

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**NOT ALL OF MISSOURI'S
CHILD CARE SUBSIDY PROGRAM
PAYMENTS COMPLIED WITH
FEDERAL AND STATE REQUIREMENTS**

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



Gloria L. Jarmon
Deputy Inspector General
for Audit Services

November 2017
A-07-15-04226

Office of Inspector General

<https://oig.hhs.gov/>

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

Office of Audit Services

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

Office of Evaluation and Inspections

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

Office of Investigations

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

Office of Counsel to the Inspector General

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

Notices

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

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

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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

Report in Brief

Date: November 2017

Report No. A-07-15-04226

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Review

Subsidized childcare services are available to assist low-income families, families receiving temporary public assistance, and families transitioning from public assistance to obtain child care so that family members can work or attend training or education. The services are funded partly by the States and partly by the Child Care and Development Fund (CCDF) Federal program and are administered by the States.

Previous audits and evaluations revealed vulnerabilities in several States' administration of the CCDF program. For the current audit, we reviewed Missouri's Child Care Subsidy program for State fiscal years (SFYs) 2014 and 2015.

Our objective was to determine whether Missouri complied with Federal and State requirements when making payments to licensed childcare centers (providers) under its Child Care Subsidy program for SFYs 2014 and 2015.

How OIG Did This Review

We reviewed a stratified random sample from 8,112 provider service months with childcare payments totaling more than \$102 million (which included both Federal and State funds) for SFYs 2014 and 2015. (A provider service month includes all childcare claims paid to a provider for a single month of service.) We selected 128 provider service months and reviewed client attendance records.

Not All of Missouri's Child Care Subsidy Program Payments Complied With Federal and State Requirements

What OIG Found

Missouri did not always comply with Federal and State requirements when making payments to providers under its Child Care Subsidy program for SFYs 2014 and 2015. Client attendance records were not adequately documented for 124 of the 128 provider service months in our statistical sample; childcare payments made for claims in those 124 provider service months were therefore unallowable.

Missouri did not exercise sufficient oversight over its Child Care Subsidy program. Specifically, Missouri relied on attendance records that were maintained by providers and whose completeness and accuracy were not always verified by the client's parent or adult designee, did not have sufficient policies and procedures to ensure that it obtained attendance records from providers that were no longer in business, and had only recently implemented an additional mechanism to conduct reviews and recommend training to providers found to have inadequate documentation practices.

On the basis of our sample results, we estimated that at least \$19.1 million (Federal share) of CCDF Child Care Subsidy program payments that Missouri made did not comply with Federal and State requirements.

What OIG Recommends and Missouri's Comments

We recommend that Missouri refund the estimated \$19.1 million (Federal share) of Child Care Subsidy program payments to the Federal Government. We also recommend that Missouri strengthen its controls and oversight activities to ensure that providers maintain required attendance documentation to support the childcare payment amounts that they claim for reimbursement, and that it develop policies and procedures to ensure that it obtains attendance records from providers that are no longer in business.

Missouri concurred with our second recommendation and described corrective actions that it had taken or planned to take. Missouri did not concur with our first and third recommendations. Based on additional documentation that Missouri provided after issuance of our draft report, we revised a portion of the discussion of our finding and the associated dollar amounts for this final report. Otherwise, though, we maintain that our findings and the associated recommendations remain valid.

TABLE OF CONTENTS

INTRODUCTION	1
Why We Did This Review	1
Objective	1
Background	1
Childcare Services Funded by the Child Care and Development Fund Program	1
Missouri’s Child Care Subsidy Program	2
Child Care Subsidy Program Invoicing and Payments	3
State Agency Measures for Review and Oversight of the Child Care Subsidy Program	4
Previous Reviews of the Child Care and Development Fund Program.....	4
How We Conducted This Review	4
FINDINGS.....	5
Childcare Payments Not Made in Accordance With Federal and State Requirements.....	6
Federal and State Requirements	6
Attendance Documentation Requirements Not Met	7
Insufficient Oversight Over the Child Care Subsidy Program	7
Oversight and Policies and Procedures at the State Agency Level Were Insufficient.....	7
Costs Associated With Payments Not Made in Accordance With Requirements	8
RECOMMENDATIONS	8
STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE	9
The Child Care and Development Fund’s Status as a Block Grant	9
State Agency Comments.....	9
Office of Inspector General Response	10
Basis and Precedent for Repayment of Child Care Subsidy Program Funds	12
State Agency Comments.....	12
Office of Inspector General Response	12

Use of Extrapolation To Develop Amount of Recommended Repayment	14
State Agency Comments	14
Office of Inspector General Response	14

APPENDICES

A: Related Office of Inspector General Reports	16
B: Audit Scope and Methodology	17
C: Statistical Sampling and Mathematical Calculation Methodology.....	20
D: Sample Results and Estimates	22
E: State Agency Comments	23

INTRODUCTION

WHY WE DID THIS REVIEW

Subsidized childcare services are available to assist low-income families, families receiving temporary public assistance, and families transitioning from public assistance to obtain child care so that family members can work or attend training or education. The services are administered (and funded in part) by each State and, under the provisions of the Child Care and Development Block Grant Act of 1990 (CCDBG Act) and section 418 of the Social Security Act, are funded in part by the Child Care and Development Fund (CCDF) Federal program. At the Federal level, the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), administers the CCDF program.

A Government Accountability Office (GAO) review revealed vulnerabilities in the administration of the CCDF program in selected States. Previous audits and evaluations conducted by the Office of Inspector General (OIG) have also identified vulnerabilities in States' internal controls for the CCDF program and a national CCDF payment error rate of 5.74 percent (including a 19.68-percent payment error rate that Missouri reported to ACF for Federal fiscal year (FFY) 2012). Appendix A contains a list of related OIG reports.

OBJECTIVE

Our objective was to determine whether the Missouri Department of Social Services (State agency) complied with Federal and State requirements when making payments under its Child Care Subsidy program for State fiscal years (SFYs) 2014 and 2015.

BACKGROUND

Childcare Services Funded by the Child Care and Development Fund Program

The CCDF program is authorized by the CCDBG Act, as amended (42 U.S.C. § 9858 et seq.) and section 418 of the Social Security Act (42 U.S.C. § 618). Under this program, States have considerable latitude in implementing and administering their childcare programs. Each State must develop, and submit to ACF for approval, a State plan that identifies the purposes for which CCDF funds will be expended for two grant periods¹ (i.e., 2 FFYs) and that designates a lead agency responsible for administering childcare programs. In addition, States are required to report

¹ Section 685E(b) of the Child Care and Development Block Grant Act of 2014, P.L. No. 113-186 (enacted Nov. 19, 2014), changed this requirement to a 3-year grant period. The 3-year grant period became effective for FFYs 2016 through 2018 State plans.

expenditures on the quarterly Child Care and Development Fund ACF-696 Financial Report,² which is a cumulative report for the FFY. States provide subsidized childcare services to eligible families through certificates (vouchers) or through grants and contracts with providers. Parents may select a childcare provider that satisfies applicable State and local requirements.

In its State plan, the lead agency must assure that upon approval, it will have a program in effect that complies with the plan and that is administered in accordance with the program's authorizing legislation and all other applicable Federal laws and requirements (45 CFR § 98.15(a)(1)). Federal regulations also require that a State's fiscal control and accounting procedures be sufficient to allow for the tracing of funds to a level of expenditure adequate to establish that funds were used in accordance with applicable Federal regulations (45 CFR § 98.67(c)(2)). In addition, the State is to expend and account for CCDF funds in accordance with its own laws and procedures for expending and accounting for its own funds (45 CFR § 98.67(a)).

Missouri's Child Care Subsidy Program

In Missouri, the State agency is the lead agency and is responsible for administering the CCDF program at the State level, where it is known as the Child Care Subsidy program. As the lead agency, the State agency is required to oversee the expenditure of funds by contractors, grantees, and other agencies of the Missouri State government to ensure that the funds are expended in accordance with Federal requirements.

Missouri's Child Care Subsidy program is funded with Federal CCDF funds and State general funds. The *Missouri Child Care Policy Manual* (CCPM) constitutes the program rules for the administration of the State's CCDF program.³ The CCPM establishes the policies and procedures required in the administration of the Child Care Subsidy program regardless of the funding source (Federal CCDF funds or State general funds).

