

An Evaluation:

## Child Care Regulation

Department of Children and Families

December 2009

# Report Highlights ■

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***DCF and county and tribal agencies have a role in regulating child care facilities.***

***Child care rules focus on the health and safety of children in care.***

***Regulatory staff are required to issue citations for violations of child care rules; sanctions address serious or persistent violations.***

***Information in existing databases is not sufficient for targeting higher-risk facilities to receive increased regulatory attention.***

***We found eight instances in which felons or individuals who had abused or neglected children were employed by or reported living in child care facilities.***

Since its creation in 2008, the Department of Children and Families (DCF) has directly regulated licensed family and group child care facilities and administered Wisconsin Shares, the child care subsidy program for low-income working families and participants in W-2, the State's welfare-to-work program. In addition, DCF contracts with county and tribal agencies for the regulation of certified child care facilities. More than 11,000 regulated child care facilities were in operation for at least part of fiscal year (FY) 2008-09, and 60.2 percent of those operating in June 2009 received Wisconsin Shares subsidy payments.

In February 2009, the Joint Legislative Audit Committee directed us to evaluate child care regulation in licensed and certified facilities and the potential for fraud and abuse under Wisconsin Shares. In June 2009, we estimated that at least \$22.5 million in improper Wisconsin Shares subsidy payments had been made in 2008. In September, we identified four registered sex offenders who reported the same addresses as child care providers. To complete this final phase of our evaluation, we reviewed regulatory efforts to:

- enforce provisions in statutes and administrative code that are intended to protect the health and safety of children in regulated care and to address serious or persistent violations with progressively severe sanctions;
- improve the integrity of the Wisconsin Shares program; and
- identify operators of child care facilities, members of their households, and employees who abused or neglected children or have been convicted of certain felonies, including sex crimes.

## Key Facts and Findings

*In FY 2008-09, DCF spent \$13.6 million to regulate licensed child care facilities, oversee certified child care facilities, and administer Wisconsin Shares.*

*County and tribal agencies spent an additional \$15.4 million on child care regulation under their 2008 contracts with DCF.*

*Average caseloads for state regulatory staff exceed 75 facilities per licensing specialist.*

*County and tribal certification staff do not consistently cite rules violations in certified facilities.*

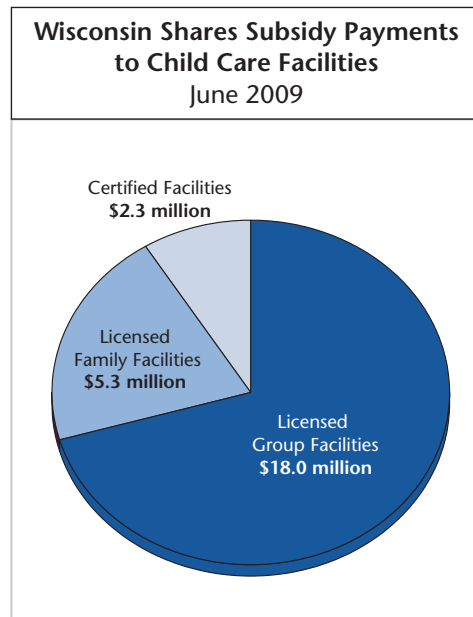
*Before the creation of DCF, the detection and investigation of potential fraud in Wisconsin Shares was not a clear priority.*

## Costs and Caseloads

In FY 2008-09, DCF spent \$13.6 million for the regulation and oversight of licensed and certified child care facilities and the administration of Wisconsin Shares. Three federal programs funded 86.5 percent of that spending, as well as \$15.4 million that county and tribal agencies spent under contracts with DCF.

Licensed group facilities provide care for nine or more children, typically outside of the operator's home, and are likely to employ teachers and other staff. Licensed family facilities and certified facilities care for fewer children, and are typically operators' homes.

In June 2009, approximately two-thirds of all licensed child care facilities and one-half of all certified facilities participated in Wisconsin Shares. Subsidy payments in that month totaled \$25.6 million.



Average caseloads of the DCF staff who regulate licensed child care facilities throughout Wisconsin vary by region and range from 94 to 120 facilities per licensing specialist. The National Association for the Education of Young Children recommends that caseloads not exceed 75 facilities per licensing specialist.

Average caseloads of certification staff were significantly lower in 8 of the 11 counties we visited, including Milwaukee County. However in Dane, Kenosha, and Racine counties, average caseloads ranged from 110 to 170 facilities per certification staff person.

## Enforcing Child Safety

During site visits to regulated facilities, both licensing and certification staff are required to issue written citations when they identify violations of the child care rules enumerated in administrative code, and all citations are required to be entered into statewide databases maintained by DCF. Most of the regulatory activities of licensing and certification staff relate to ensuring the health and safety of children in care.

DCF staff conducted 28,549 regulatory visits to licensed facilities in the past three fiscal years. In 37.6 percent of these visits, no citations were issued. However, 29 facilities—including 27 in Milwaukee County—received more than 40 citations in a single visit.

