed applicable County Ordinances and Administrative Manual sections, State Statutes and Administrative Code, and Federal regulations and rules sections to ensure compliance with federal, state, and local laws relating to the County's responsibilities for administering the child care program.
- Reviewed previous audit reports, applicable contract with the state agency, DHHS policies and procedures, internal forms, correspondence and memos, and reports relating to the child care program.
- Conducted internet research to identify studies and audits that provide useful background information, relevant industry standards, performance measures, best practices comparisons, and recommendations concerning child care.
- Obtained statistical reports on the amount of subsidized child care subsidy payments for Milwaukee County and the rest of the State, including the number of certified and licensed child care providers.
- Interviewed DHHS staff regarding the program eligibility requirements for both clients and providers, including a review of documentation accepted for income verification, subsidy recovery, and provider overpayments.
- Obtained an understanding of the application process followed by individuals wishing to participate in the child care program either as clients or as certified or licensed providers.
- Reviewed the process followed by DHHS staff in paying bi-weekly claims of service rendered by providers.
- Reviewed the process by which potential fraud cases are identified, assigned, worked, and managed within the PIU by management and staff.

- Interviewed the Assistant District Attorney in charge of white collar crimes regarding prosecution of providers having a high fraud potential.
- Reviewed 50 client cases to evaluate the type of income verification documents accepted by DHHS for assessing program eligibility for parents requesting subsidized child care.
- Reviewed 48 licensed provider cases that received warning letters from the DCF relating to “no access to facility” to determine if these providers had submitted billable hours and received payments for the periods when the facility was closed.
- Contacted staff from the Oklahoma Department of Human Services to obtain information relating to the process followed, and the controls present, for its computerized authorization and payment process involving the use of the swipe card system to document attendance and record authorized care information.
- Identified and analyzed child care cases referred to the Program Integrity Unit (PIU) for investigation over the past three years, determined how amounts subject to recovery are identified and processed, and what steps are performed by staff to work a case.
- Compiled and analyzed statistical data on the number, type and amount of overpayments made to providers and clients relating to child care for 2006–2008.
- Observed a Fair Hearing case held at DHHS relating to the recovery of provider overpayments.



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Milwaukee County

Lisa Marks, Interim Director

June 11, 2009

Mr. Jerome Heer, Director
Department of Audit
2711 W. Wells
Milwaukee WI 53208

Dear Mr. Heer:

Thank you for the opportunity to comment on the Milwaukee County Department of Audit report entitled *A More Strategic Approach is Needed to Combat Child Care subsidy Fraud in Milwaukee County*.

The audit recommends that Milwaukee County Department of Health and Human Services management work cooperatively with the State to combat childcare subsidy fraud in Milwaukee County – an approach completely supported by MCDHHS.

Specifically, with regard to the audit report, I respectfully submit the following comments:

State System

If background checks were instead conducted by the licensing agent, they could be expanded to include child protective service issues and out of state violation issues. Additionally, requiring a high school degree for certified providers would strengthen the system (as of June 2009 this is now allowed, but not mandated). Requirements for child transport should be made more stringent to include standards such as restrictions on D.U.I.s, suspensions, or age limitations. Providers should not be allowed to care for their own children on second and third shift if those are the only children in the providers care.

Inadequate state requirements on the front end can lead to increased need for the county to monitor and take action towards suspension and/or revoking licenses/certifications. Legislative support is needed for successful change.

Fraud Issues

The issues of fraud are long standing and significant. The audit report states that there are several indicators that fraud is not only significant, but also a growing problem. This undercuts the argument that fraud issues were built into the system from the onset. An argument can be made, that new management of the Milwaukee County childcare unit is bringing existing fraud to light. The five arguments listed by the audit report beginning on page two (see attachment), substantiate fraud, but none can be used to make the argument that it is growing. Specifically, the first bullet point may be due to the fact that

the fraud unit is under new management and that the staff has increased leading to increased recoupments. The second, third and fifth points provide no indication of growth. In fact, the fifth bullet point, is not fraud - no statutory prohibition of the practice exists. The fourth bullet can be used to substantiate that the childcare program is working – poverty is declining because attendance in the program is up allowing more parents to work and thus reducing poverty. The increase in childcare enrollment over recent years has been less than the increase in FoodShare and Medicaid.