² The ACF-696 report summarizes the total childcare assistance expenditures made by the State agency and identifies the funding sources (Federal or State funds) that the State agency used for childcare assistance expenditures.

³ The CCDF State plans cite the CCPM as the relevant policy manual. (It is the relevant portion of a larger document, the Income Maintenance Manual, which is promulgated by the State agency, Family Support Division.) Moreover, a State agency official confirmed that the CCPM provisions are enforceable requirements that govern the program and are binding in keeping with the contracts the State agency has with licensed providers.

Under Missouri’s Child Care Subsidy program, the childcare subsidy⁴ may be provided to children in income-eligible families⁵ in which parents⁶ are absent for a portion of the day because of employment or participation in academic, vocational, or on-the-job training. The childcare payment may also be available for parents who are participating in the work program for the Temporary Assistance for Needy Families program, the Supplemental Nutrition Assistance Program, or Medicaid. In addition, the childcare payment may be available to children who are placed in foster care or who need care in certain family crisis situations.

Under Missouri’s Child Care Subsidy program, the State agency enters into agreements with approved childcare providers. The agreements authorize those providers to offer services to eligible children and their families. Approved childcare providers include, but are not limited to, (1) center-based child care, (2) group home child care, (3) family child care, and (4) in-home care. We focused our review on center-based childcare providers (licensed childcare centers), which we refer to as “providers.”

Child Care Subsidy Program Invoicing and Payments

The State requires providers to maintain accurate, genuine, and complete records of childcare services rendered for a minimum of 5 calendar years (CCPM section 1225.035.15 and Child Care Provider Agreement, part 19). Providers are required to submit an invoice of the childcare services provided within 30 days after the end of each calendar month (Child Care Provider Agreement, part 31). The State agency requires providers to enter in the State agency’s online childcare invoicing system only the total units of care provided each day per child.⁷ There is no requirement that providers enter arrival or departure times.

The State agency then calculates the payment for services rendered and, within 30 days of receipt of the invoice, issues a payment to providers.⁸

The State agency does not receive or retain copies of the providers’ attendance documentation (unless it is requested as part of the review process described below). However, during the course of our review the State agency stated that it is considering implementing an electronic

⁴ We will hereafter refer to the subsidy payments for the Child Care Subsidy program as “childcare payments.”

⁵ We use the term “client” to describe the child for whom the provider is being paid and the family of the child for whom eligibility is being determined.

⁶ 45 CFR § 98.2 defines a “parent” as “a parent by blood, marriage or adoption and also means a legal guardian, or other person standing *in loco parentis*”

⁷ *Child Care Vendor Invoice* Process, section 6(d)(1). Providers calculate these units of care at their own discretion, using attendance records that they maintain.

⁸ Missouri’s FFY 2012–2013 *Child Care and Development Fund State Plan*, section 2.7.3, and FFY 2014–2015 *Child Care and Development Fund State Plan*, section 2.7.2.

time and attendance system that would automate the billing process and reduce or eliminate the use of paper attendance documentation.

State Agency Measures for Review and Oversight of the Child Care Subsidy Program

As provided in section 1.3.1 of the State agency's CCDF State plans, the State agency has a subordinate entity called the Child Care Provider Relations Unit, which is responsible for randomly reviewing childcare providers each month. Its duties include reviews of invoicing and attendance recording practices. Results and recommendations from these reviews are provided to a Child Care Subsidy Administrator for adjudication of corrective actions, such as requiring providers to attend training.

In its CCDF State plan for FFYs 2014 and 2015, the State agency added a provision for the implementation of the Child Care Compliance Review Team (CCRT), which conducts both desk reviews and onsite reviews of providers. The CCRT was implemented in August 2013 and has three to five staff members who perform data mining, perform risk assessments, conduct reviews, and follow through with implementation of corrective actions to address findings.

Previous Reviews of the Child Care and Development Fund Program

The GAO review mentioned earlier revealed vulnerabilities in the administration of the CCDF program in selected States. The GAO report (*Undercover Tests Show Five State Programs Are Vulnerable to Fraud and Abuse*, GAO-10-1062, issued September 2010) found that the five States that it tested (Illinois, Michigan, New York, Texas, and Washington) lacked controls for childcare assistance application and billing processes, leaving the program vulnerable to fraud and abuse.

Previous audits conducted by OIG, Office of Audit Services (OAS), also revealed vulnerabilities in States' internal controls for client and provider eligibility determinations and for claim processing in their CCDF programs. The OAS reports found that several States' controls for preventing fraud, waste, and abuse in the CCDF program were not effective.

A previous evaluation by OIG, Office of Evaluations and Inspections, found that ACF reported a national CCDF payment error rate of 5.74 percent, or \$311 million, in the HHS FFY 2015 financial report. This report also noted that Missouri reported a 19.68-percent payment error rate in FFY 2012. (See Appendix A.)

HOW WE CONDUCTED THIS REVIEW

For the current audit, we reviewed the State agency's compliance with Federal and State requirements governing payments made under its childcare assistance program, with particular attention to attendance documentation requirements (that is, provider-maintained attendance records to support paid childcare services).

We selected a stratified random sample of 128 provider service months and reviewed the attendance documentation for each provider service month in our sample.⁹ We selected this sample from 8,112 provider service months with childcare payments totaling \$102,490,247 (which included Federal and State CCDF funds as well as funds from other Federal and State programs) for SFYs 2014 and 2015 (July 1, 2013, through June 30, 2015). The State agency's Child Care Subsidy program draws from these funding streams. Thus, of the \$102,490,247 in Child Care Subsidy Program payments, \$95,863,781 was drawn from Federal and State CCDF funds and represented the CCDF share of childcare payments (CCDF share). Further, \$70,830,006 represented the Federal share of those CCDF childcare payments (Federal CCDF share).

We interviewed State agency officials and reviewed applicable Federal and State laws, regulations, and guidance to obtain an understanding of the policies and procedures that the State agency used to determine the allowability of payments for childcare claims.

We did not review the State agency's overall internal control structure. We reviewed only those controls that pertained to our objective. Specifically, we determined whether the State agency made childcare payments that complied with the Federal and State attendance documentation requirements related to the maintenance of adequate attendance records.

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

Appendix B contains details of our audit scope and methodology, Appendix C contains our statistical sampling methodology and our calculation methodology for the CCDF share of expenditures and the aggregate Federal share percentage, and Appendix D contains our sample results and estimates.

FINDINGS

The State agency did not always comply with Federal and State requirements when making payments under its Child Care subsidy program for SFYs 2014 and 2015. Client attendance records were not adequately documented for 124 of the 128 provider service months in our stratified random sample; childcare payments made for claims in those 124 provider service months were therefore unallowable.

The deficiencies occurred because the State agency did not exercise sufficient oversight over its Child Care Subsidy program. Specifically, the State agency relied on attendance records that were maintained by providers and whose completeness and accuracy were not always verified

⁹ A provider service month includes all childcare claims paid to a provider for a single month of service.

by the client's parent or adult designee, did not have sufficient policies and procedures to ensure that it obtained attendance records from providers that were no longer in business, and had only recently implemented an additional mechanism (the CCRT) to conduct reviews and recommend training to providers found to have inadequate documentation practices.

On the basis of our sample results, we estimated that at least \$25,818,345 of the CCDF share of the State agency's Child Care Subsidy Program payments (\$19,076,167 Federal CCDF share) did not comply with Federal and State requirements.¹⁰

CHILDCARE PAYMENTS NOT MADE IN ACCORDANCE WITH FEDERAL AND STATE REQUIREMENTS

Federal and State Requirements

In its State plan, the lead agency must assure that upon approval, it will have a program in effect that complies with the plan and that is administered in accordance with the program's authorizing legislation and all other applicable Federal laws and requirements (45 CFR § 98.15(a)(1)). Federal regulations also require that a State's fiscal control and accounting procedures be sufficient to allow for the tracing of funds to a level of expenditure adequate to establish that funds were used in accordance with applicable Federal regulations (45 CFR § 98.67(c)(2)). In addition, the State is to expend and account for CCDF funds in accordance with its own laws and procedures for expending and accounting for its own funds (45 CFR § 98.67(a)).