County and tribal regulatory staff conducted 19,582 regulatory visits

to certified facilities from FY 2004-05 through FY 2008-09. No citations were issued in 78.7 percent of these visits. However, some county and tribal regulatory staff are not citing or recording all violations, despite contractual requirements to do so.

Because available data are not complete, and because regulatory staff cannot rate the severity of the violations they cite, DCF cannot effectively use information maintained in statewide licensing and certification databases to target higher-risk facilities for increased regulatory attention.

Health and safety also may be compromised if regulatory staff cannot gain access to child care facilities. We determined that at least one attempted regulatory visit by DCF staff could not be completed for 1,994 licensed facilities from FY 2004-05 through FY 2008-09, and five or more attempted regulatory visits to 181 of these facilities could not be completed.

During the three-year period that ended in FY 2008-09, at least one attempted regulatory visit to 1,047 certified facilities could not be completed by county and tribal agency staff.

## Issuing Sanctions

Over the past five years, DCF sanctioned 1,911 licensed facilities for serious or persistent violations of child care rules. Licensed facilities in Milwaukee County received approximately one-quarter of all sanctions but 70.9 percent

of all summary suspensions and 62.7 percent of all license revocations, which are the most serious licensing sanctions.

We completed additional analyses of the most serious sanctions issued and of the facilities that were most frequently sanctioned. Three of the four licensed facilities that were issued 16 or more sanctions continued to operate as of November 2009.

Over the past five years, county and tribal agencies sanctioned 843 certified facilities, including 592 in Milwaukee County.

## Wisconsin Shares

Daily attendance records form the basis for subsidy payments under Wisconsin Shares and are subject to review during regulatory visits to both licensed and certified facilities. Facilities cited for attendance record violations could reasonably be expected to receive notice of a payment error and to make repayments. However, in a random sample of 100 facilities with attendance record citations, we found that 42.0 percent of the licensed facilities and 82.0 percent of the certified facilities had not been assessed for payment errors.

Before the creation of DCF, the detection and investigation of potential fraud in Wisconsin Shares was not a clear priority. Until state-level staffing for program integrity efforts was increased under 2009 Wisconsin Act 2, the equivalent of one DCF position was authorized

for program integrity efforts. Fraud investigation was only one of a wide range of activities that could be funded under county and tribal contracts for 2008.

In 2009, significant changes were made to improve the detection of potential fraud in Wisconsin Shares at the state and county levels. These efforts merit continued monitoring by the Legislature in 2010.

## Background Checks

Background checks are required of child care facility operators and board members, their employees, and household members.

We compared the names, dates of birth, and social security numbers of all operators of licensed and certified facilities regulated as of June 30, 2009, with criminal history records of felony and misdemeanor convictions maintained by the Department of Justice and information on substantiated findings of child abuse and neglect maintained by DCF. We also matched these data with information about household members and employees that licensed and certified facilities reported to DCF.

We found eight instances in which convicted felons or individuals who had abused or neglected children were employed by or reported living in child care facilities. When we shared our findings with DCF, it investigated each case, and DCF believes that no children have been harmed.

We also identified 317 individuals whose past criminal offenses require further investigation.

More stringent background check requirements were included in 2009 Wisconsin Act 76, which was enacted in November 2009. However, meeting the new requirements may be challenging. We found that operators of 184 licensed facilities and 20 certified facilities were overdue for criminal background checks as of June 30, 2009. Operators of licensed facilities in Milwaukee County were 42.9 percent of those overdue.

Furthermore, DCF does not maintain a database of child care facility employees. We attempted to match employee records with criminal records maintained by the Department of Justice and with findings of substantiated child abuse or neglect, but we could do so for less than 3.0 percent of the estimated 20,000 individuals employed in licensed or certified child care facilities statewide.

## Recommendations

Our report includes recommendations for DCF to report to the Joint Legislative Audit Committee by June 30, 2010, on its efforts to:

- ☑ improve the timeliness of regulatory visits and redirect regulatory staff resources to higher-risk facilities (*p. 28*);

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- ☑ improve the quality of program management information by establishing a severity index for violations, documenting unsuccessful attempted regulatory visits to licensed facilities, and ensuring that county and tribal agencies document their regulatory actions as required by contract (*p. 35*);
- ☑ improve sanctioning efforts to address the most serious or persistent violations of child care rules and to target facilities that have been most frequently sanctioned (*p. 48*);
- ☑ improve the timeliness of the background check process, ensure that all necessary background checks are completed, and address facility operators' need for information concerning findings of child abuse or neglect in order to complete employee background checks (*p. 56*); and
- ☑ strengthen fraud prevention and detection efforts related to Wisconsin Shares, especially in Milwaukee County (*pp. 38 and 41*).

## Additional Information

For a copy of report 09-15, which includes a response from the Department of Children and Families, call (608) 266-2818 or visit our Web site:



[www.legis.wisconsin.gov/lab](http://www.legis.wisconsin.gov/lab)

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