

**Report 09-15
December 2009**

An Evaluation

Child Care Regulation

Department of Children and Families

2009-2010 Joint Legislative Audit Committee Members

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Response

From the Department of Children and Families



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Janice Mueller
State Auditor

December 17, 2009

Senator Kathleen Vinehout and
Representative Peter Barca, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Vinehout and Representative Barca:

We have completed the final phase of our evaluation of the effectiveness of child care regulation, including an audit of Wisconsin Shares, as requested by the Joint Legislative Audit Committee. More than 11,000 child care facilities were either licensed by the Department of Children and Families (DCF) or certified by county and tribal agencies during all or part of fiscal year (FY) 2008-09. In June 2009, 60.2 percent of the regulated facilities received \$25.6 million in Wisconsin Shares subsidy payments to care for the children of low-income working families and participants in W-2, the State's welfare-to-work program.

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. County and tribal agencies spent \$15.4 million to regulate certified facilities. State, county, and tribal regulatory staff inspect licensed and certified facilities and evaluate their compliance with child care rules, which are designed primarily to address health and safety concerns. However, as of June 30, 2009, 617 licensed facilities were overdue for a regulatory visit by DCF. In contrast, county and tribal regulatory agencies generally met the timeliness standards DCF has established for them.

All regulatory staff are required to issue written citations when they identify violations of child care rules, and they may address serious or persistent violations with progressively severe sanctions that include suspension or revocation. However, because regulatory staff cannot rate the severity of violations they cite, DCF cannot effectively use information maintained in statewide licensing and certification databases to target higher-risk facilities for increased regulatory attention.

We continued our efforts to identify operators of child care facilities, members of their households, and employees convicted of certain crimes. 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. We also identified 317 individuals whose past criminal offenses require further investigation.

Throughout 2009, the Legislature and DCF have taken numerous steps to restore public confidence in Wisconsin Shares and to aggressively address fraud and abuse. Our report recommends continued monitoring of DCF's progress in implementing these changes.

We appreciate the courtesy and cooperation extended to us by DCF, the Department of Justice, and the county agencies we contacted during our evaluation.

Respectfully submitted,

Janice Mueller
State Auditor

JM/KW/ss

Report Highlights ■

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.

Costs and Caseloads

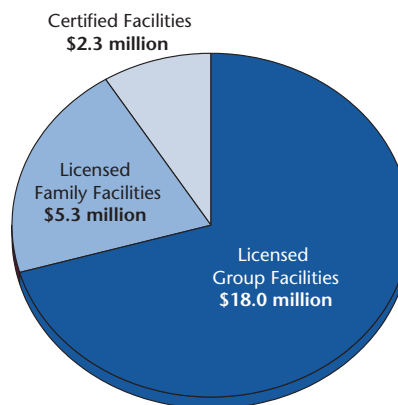
In FY 2008-09, DCF spent \$13.6 million for the regulation and oversight of licensed and certified child care facilities and the administration of Wisconsin Shares. Three federal programs funded 86.5 percent of that spending, as well as \$15.4 million that county and tribal agencies spent under contracts 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, as shown in Figure 1.

Figure 1

Wisconsin Shares Subsidy Payments to Child Care Facilities
June 2009



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*);
- ☑ 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*).

■ ■ ■ ■

Introduction ■

More than 11,000 licensed and certified child care facilities were operating in Wisconsin at some point during FY 2008-09.

As shown in Table 1, 11,120 licensed and certified child care facilities were operating in Wisconsin throughout or at some point during FY 2008-09. The number operating in each county and tribal reservation is shown in Appendix 1.

Both licensed and certified child care facilities are subject to provisions in Wisconsin Statutes and administrative code that are intended to protect the health and safety of children in their care. However, they are subject to somewhat different regulatory frameworks that are applied by state, county, or tribal staff, as well as by private contractors. They are also authorized to care for different numbers of children. Under the Wisconsin Shares program, children of low-income working families and participants in Wisconsin Works (W-2), the State's welfare-to-work program, may receive subsidized care in either type of facility.

Table 1
Licensed and Certified Child Care Facilities¹
 FY 2008-09

	Number in Operation	Regulatory Agency	Maximum Children per Facility
Licensed Facilities			
Family	3,445	DCF	Up to 8
Group ²	2,818	DCF	9 or more
Certified Facilities			
Regular	3,091	Counties and Tribes	Up to 6
Provisional ³	1,500	Counties and Tribes	Up to 6
Others ⁴	266	Counties and Tribes	Varies
Total	11,120		

¹ Facilities that were licensed or certified at any time during the fiscal year.

² Includes some part-time facilities, such as day camps and before- and after-school programs.

³ These facilities meet all other criteria but cannot become certified until their operators and employees complete additional required training.