The State agency's CCPM and childcare provider agreements require daily attendance records that must, at a minimum, include the name of the child for whom reimbursement is requested, the date(s) the child was in attendance and the time of his or her arrival and departure, and the original signature of the parent or adult designee.¹¹ The State agency's CCPM and childcare provider agreements also require that the attendance records be maintained for 5 years and that they be made available to the State agency on request.¹² Further, the State agency's childcare provider agreements specify that the State agency shall have the right to recover from the provider all funds for which adequate verification and full documentation of expenditures are not maintained (i.e., inadequate or missing attendance records).¹³

¹⁰ To be conservative, we recommend recovery of overpayments at the lower limit of a two-sided 90-percent confidence interval. Lower limits calculated in this manner will be less than the actual overpayment total at least 95 percent of the time.

¹¹ *Missouri Child Care Policy Manual*, section 1225.035.15, and the *Child Care Provider Agreement*, part 19(B). The childcare provider agreements are the standard contracts that licensed providers enter into with the State agency.

¹² *Missouri Child Care Policy Manual*, section 1225.035.15, and the *Child Care Provider Agreement*, part 19.

¹³ *Child Care Provider Agreement*, part 28.

Attendance Documentation Requirements Not Met

The State agency did not always comply with Federal and State requirements when making payments under its Child Care Subsidy program for SFYs 2014 and 2015. Specifically, client attendance records for 124 provider service months (with 3,451 associated childcare payments) did not comply with Federal and State documentation requirements. These provider service months had the following errors (some provider service months had more than one error):

- the provider was unable to locate some or all of the attendance documentation (577 childcare payments);
- the State agency was unable to obtain attendance documentation for providers that were no longer in business (549 childcare payments);
- the attendance documentation did not contain the signature of the parent or adult designee (1,001 childcare payments);
- the attendance documentation did not include all of the dates the child was in attendance or all of the times of arrival and departure (585 childcare payments); or
- the attendance documentation was sufficient to elucidate the childcare services paid to the providers, but the documentation did not adequately support the quantity or level of services that were paid (868 childcare payments).¹⁴

For example, 1 provider service month we reviewed contained 89 childcare payments. The provider was unable to locate the attendance documentation for 18 of these 89 payments. Of the 71 childcare payments for which we obtained attendance documentation, 47 attendance documents did not contain the parent or adult designee's signature, 35 did not contain the times of arrival and departure for all days of care, and 6 did not adequately support the quantity or level of services that were paid to the provider (e.g., the attendance documents supported fewer days or different levels of services than the days and services for which the provider was paid).

INSUFFICIENT OVERSIGHT OVER THE CHILD CARE SUBSIDY PROGRAM

Oversight and Policies and Procedures at the State Agency Level Were Insufficient

The deficiencies occurred because the State agency did not exercise sufficient oversight over its Child Care Subsidy program. Although the State agency has in recent years begun to implement

¹⁴ Because some provider service months had more than one type of error, we were not able to differentiate all instances in which the attendance documentation did not adequately support the quantity or level of services that were paid. Therefore, the number of childcare payments listed in this last bullet refers to the payments that had only this type of error and none of the types of errors in the preceding bullets.

program review and oversight measures (see the discussion as part of “Background”), vulnerabilities in these measures remain. Specifically:

- The State agency did not exercise sufficient oversight over attendance documentation requirements to ensure that providers maintained attendance records that adequately supported childcare payments in accordance with Federal and State requirements. Insufficient oversight was reflected in the extent to which childcare payments had been made for provider service months whose attendance documentation was missing, unsigned, incomplete, or inaccurate.
- The State agency also did not have sufficient policies and procedures to ensure that it obtained attendance records from providers that were no longer in business. Thus, there was no mechanism through which the State agency could (1) obtain the attendance records from providers that had gone out of business or were about to do so, (2) evaluate those records, and (3) attempt to recoup payments in cases when problems had been identified.

Sufficient oversight is a key element in a strong system of internal control. Furthermore, sufficient oversight can help ensure that providers follow the State agency’s policies and procedures regarding the maintenance of client attendance records. Without sufficient oversight, the State agency’s Child Care Subsidy program is vulnerable to fraud, waste, and abuse.

COSTS ASSOCIATED WITH PAYMENTS NOT MADE IN ACCORDANCE WITH REQUIREMENTS

On the basis of our sample results, we estimated that at least \$25,818,345 of the CCDF share of the State agency’s Child Care Subsidy Program payments (\$19,076,167 Federal CCDF share)¹⁵ did not comply with Federal and State requirements.

RECOMMENDATIONS

We recommend that the State agency:

- refund to the Federal Government the estimated \$19,076,167 Federal CCDF share of the Child Care Subsidy Program claims paid during SFYs 2014 and 2015,
- strengthen its controls and oversight activities to ensure that providers maintain required attendance documentation to support the childcare payment amounts that they claim for reimbursement by the State agency, and

¹⁵ To calculate the Federal CCDF share, we multiplied the \$27,603,006 lower limit of the 90-percent two-sided confidence interval (Appendix D) by the 93.53 percent CCDF share of childcare expenditures and the 73.89 percent aggregate Federal share percentage (Appendix C).

- develop policies and procedures to ensure that it obtains attendance records from providers that are no longer in business.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency concurred with our second recommendation and described corrective actions that it had taken or planned to take, to include stated progress toward the use of an electronic time and attendance system. The State agency did not concur with our first and third recommendations. A summary of the State agency's comments and our response follows.

After reviewing the State agency's comments and additional documentation that the State agency provided after issuance of our draft report, we revised the number of childcare payments, and the associated dollar amounts, in our first finding; these revisions, in turn, reduced the dollar amount in our first recommendation.¹⁶ Otherwise, we maintain that our findings and the associated recommendations remain valid.

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

THE CHILD CARE AND DEVELOPMENT FUND'S STATUS AS A BLOCK GRANT

State Agency Comments

The State agency pointed out that CCDF is a block grant, for which program integrity activities rest in the first instance with the State. The State agency added that our audit report gave no indication that the State had neglected its program integrity responsibilities or failed to undertake its own program integrity and antifraud activities. The State agency also referred to the 19.68-percent self-reported FY 2012 payment error rate alluded to in our report and noted that it has undertaken significant efforts that have more recently reduced this error rate to 5.84 percent, which is in line with the national average.

The State agency also said that because CCDF is a block grant, these funds "are not subject to repayment unless they have been expended in violation of the terms of the specific grant at issue." In this regard, the State agency cited 42 U.S.C. § 9858i and a decision of the U.S. Department of Health and Human Services, Departmental Appeals Board (DAB).¹⁷ The terms of the CCDF block grant, according to the State agency, do not require a particular type of

¹⁶ Specifically, we reduced the number of childcare payments that did not comply with Federal and State requirements from 3,476 to 3,451. By adjusting the associated dollar amounts, we also reduced our first recommendation's estimate of the Federal CCDF share of the State agency's Child Care Subsidy Program payments from \$19,154,141 to \$19,076,167.

¹⁷ *Pennsylvania Department of Public Welfare*, DAB No. 2332 (2010). The text of the State agency's written comments at Appendix E correctly cites the United States Code (that is, § 9858i), but footnote 1 of those comments has a typographical error in its reference to what should be the same section of the Code.

attendance documentation in expending CCDF funds. The State agency added that there is no basis in statute or regulation for our “*ad hoc* and retrospective” calculation of a “federal share” of the State’s childcare expenditures.

Moreover, the State agency said that we misapplied its policies with respect to a “large portion” of the deficiencies we identified. Specifically, the State agency commented that we misapplied the policy requirement that a parent or guardian sign the child attendance record at the end of each month. The State agency added that it does not consider a missing initial or signature to be irremediable and that the provider can return to the parent to collect the missing information.

Office of Inspector General Response

Our report does not opine that the State agency was negligent in its program integrity responsibilities. Rather, our findings describe instances in which the State agency’s controls were not always effective in ensuring that payments were made in accordance with Federal and State requirements. Our report acknowledges that the State agency has in recent years implemented program review and oversight measures, including the creation of the CCRT in August 2013. The 19.68-percent self-reported payment error rate that we mention in “Why We Did This Review” was the most current figure available at the start of our audit in September 2015. The 5.84-percent error rate to which the State agency referred was not submitted to ACF until July 26, 2016, which was after the start of our review.