Overriding Alerts

ESS staff resources are limited due to increases in enrollment in all programs and reductions in the number of workers. There are hundreds of alerts built into the CARES system related to food stamps, Medical Assistance and childcare. It is not possible for a worker to respond to all alerts. Responding to a childcare authorization alert can be difficult. Because workers have been led to believe authorization problems will be corrected at the payment stage, this is often an alert workers choose to overlook. For a worker to respond to an authorization alert, they must go to the provider management area of CSAW and then add the number of hours authorized to the provider for every child to obtain current billable hours. This must then be compared to a calculation taking the number of children authorized times eight hours. Responding to the alert, given existing workload can be difficult, especially for a large licensed provider. The warning system should be based on billable hours, not children authorized. If a billable hours alert was developed, the system could simply lock out the provider once maximum hours was reached.

Lack of Funding for the D.A.

Finally, in discussing the current environment that emphasizes administrative recoupments and restrictions, pursuit of fraud is also curtailed by the lack of resources at the level of District Attorney. The use of time to investigate fraud that will not be pursued by the District Attorney becomes a meaningless task and waste of precious resources.

Current Child Care Certification Staff

The audit report minimizes the significant improvements that have been made in the last year with both new management of the unit and additional staff. The Milwaukee County childcare unit has become an important resource to the entire state in working to overcome systemic problems.

Thank you for the opportunity to comment on the Milwaukee County Audit Department's audit regarding childcare subsidy fraud.

Sincerely,



Lisa Marks

Interim Director

Department of Health & Human Services

ATTACHMENT

Milwaukee County Department of Audit

A More Strategic Approach is Needed to Combat Child Care Subsidy Fraud in Milwaukee County

Bullet Points Referenced in Cover Letter

1. In 2006, there were no child care providers in Milwaukee County for whom child care subsidy overpayments of \$50,000 or more were calculated. In 2007, overpayments of \$50,000 or more were calculated for two providers. In 2008, there were four providers with overpayments of \$50,000 or more, and an additional provider for whom \$49,250 in overpayments were calculated.
2. If a State licensor is unable to access a facility (e.g., no one is present or answers the door), a return visit is made. If unable to access a facility after three attempts, a warning letter is issued. Such warning letters were sent to 45 providers in Milwaukee County in 2008. Payments to the 45 providers totaled \$2.5 million in 2008, including six that were paid at least \$100,000. One provider was paid \$441,000.
3. During two periods of budgetary constraints, the State temporarily imposed an attendance policy referred to as 'UU-50' (under-utilization of 50%). The UU-50 policy reduced payments for 'enrollment-based' providers (i.e., providers paid based on the number of authorized children enrolled) to actual attendance for those children attending less than 50% of the hours for which they were authorized. For a 30-week period during April through October 2007, the State recorded savings of \$6.7 million statewide due to this policy. For a seven-week period during March through May 2008, the State recorded savings of \$1.2 million due to the UU-50 policy. The UU-50 savings accrued from withholding payments for children that are not in attendance, whether for legitimate or fraudulent reasons. Providers argue that they must staff for the number of hours children are authorized, and that UU-50 creates an unfair financial hardship for providers.
4. After peaking at just under 50,000 in 2003, the number of children under the age of 12 that lived below the federal poverty threshold in Milwaukee County has declined in three of the following four years, to just over 40,000 in 2007 (latest data available from the U.S. Census Bureau). Yet during that same four-year period, children served under the Child Care Subsidy Program increased steadily, from about 23,600 to about 28,300. Based on the first four months of 2009, we project approximately 30,400 Milwaukee County children will be served this year.
5. Offers of cash bonuses, free rent and vacation getaways are among those advertised by providers in Milwaukee County for enrolling children in their child care facilities. The offers are particularly targeted to child care subsidy recipients and seems inconsistent with the program's establishment of co-payment obligations.