We disagree with the State agency that CCDF block grant funds are not subject to repayment unless they were expended in violation of the terms of the grant. The section of the U.S. Code that the State agency cited in its comments deals with the CCDF program rather than with “terms of the specific grant at issue.” Accordingly, relevant Federal regulations (45 CFR § 98.66(a)) state that any expenditures not made in accordance with the CCDBG Act, the implementing regulations, or the approved State plan will be subject to disallowance.

Although these requirements do not explicitly require a particular type of attendance documentation in expending block grant funds, they do require States to expend and account for CCDF funds in accordance with their own laws and procedures (45 CFR § 98.67(a)). The Missouri CCDF State plans identify the CCPM as the relevant policy manual (footnote 3). The CCPM and the childcare provider agreements require daily attendance records that must, at a minimum, include certain information and be maintained for 5 years. We reviewed the attendance documentation maintained by providers to determine whether it met these requirements. Our findings describe the manner in which the documentation did not meet the State’s requirements and therefore did not meet the Federal requirements.

With respect to the State agency’s reference to the “*ad hoc* and retrospective” calculation of the Federal share of the State’s childcare expenditures (referred to in this report as “Federal CCDF share”), we agree that Federal regulations do not explicitly provide a basis for our calculation of that amount. However, as stated earlier, Federal regulations require that a

State's fiscal control and accounting procedures be sufficient to allow for the tracing of funds to a level of expenditure adequate to establish that funds were used in accordance with applicable Federal regulations (45 CFR § 98.67(c)(2)). We developed the methodology we used to calculate the percentage of CCDF expenditures that was paid for with Federal funds (Federal CCDF share). During the audit, we shared details of our proposed methodology for calculating the CCDF share and Federal CCDF share percentages of childcare expenditures with a State agency representative. We obtained input from the State agency and then refined that methodology and used it to calculate the amount of Federal funds that were not used in accordance with Federal requirements. At no time (during the audit or in its comments on our draft report) did the State agency call into question the accuracy of our calculations.

We disagree with the State agency's statement that we misapplied its policies regarding signatures and initials on attendance records. Discussion earlier in this report has delineated the relationship among Federal requirements, the CCDF State plans, the CCPM, and childcare provider agreements (footnote 3). Those agreements specify that the State agency has the right to recover from providers all funds for which adequate verification and full documentation of expenditures are not maintained (i.e., inadequate or missing attendance records) (footnote 13). During our fieldwork, we reviewed the attendance documentation maintained by providers to determine whether it met these requirements. State agency officials confirmed to us during this period that the State agency would recoup payment from providers if the attendance sheet could not be obtained, if the signature of the parent or adult designee was missing, or if the times of arrival and departure were not fully documented. These officials added, though, that the State agency would not recoup payment in cases when the initials of the parent or adult designee were missing from daily attendance records.

Contrary to the State agency's assertion in its written comments, we did not question costs for attendance records that were missing the *initials* of the parent or adult designee. Rather, we applied the same standards that the State agency's CCRT applied in its reviews of attendance records.

Consistent with the State agency's standards, we questioned costs for cases in which attendance records were missing *signatures*. We note, too, that the CCPM makes no provision for after-the-fact collection of missing signatures and attendance verification. Moreover, at no time between the initiation of our audit and the issuance of our draft report did the State agency make us aware—or provide us with any documentation to support—that it does not consider a missing signature to be irremediable. To the contrary, during our audit work the State agency shared with us documentation summarizing its own reviews of childcare providers. This documentation clearly demonstrated that the State agency's CCRT recouped costs in instances of missing signatures (and missing in and out times) on attendance records.

Although the State agency said in its comments that childcare providers can return to parents to collect missing signatures and other attendance information, there is no provision in either the CCPM or the provider agreements for such after-the-fact collection. In addition, the State agency provided no documentation supporting that missing information had been collected in

this way. In fact, State agency officials informed us during our audit that when the State agency's CCRT had identified instances of missing signatures, it would generate a claim to recoup payment from the childcare provider. Finally, with respect to the State agency's suggestion that a provider could return to parents to collect missing information such as signatures, we note that our audit period included childcare services rendered between July 1, 2013, and June 30, 2015. The site visits during which we identified these discrepancies took place in November 2015, February 2016, and March 2016. It is not reasonable for providers to return to parents to verify attendance and collect missing signatures after passage of such a significant amount of time. In addition, the reliability of such retroactive certification would be low and at a high risk for potential fraud.

BASIS AND PRECEDENT FOR REPAYMENT OF CHILD CARE SUBSIDY PROGRAM FUNDS

State Agency Comments

The State agency cited the DAB decision mentioned earlier (footnote 17) to assert that the "CCDF statute" (that is, the CCDBG Act) provides for the repayment of only those CCDF funds that were disallowed as the result of a *State* audit and added that "there is no general authority for disallowances based on other types of audits." In addition, the State agency said that we have never before recommended a CCDF disallowance against a State, even when we have identified similar documentation deficiencies.

The State agency added that there are no Federal or State regulations that require it to obtain records from providers that are no longer in business and said that it was extremely unlikely that the State would be able to recover improper payments if such providers were later identified. Specifically, the State agency said that its contracts with childcare providers require them to maintain records for 10 years after services are provided. The State agency added that aside from litigation for breach of contract, the remedies available to the State are limited in the event that a provider fails to comply. Finally, the State agency said that it is unclear what other types of policies and procedures we are recommending (with respect to out-of-business providers in our third recommendation) that it implement.

Office of Inspector General Response

The State agency argued that the CCDBG Act only provides for the disallowance of funds as a result of a State audit. This argument, however, is undercut by Federal regulations implementing that statute, which clearly envision that disallowances will result from Federal audits as well. While the rule addressing audits and financial reporting does mandate a Single Audit (45 CFR § 98.65(a)), the rule includes a much broader provision stating that "[A]ny amounts determined through an audit not to have been expended in accordance with these statutory or regulatory provisions, or with the Plan" (emphasis added) and that are subsequently disallowed by the Department shall be repaid by the State or offset by the Secretary [of Health and Human Services] (Secretary) (45 CFR § 98.65(d)). If only a State audit were envisioned, the relevant regulatory provision would cross-reference the Single Audit, as it

does in 45 CFR § 98.65(f) (“The audit required in paragraph (a) of this section”). The rule, moreover, requires lead agencies to provide access “to appropriate books, documents, papers and records to allow the Secretary to verify that CCDF funds have been expended in accordance with the statutory and regulatory requirements of the program, and with the Plan” (45 CFR § 98.65(e)). Such a provision would not be necessary if only State audits were authorized. Finally, our interpretation of the statute and implementing Federal regulations is reinforced by language discussing the section in the preamble to the Final Rule: “Grantees should be aware that additional Federal audits and reviews may be conducted” (57 Fed. Reg. 34352, 34403 (Aug. 4, 1992)).^{18,19}

Once the Federal regulations at 45 CFR § 98.65 establish that disallowances may be made on the basis of an audit, they lay out procedures stating that any expenditures not made in accordance with the CCDBG Act, the implementing regulations, or the approved State plan will be subject to disallowance (45 CFR § 98.66(a)). The regulations also include provisions regarding repayment of disallowed Federal funds as well as the appeal process that may include the DAB (45 CFR § 98.66).

In making its argument that the Secretary may take disallowances only on the basis of State audits, the State agency referred to a DAB decision (No. 2332; footnote 17). In that case, the Pennsylvania Department of Public Welfare (Pennsylvania) had questioned ACF’s authority to disallow claimed CCDF expenditures. The DAB did not address the question of whether the Secretary may take a disallowance based on a *Federal* audit, as a *State* audit served as the basis for the disallowance in question. Contrary to the line of reasoning that the Missouri State agency advances, the DAB decision does *not* indicate, either in its particulars or in a broader context, that *only* a State audit may serve as the basis for a disallowance. In fact, the entire thrust of the DAB’s decision (which concludes that Pennsylvania’s legal arguments “have no merit” and which upholds the disallowance in full) supports the criteria that we followed in this audit.

The State agency said that we have never before recommended a CCDF disallowance against a State and cited to other audit reports (Appendix A). Those audits, however, had fundamentally different objectives and scopes. Specifically, the objectives of the previous audits were to review the effectiveness of individual State agencies’ controls rather than to review whether those State agencies had made childcare payments in accordance with Federal and State requirements. In other words, the audits cited in Appendix A focused on controls; this audit

¹⁸ The preamble includes a caveat that “these audits and reviews will build upon work performed by prior audits.” As discussed at the outset of this report, we undertook this audit in response to vulnerabilities exposed by prior audits conducted at both at the State and Federal levels.

¹⁹ We note that in 45 CFR § 75.503(b), entitled “Relation to other Audit Requirements,” the requirement for a Single Audit does not preclude other audits. The provision, which took effect for FYs beginning on or after December 26, 2014, states that notwithstanding a Single Audit, “a Federal agency, Inspectors General, or GAO may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal statute or regulation.” While this provision did not apply during our audit period, it reinforces the general principle that specific authority is not required for an audit or review undertaken in relation to general oversight responsibilities.

focuses on payments. Other CCDF audits, not cited in Appendix A, have recommended disallowances; see for example *Nebraska Improperly Claimed Some Child Care and Development Targeted Funds* (A-07-12-03175, issued April 30, 2013). Moreover, we included the State's self-reported 19.68-percent payment error rate in this report because it reinforced our decision to structure the audit to focus on childcare payments.

With respect to the State agency's comments about the challenges of obtaining and retaining attendance records from providers that have gone out of business, we acknowledge the validity of those concerns. We also note that the CCPM and childcare provider agreements require that attendance records be maintained for 5 years and that they be made available to the State agency on request. The childcare provider agreements include provisions under which the State agency can recover payments from providers due to inadequate documentation, to include inadequate or missing attendance records. As an example of the vulnerabilities of childcare payments made to providers that go out of business, during our fieldwork one of the childcare providers we visited had closed for business and had debris littering its premises and a "For Rent" sign in its window. Nevertheless, the provider billed the State agency for childcare services for five children, not only on the day of our attempted visit, but for the next 15 calendar days. The State agency paid this claim. This example illustrates the vulnerability and high risk for potential fraud when childcare providers go out of business.

Because States have considerable latitude in implementing and administering their childcare programs, we do not recommend specific policies or procedures that the State agency can implement to obtain records from providers that are no longer in business. Rather, we are recommending that the State agency evaluate its current policies and procedures and consider revisions that would increase its effectiveness in ensuring that it obtains attendance records from providers that are no longer in business. The State agency's reference to its ongoing efforts to develop an electronic attendance system offers clear evidence that such evaluation and revision is taking place.

USE OF EXTRAPOLATION TO DEVELOP AMOUNT OF RECOMMENDED REPAYMENT

State Agency Comments

With respect to the recommended refund in our first recommendation, the State agency said that it believes there were errors in our extrapolation and added that "at the very least the lack of documentation from out-of-business providers should not have been extrapolated to the claims of the State as a whole."

Office of Inspector General Response

We disagree with the State agency that there were errors in the extrapolation of the audit results and with its comments about out-of-business providers. We properly executed our statistical sampling methodology in that we defined our sampling frame and sampling unit, randomly selected our sample, applied relevant criteria in evaluating the sample, and used

statistical sampling software (i.e., RAT-STATS) to apply the correct formulas for the extrapolation.

We found that providers that had gone out of business were still billing and receiving payments for childcare services from the State agency during our audit period. Moreover, the CCPM and childcare provider agreements require that attendance records be maintained for 5 years and include provisions under which the State agency can recover payment from providers for inadequate or missing attendance records. The fact that a provider is currently out of business does not absolve the State of its responsibility to support the validity of payments made to that provider; these unsupported payments are relevant both for identifying overpayments within the sample and estimating the total overpayments in the sampling frame.

To be conservative with our estimate, we calculated the recommended recovery amount using the lower limit of a two-sided 90-percent confidence interval. This approach results in a lower recovery, on average, than would have been the case if we had reviewed all of the payments in the sampling frame. The presence of out-of-business providers within the sample does not change the conservative nature of this approach.

The DAB has supported our use of statistical sampling to calculate disallowances in accordance with these policies. (See, e.g., *New Jersey Department of Human Services*, DAB No. 2415 (2011)). (Details of our sampling and projection methodologies, including our use of random sample selection, appear in Appendices C and D.)

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>More Effort is Needed To Protect the Integrity of the Child Care and Development Fund Block Grant Program</i>	<u>OEI-03-16-00150</u>	7/13/16
<i>Not All of Kansas's Controls for Its Child Care Subsidy Program Claims Were Effective</i>	<u>A-07-12-03182</u>	7/08/14
<i>Not All of Nebraska's Controls for Its Child Care Subsidy Program Claims Were Effective</i>	<u>A-07-11-03167</u>	3/25/14
<i>Iowa Lacked Some Documentation for Its Childcare Assistance Program Claims</i>	<u>A-07-11-03164</u>	8/30/12

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed the State agency's Child Care Subsidy program payments made on behalf of the CCDF program for SFYs 2014 and 2015 (July 1, 2013, through June 30, 2015). During this timeframe, the State agency paid childcare claims totaling \$177,995,206 to licensed providers. We limited our review to 8,112 provider service months (consisting of 297,205 individual childcare claims) for which the State agency made childcare payments totaling \$102,490,247 (which included Federal and State CCDF funds as well as funds from other Federal and State programs) to licensed providers in the counties that comprised the Kansas City, Jefferson City, Columbia, and St. Louis metropolitan areas.

The State agency's Child Care Subsidy program draws from these funding streams. Of the \$102,490,247 in Child Care Subsidy Program payments, \$95,863,781 was drawn from Federal and State CCDF funds and represented the CCDF share and \$70,830,006 represented the Federal CCDF share.

From the 8,112 provider service months, we used a stratified random sample (Appendix C) to select and review 128 provider service months. (A provider service month includes all childcare claims paid to a provider for a single month of service.)

We did not review the State agency's overall internal control structure. We reviewed only those controls that pertained to our objective. Specifically, we determined whether the State agency made childcare payments that complied with the Federal and State requirements related to the maintenance of adequate attendance records.

We conducted fieldwork at the State agency in Jefferson City, Missouri, and at the licensed childcare centers that we selected for review, from September 2015 to November 2016.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and program guidance for the CCDF program;
- reviewed applicable State laws and the approved Missouri CCDF State plans related to the Child Care Subsidy program for SFYs 2014 and 2015;
- interviewed State agency staff to obtain an understanding of the policies, procedures, and guidance for the Child Care Subsidy program;

- reviewed the State agency's ACF-696 reports (footnote 2) and supporting documentation for SFYs 2014 and 2015 to determine the amount of childcare payments that were included in each report and the breakout of the payments charged to each funding source (Federal or State funds);
- interviewed State agency staff responsible for preparing the ACF-696 reports to obtain an understanding of how the reports were prepared, how program expenses are allocated to the different funding sources, how the childcare claims were reported, and what documentation the State agency maintained to support these claims;
- interviewed State agency staff to obtain an understanding of the State agency's specific controls for
 - ensuring that providers maintain attendance documentation to support paid childcare services) and
 - claim processing (units and rates paid compared with the State agency's established amounts and amounts invoiced by providers);
- obtained the claim payment data for all childcare payments from the State agency for SFYs 2014 and 2015;
- reconciled paid claim data with the State agency's accounting system and the ACF-696 reports to ensure that the childcare paid claim population in our audit scope represented the amounts that the State agency claimed for Federal reimbursement;
- removed from the claim payment data (1) claims from providers who were paid less than \$50,000 during the audit period, (2) claims from providers associated with known day care franchises, (3) provider service months associated with payments less than \$1,000, and (4) claims from providers under investigation (Appendix C);
- selected a stratified random sample of provider service months;
- visited the selected providers to collect the attendance documentation for each provider service month in our sample,
- reviewed the 128 randomly selected provider service months to evaluate whether the State agency complied with Federal and State requirements when making payments under its Child Care Subsidy program for SFYs 2014 and 2015;
- used the sample results to estimate the overpayment amount associated with the deficiencies identified;

- shared with the State agency details of our proposed methodology for calculating the CCDF share and Federal CCDF share percentages of childcare expenditures, obtained input from the State agency, and then refined that methodology and used it to calculate the amount of Federal funds that were not used in accordance with Federal requirements;
- applied the CCDF share of childcare expenditures and Federal CCDF share percentages (Appendix C) to the lower limit of the estimate of the total costs associated with the identified control deficiencies (Appendix D) to estimate the Federal CCDF share of these costs;
- discussed the results of our review with State agency officials, and gave them detailed data on our findings, on November 17, 2016, and April 21, 2017;
- gave the State agency copies of the attendance documentation we obtained during our audit and a detailed payment-level summary of our findings on May 16, 2017; and
- reviewed the information the State agency added to the detailed payment-level summary of our findings and, where applicable, revised the number of childcare payments and the associated dollar amounts in our first finding.

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

APPENDIX C: STATISTICAL SAMPLING AND MATHEMATICAL CALCULATION METHODOLOGY

TARGET POPULATION

The target population consisted of the monthly payments for childcare services made to providers (that is, licensed childcare centers) in Missouri for SFYs 2014 and 2015 (July 1, 2013, through June 30, 2015).

SAMPLING FRAME

The sampling frame was a database of 8,112 paid provider service months with payment amounts totaling \$102,490,247. This sampling frame excluded (1) providers paid less than \$50,000 during the audit period, (2) providers associated with known day care franchises, (3) provider service months associated with payments less than \$1,000, and (4) providers under investigation.

SAMPLE UNIT

The sample unit was a provider service month, which included all childcare claims paid to a provider for a single month of childcare services.

SAMPLE DESIGN

We used a stratified random sample consisting of five strata, based on the characteristics listed below.

Stratum 1 consisted of a certainty stratum that was initially developed as a probe sample.

Stratum 2 consisted of provider service months with payments that were greater than or equal to \$1,000 and less than \$6,653.

Stratum 3 consisted of provider service months with payments that were greater than or equal to \$6,653 and less than \$15,505.

Stratum 4 consisted of provider service months with payments that were greater than or equal to \$15,505 and less than \$33,209.

Stratum 5 consisted of provider service months with payments that were greater than or equal to \$33,209.

SAMPLE SIZE

We selected a sample of 128 provider service months. We reviewed all 8 provider service months for stratum 1 and randomly selected 30 provider service months for stratum 2 through stratum 5.

SOURCE OF RANDOM NUMBERS

We generated the random numbers with the OIG/OAS statistical software.

ESTIMATION METHODOLOGY

We used the OIG/OAS statistical software to estimate, in total, the costs associated with the deficiencies we identified. Because the childcare claims are paid from several funding streams, including Federal and State CCDF funds as well as funds from other Federal and State programs, we developed two aggregate percentages to identify the approximate CCDF share and Federal CCDF share of the total costs associated with the identified deficiencies.

We first calculated the aggregate CCDF share percentage by determining the amount of childcare claims that the State agency paid using CCDF funds and dividing that amount by the total of all paid childcare claims for the audit period. As a result, we calculated that 93.53 percent of all paid childcare claims were paid using CCDF funds (CCDF share).

We then calculated the aggregate Federal CCDF share percentage by determining the amount of childcare paid claims that the State agency reported on each quarterly ACF-696 report for each funding stream (Federal funds, State funds, and matching funds) and divided the total Federal funds by the total paid childcare claims for the audit period. As a result, we calculated that 73.89 percent of all CCDF-paid childcare claims were paid using Federal CCDF funds (Federal CCDF share).

To calculate the Federal CCDF share of costs associated with the identified deficiencies, we multiplied the CCDF share percentage and the Federal CCDF share percentage by the lower limit of the estimate of the total costs associated with the identified control deficiencies. The lower limit was based on a two-sided interval calculated at the 90-percent confidence level.

APPENDIX D: SAMPLE RESULTS AND ESTIMATES

Sample Details and Results

Stratum	Frame Size	Frame Value	Sample Size	Value of Sample	Number of Sample Items With Errors	Overpayment Amount of Sample Items With Errors
1	8	\$75,193	8	\$75,193	7	\$57,445
2	3,057	12,402,903	30	116,877	28	49,034
3	2,866	30,004,295	30	305,594	29	111,859
4	1,681	35,543,017	30	636,357	30	237,421
5	500	24,464,839	30	1,388,475	30	315,950

Estimates of Control Deficiencies

(Limits Calculated for a 90-Percent Confidence Interval)

	Total Estimated Costs Associated With Control Deficiencies
Point estimate	\$34,309,668
Lower limit	27,603,006 ²⁰
Upper limit	41,016,330

²⁰ As discussed in footnote 15, to calculate the \$19,076,167 Federal CCDF share discussed in “Costs Associated With Payments Not Made in Accordance With Requirements” and for which we are recommending a refund to the Federal Government, we multiplied this \$27,603,006 lower limit of the 90-percent two-sided confidence interval by the 93.53-percent CCDF share of childcare expenditures and the 73.89-percent aggregate Federal share percentage (Appendix C).

August 24, 2017

Patrick J. Cogley
Regional Inspector General for Audit Services
Office of Audit Services, Region VII
601 East 12th Street, Room 0429
Kansas City, MO 64106

Re: Report Number A-07-15-04226

Dear Mr. Cogley:

We appreciate the opportunity to provide comments on the draft of the above-referenced audit report, entitled *Not All of Missouri's Child Care Subsidy Program Payments Complied with Federal and State Requirements*. The audit was of subsidized childcare services funded partly by the Child Care and Development Fund (CCDF) for SFYs 2014 and 2015. Most of the audit's findings and recommendations relate to identified deficiencies in provider-maintained attendance records, including the auditors' inability to access records for providers that have since gone out of business.

The report makes three recommendations. We do not concur with two of them, as further explained below.

Recommendation #1: That the State agency refund to the Federal Government the estimated \$19,154,141 Federal CCDF share of the Child Care Subsidy Program claims paid during SFYs 2014 and 2015.

We disagree. The recommendation is based on a sample finding \$775,346 in perceived errors in attendance records (including many that involved now out-of-business providers) of child care facilities receiving subsidy payments on behalf of eligible families. The draft audit then extrapolates these errors to all of the State's child care subsidy payments during two state fiscal years, which yields an estimate of \$27,715,833 in payments made to child care providers with errors in attendance records. The auditors calculate a "federal share" of the \$27,715,833 by multiplying it by the percentage of the State's child care expenditures that were supported with CCDF funds (which the draft audit calculates as 93.53%), and then by the percentage of Federal funds that make up the State's CCDF expenditures (which the draft audit calculates as 73.89%).

There are multiple and compounding flaws in this approach.

RELAY MISSOURI

FOR HEARING AND SPEECH IMPAIRED

1-800-735-2466 VOICE • 1-800-735-2966 TEXT PHONE

First, CCDF is a block grant for which program integrity activities rest in the first instance with the State, and there is no indication the State has neglected those responsibilities. As the OIG has previously recognized, “[a]s with other block grants, States have flexibility, within certain broad parameters, in managing CCDF funds and determining the internal controls and fraud prevention activities they will use to ensure program activity.” See OEI-03-16-00150, *More Effort Is Needed to Protect The Integrity of the Child Care and Development Fund Block Grant Program*, at 1. “As a block grant, CCDF is designed to provide maximum flexibility to the States, including how the States oversee the integrity of their programs.” *Id.* at 2. As the cited reported notes, States are responsible for CCDF program integrity activities, and ACF gives States “the flexibility to determine which program integrity and antifraud activities they will undertake to protect their CCDF programs.” Nothing in the audit finds that Missouri DSS failed to undertake its own program integrity and antifraud activities. In fact, while the OIG notes that Missouri had a self-reported payment error rate of 19.68% in 2012, after concerted effort by the State to improve its processes, the most recent evaluation is an error rate of 5.84%, which is in line with the national average.

Second, because CCDF is a block grant, federal funds are not subject to repayment unless they have been expended in violation of the terms of the specific grant at issue,¹ and the audit does not (and cannot) identify any federal statute or regulation that requires a particular type of attendance documentation in expending CCDF block grant funds. Instead, the audit incorrectly applies the type of documentation requirement which other federal programs, such as Medicaid, require before a claim may be submitted for payment.

Third, the CCDF statute requires repayment of funds only when a *state audit* has determined that funds were not expended in accordance with the Child Care and Development Block Grant Act (CCDBG) Act. See 42 U.S.C. § 9858i (referring to repayment of amounts “determined through an audit under this subsection,” which involves single state audits). There is no general authority for disallowances based on other types of audits, and the only Departmental Appeals Board decision involving a CCDF disallowance was based on deficiencies identified in a state audit. See *Pennsylvania Dep’t of Public Welfare*, DAB No. 2332, at 24 (“ACF reasonably determined that this provision applies if a state audit found a state did not expend funds in accordance with the earmark restriction on CCDF funds in an appropriation law.”).

Fourth, because the CCDF is a block grant, there is no basis in statute or regulation for the OIG’s *ad hoc* and retrospective calculation of a “federal share” of the State’s child care expenditures.

Fifth, and presumably in light of all of the above, the OIG has never before recommended a CCDF disallowance against a State, even when it has identified similar documentation deficiencies. See A-07-12-03182, *Not All of Kansas’s Controls for Its Child Care Subsidy Program Claims Were Effective*; A-01-11-03167, *Not All of Nebraska’s Controls for Its Child Care Subsidy Program Claims Were Effective*; A-07-11-03164, *Iowa Lacked Some Documentation for Its Childcare Assistance Program Claims*. In these other audits, the OIG

¹ See 42 U.S.C. § 9568i(b)(4) (States must repay amounts determined “not to have been expended in accordance with this subchapter”); see also *Pennsylvania Dep’t of Public Welfare*, DAB No. 2332 (2010), at 2 (detailing statutory restrictions on use of funds).

did not recommend disallowance but instead “estimated” program claims that “could have had one or more of the control deficiencies” identified. *See, e.g., Kansas Report* (estimating \$26 million in Federal funds that could have had control deficiencies); *Nebraska Report* (estimating \$8.7 million in Federal funds that could have had control deficiencies); *Iowa Report* (estimating \$10.6 million in Federal funds affected by documentation deficiencies). Even though all of these other States are in the same region as Missouri, the draft audit does not explain why the OIG is recommending an extrapolated disallowance only for Missouri, while the other States are simply encouraged to improve their processes.

Sixth, the OIG misapplied the state policies underlying a large portion of the identified deficiencies. Missouri policy requires that a parent or guardian sign a child attendance record at the end of each month, as well as initial the record daily. Because it recognizes that both parents and providers face numerous distractions during daycare drop-off and pick-up, the State does not consider a missing initial or signature to be irremediable. Rather, in the State’s own program integrity efforts, if one or the other of these is missing (monthly signature or daily initial), the provider can return to the parent to collect the missing information. The OIG instead considered the lack of either one to be fatally deficient.

Seventh, many of the deficient records related to the inability to retrieve the attendance records from out-of-business providers. As set forth below in response to recommendation #3, Missouri agrees that a best practice is to ensure the availability of records even after a provider goes out of business, but there is no federal or state regulation that requires this. Further, given that such providers are no longer a going concern, it is extremely unlikely that the State would be able to recover improper payments even if they were later identified.

Finally, even if a disallowance were authorized by statute, and could be based on the identified documentation errors, Missouri believes that there were errors in the extrapolation, and that at the very least the lack of documentation from out-of-business providers should not have been extrapolated to the claims of the State as a whole.

Recommendation #2: That the State agency strengthen its controls and oversight activities to ensure that providers maintain required attendance documentation to support the childcare payment amounts that they claim for reimbursement by the State agency.

We concur with this recommendation, and Missouri has already taken substantial steps in this direction since the audit period. Specifically, Missouri has already taken the following steps:

- (i) implementation of a 2015 Corrective Action Plan, dated June 30, 2015 (Attachment 1), which in part deals with attendance records.
- (ii) implementation of a second 2015 Corrective Action Plan, dated June 30, 2015, (Attachment 2), which dealt primarily with a Child to Provider Relation Form and the Family Assistance Management Information System (FAMIS);
- (iii) implementation of a 2016 Corrective Action Plan, dated June 30, 2016 (Attachment 3), which again dealt with family relationships; and
- (iv) a second 2016 Corrective Action Plan, dated June 30, 2016 (Attachment 4), which in part dealt with attendance and time issues and which continued the RFP process for

creation of an electronic time and attendance system for all CCDF providers, as well as strengthening a compliance monitoring system.

As reflected in number (iv), Missouri is in the final stages of awarding a contract that will move away from the monthly signature/daily initial process to an electronic time and attendance system, which we believe to be less prone to error and easier to maintain documentation.

Recommendation #3: That the State agency develop policies and procedures to ensure that it obtains attendance records from providers that are no longer in business.

We do not concur with this recommendation, because the State already requires, by contract, that providers maintain records for ten (10) years after services are provided. That said, short of litigation for breach of contract, the remedies available to the State are limited in the event a provider fails to comply, because the provider is no longer in business and does not have an ongoing relationship with the State. It is unclear what other types of policies and procedures the OIG would have the State implement.

The contemplated electronic time and attendance system should avoid the problem of retrieving documents from out-of-business providers in the future.

We appreciate the opportunity to comment on the draft report.

Sincerely,

/s/

Steve Corsi, Psy. D.
Acting Director

SC:TC:bsb

**State of Missouri
Single Audit
Corrective Action Plan
Year Ended June 30, 2015**

State Agency: Department of Social Services (DSS), Children's Division (CD) and Family Support Division (FSD)

Audit Finding Number 2015-002 Child Care Eligibility and Payments

Name of the contact person

Responsible for corrective action: Marianne Dawson

Anticipated completion date for corrective action: June 30, 2016

Corrective action planned is as follows:

The DSS partially agrees with this finding.

The DSS continues to review and strengthen policies and procedures regarding child care eligibility determinations and child care provider payments.

To address FY-15 Single Audit findings the DSS will implement corrective action to include enhancing the case review system and system edits to address areas prone to error. In addition, Early Childhood and Prevention Services Section (ECPSS) will continue to review and strengthen the Child Care Review Team process, issue invoice messages to remind providers of the requirement to maintain attendance records, and issue a Request for Proposal to procure a Child Care Electronic Provider System.

DSS disagrees the controls are not sufficient to prevent and/or detect payments on behalf of ineligible clients.

- Effective October 2015, the FSD transitioned the specialization of Child Care eligibility determinations to the Kansas City region where 95 staff are processing applications and recertification.
- In November 2015, a team of supervisors and managers reestablished case readings.
 - Readings complete:
 - Processing Center: All 36 were completed for November 2015 – February 2016.
 - Call Center: Began in February 2016 when 70 of the 131 required cases were read. In March, all 131 will be read.
 - The FSD is maintaining a spreadsheet showing the case reviews are complete each month.
- ECPSS staff continues to monitor the number of case readings that are being completed monthly.
- The FSD will move towards targeted readings based on greatest risk in the near future.

The FSD agrees there were errors 2 out of 60 cases or 3% on income determination; however, the DSS disagrees this represents a serious deficiency. These types of errors will continue to be trained on and found in case reviews.

The FSD has identified training needs in call-centers for child care need is not being calculated correctly. Training to address child care need calculations will begin by April 1, 2016. The training for the Call Center is identified as a priority to be completed by the end of April.

ECPSS program and policy staff is continually reviewing the child care manual for clarification and revision.

The DSS is reviewing the errors referred to in this finding. Claims will be entered and adjustments will be made for agreed upon unallowable costs.

The DSS will resolve questioned costs with the grantor agency.

**State of Missouri
Single Audit
Corrective Action Plan
Year Ended June 30, 2015**

State Agency: State Agency: Department of Social Services (DSS),
Children's Division (CD)

Audit Finding Number 2015-003 Child Care Provider Eligibility

Name of the contact person

Responsible for corrective action: Marianne Dawson

Anticipated completion date for corrective action: June 30, 2016

Corrective action planned is as follows:

The DSS partially agrees with this finding.

The DSS revised the child care subsidy policy in March 2015 to use a Child to Provider Relation form as an attestation of relationship between the child care provider and the child. The parent of the child in care and the child care provider must sign the Child to Provider Relation form as verification of relationship within the 3rd degree. The Child to Provider Relation form is kept with the official case record of the household.

In addition to the revised policy, the DSS will implement changes to the Family Assistance Management Information System (FAMIS) system. During the authorization of a child care provider to a child, the system change will require the Eligibility Specialist (ES) to confirm the Child to Provider Relation form has been received before the authorization can be completed.

To improve child care provider compliance, the DSS will issue an invoice message as a reminder to providers on the rules regarding relationship of a child care provider to a child.

The DSS is reviewing the errors referred to in this finding. Claims will be entered and adjustments will be made for agreed upon unallowable costs.

The DSS will resolve questioned costs with the grantor agency.

State of Missouri Single Audit Corrective Action Plan Year Ended June 30, 2016

State Agency: Department of Social Services (DSS), Children's Division (CD) and Family Support Division (FSD)

Audit Finding Number: 2016-001 Child Care Provider Eligibility

Name of the contact person

Responsible for corrective action: Marianne Dawson

Anticipated completion date for corrective action: June 30, 2017

Corrective action planned is as follows:

The DSS partially agrees with this finding.

The DSS revised the child care subsidy policy in March 2015 to use a Child to Provider Relation form as an attestation of relationship between the child care provider and the child. The parent of the child in care and the child care provider must sign the *Child to Provider Relation* form as verification of relationship within the 3rd degree. The *Child to Provider Relation* form is kept with the official case record of the household.

The *Child to Provider Relationship* form was developed in response to ongoing findings surrounding the FOL providers. The form was a methodology to help ascertain relationship between the provider and child. The form did not in any way override existing state laws. RSMO 210.211. states:

1. It shall be unlawful for any person to establish, maintain or operate a child-care facility for children, or to advertise or hold himself or herself out as being able to perform any of the services as defined in section 210.201, without having in effect a written license granted by the department of health and senior services; except that nothing in sections 210.203 to 210.245 shall apply to:

*(1) Any person who is caring for four or fewer children. For purposes of this subdivision, **children who are related by blood, marriage or adoption to such person within the third degree shall not be considered in the total number of children being cared for;***

It is solely the relationship between the provider and the child that determines eligibility, not a form. Where relationship was confirmed when the form was

absent, payments made to the provider are valid, lawful payments. Sixty (60) four or less (FOL) child care providers were reviewed and only 5 of the 60 FOL child care providers were incorrectly coded as related or relationship could not be substantiated for more than 4 children in their care. The cost of care paid to these providers is \$6,559, federal share \$5,012.

As a result of the FY15 state wide single audit, the CD implemented a corrective action plan to ensure FSD staff was complying with the policy of using the Child to Provider Relation form to verify relationship. Changes were implemented in the Family Assistance Management Information System (FAMIS) in September 2016 to require Eligibility Specialists (ES) to confirm receipt of the *Child to Provider Relation* form before authorizing a child as related to a child care provider. The child care subsidy policy was clarified and reiterated to staff and FOL child care providers were reminded of the rules regarding the relationship of a child care provider to a child through the online invoicing messaging system.

In June 2016 the FSD reviewed all authorizations for current at that time FOL child care providers with children authorized as related to the provider, FSD reviewed case file documentation to verify the *Child to Provider Relation* form had been received. If there was no *Child to Provider Relation* form on file, and the parent or head of household failed to return a signed *Child to Provider Relation* form, the authorization coded as related was ended. The child was authorized to the child care provider as unrelated if the child care provider did not have more than 4 unrelated children already authorized. If there were more than 4 unrelated children authorized to the child care provider, the child was not authorized to the child care provider until the *Child to Provider Relation* form was received or until another child care provider was identified by the family.

As would be expected, based on FSD's review, the SAO found that many of the children reviewed did not have *Child to Provider Relation* forms for the service month tested. However, FSD had identified these authorizations and corrected the authorizations for children that were authorized as related, but without the *Child to Provider Relation* form on file, by obtaining the *Child to Provider Relation* form to verify relationship, ending the authorization as related and authorizing as not related, or the authorization expired and future authorizations were not coded as related or no future authorizations were entered.

As a result of the implementation of the corrective action plan outlined for the FY15 audit and the additional corrective actions taken to ensure compliance with policy, only 8% (5 of 60) of FOL child care providers reviewed were identified as providing care illegally as a result of not verifying child to provider relationship. In the state wide single audit for both 2014 and 2015, 43% of FOL child care providers reviewed were incorrectly coded as related or a relationship could not be substantiated for more than 4 children in their care.

The CD will continue to reinforce the importance of verifying the relationship of the child to the provider with the *Child to Provider Relationship* form and will continue to remind FOL child care providers of the rules regarding the relationship of a child care provider to a child and providing child care legally as an unlicensed child care provider.

The DSS is reviewing the errors referred to in this finding. Claims will be entered and adjustments will be made for agreed upon unallowable costs. The DSS will resolve questioned costs with the grantor agency.

**State of Missouri
Single Audit
Corrective Action Plan
Year Ended June 30, 2016**

State Agency: Department of Social Services (DSS), Children's Division (CD), Family Support Division (FSD) and Division of Finance and Administrative Services (DFAS)

Audit Finding Number: 2016-002 Child Care Eligibility and Payments

Name of the contact person

Responsible for corrective action: Marianne Dawson

Anticipated completion date for corrective action: June 30, 2017

Corrective action planned is as follows:

A. The DSS partially agrees with this finding.

The DSS continues to review and strengthen policies and procedures regarding child care eligibility determinations and child care provider payments.

To address FY2016 Single Audit findings for eligibility DSS disagrees the controls are not sufficient to prevent and/or detect payments on behalf of ineligible clients. Three errors were identified out of 60 cases. One of the errors was a result of a case being over authorized for 2 months during the eligibility period and resulted in a questioned cost of less than \$50. Two of the errors were due to external factors and were the result of a parent not reporting loss of employment and a child care provider being non-compliant with their contract.

Effective October 2015, the FSD transitioned the specialization of Child Care eligibility determinations to the Kansas City region where 95 staff are processing applications and recertification for child care subsidy. In order to ensure eligibility determinations are accurate, FSD issued policy EMAIL-IM-#67 Memorandum requiring supervisors to complete 24 targeted case reviews monthly effective November 1, 2016. Early Childhood and Prevention Services Section program and policy staff continually reviews the child care manual for clarification and revision. The child care manual has recently been rewritten to comply with the requirements set forth in the Child Care and Development Fund (CCDF) Reauthorization Act of 2014. As result

of ongoing efforts to improve the Child Care Subsidy program, the payments associated with questioned costs have been reduced to 3%, from 14% for FY2014 and 9% for FY2015.

To address FY2016 Single Audit findings for payments to child care providers, the DSS partially agrees there are not sufficient controls to ensure payments are adequately supported. However, 8 of 10 child care providers had questioned costs totaling \$312. The remaining 2 child care providers totaled \$885. We disagree the finding represents a serious deficiency.

The DSS has issued a Request for Proposal (RFP) for a Child Care Business Information Solution and a contract is expected to be awarded by the end of the Federal Fiscal Year. The RFP requests a proposal to provide the DSS with a comprehensive and time efficient system for the administration of the child care program. The RFP is seeking proposals for a system that will include:

1. An electronic time and attendance system for all CCDF providers statewide.
2. A child care review system for the purpose of executing and managing a compliance monitoring process for the child care program.

The DSS is reviewing errors referred to in this finding. Claims will be entered and adjustments will be made for agreed upon unallowable costs. The DSS will resolve questioned costs with the grantor agency.

B. The DSS agrees with this finding.

To address FY2016 Single Audit findings for insufficient follow-up on provider non-compliance identified from Child Care Review Team (CCRT) reviews, the CD will establish policy and procedures to implement corrective action plans to ensure child care providers are compliant.

The DSS is reviewing errors referred to in this finding. Claims will be entered and adjustments will be made for agreed upon unallowable costs. The DSS will resolve questioned costs with the grantor agency.