⁴ Includes school-based and other facilities that provide programming for school-age children only.

In January 2009, the *Milwaukee Journal Sentinel* first reported incidents of potentially fraudulent or improper subsidy payments to facility operators. In February 2009, the Joint Legislative Audit Committee directed us to evaluate child care regulation in Wisconsin, including funding and the potential for fraud and abuse under Wisconsin Shares. In June 2009, we estimated that program participants and facility operators had received \$22.5 million in improper child care subsidy payments and referred numerous cases to law enforcement. In September 2009, we reported that the addresses of four sex offenders matched those of child care facilities.

This evaluation addresses efforts to protect the health and safety of children in licensed and certified facilities, and it completes our work related to fraud and abuse under Wisconsin Shares. In completing it, we:

- reviewed statutes, administrative code, and DCF's policies and procedures related to health and safety in all regulated child care facilities, as well as statutes and policies related to the prevention of fraud by child care facility operators who receive payments under Wisconsin Shares;
- analyzed the timeliness and frequency of inspections by regulatory staff in DCF and in county and tribal agencies, as well as the types of violations they cited in licensed and certified facilities;
- reviewed progressive enforcement action against operators of regulated facilities that failed to address the violations of child care rules cited by regulatory staff;
- matched child care information with certain criminal records and records of substantiated findings of child abuse and neglect;
- interviewed DCF staff who regulate licensed child care facilities and those who manage DCF's contracts with county and tribal regulatory agencies, as well as county staff who regulate certified child care facilities in Ashland, Brown, Crawford, Dane, Eau Claire, Kenosha, Milwaukee, Racine, Rock, Trempealeau, and Winnebago counties; and
- accompanied DCF and county regulatory staff on unannounced visits to 40 licensed and 40 certified facilities in 7 of the 11 counties included in our review.

Participation in Wisconsin Shares

In June 2009, approximately two-thirds of licensed child care facilities and one-half of certified facilities participated in Wisconsin Shares.

As shown in Table 2, approximately two-thirds of the licensed child care facilities and one-half of the certified child care facilities operating in June 2009 participated in Wisconsin Shares by receiving subsidy payments.

Table 2
Participation in Wisconsin Shares
 June 2009

	All Facilities	Subsidized Facilities	
		Number	Percentage
Licensed Facilities			
Group ¹	2,621	1,792	68.4%
Family	2,986	1,922	64.4
Subtotal	5,607	3,714	66.2
Certified Facilities			
Regular	2,375	1,305	54.9
Provisional ²	1,040	427	41.1
Others ³	261	140	53.6
Subtotal	3,676	1,872	50.9
Total	9,283	5,586	60.2

¹ Includes some part-time facilities, such as day camps and before- and after-school programs.

² These facilities meet all other criteria but cannot become certified until their operators and employees complete additional required training.

³ Includes school-based and other facilities that provide programming for school-age children only.

Licensed child care facilities in Milwaukee County received nearly 60.0 percent of Wisconsin Shares subsidy payments in June 2009.

As shown in Table 3, the State paid \$25.6 million for licensed and certified child care under Wisconsin Shares in June 2009. Licensed facilities received more than 90.0 percent of those payments, and facilities in Milwaukee County received nearly 60.0 percent. Licensed facilities in Milwaukee County received \$14.3 million, and certified facilities in Milwaukee County received \$1.0 million.

Table 3

Wisconsin Shares Subsidy Payments to Child Care Facilities
June 2009

	Payments	Percentage of Total
Licensed Facilities		
Group ¹	\$18,038,000	70.5%
Family	5,288,200	20.7
Subtotal	23,326,200	91.2
Certified Facilities		
Regular	1,634,300	6.4
Other ²	383,200	1.5
Provisional ³	235,500	0.9
Subtotal	2,253,000	8.8
Total	\$25,579,200	100.0%

¹ Includes some part-time facilities, such as day camps and before- and after-school programs.

² Includes school-based and other facilities that provide programming for school-age children only.

³ These facilities meet all other criteria but cannot become certified until their operators and employees complete additional required training.

Expenditures for Child Care Regulation

Three federal programs funded 86.5 percent of DCF's child care regulation expenditures in FY 2008-09.

Three federal programs—Temporary Assistance for Needy Families (TANF), the Child Care Development Block Grant, and the Social Services Block Grant—supported 86.5 percent of DCF's expenditures for child care regulation in FY 2008-09. Program revenue supported 7.0 percent, and general purpose revenue (GPR) supported 6.5 percent.

As shown in Table 4, DCF spent \$13.6 million for the direct regulation of licensed child care facilities and the oversight of certified facilities and the Wisconsin Shares program in FY 2008-09.

Table 4

**Expenditures for State Child Care Regulation and Oversight
FY 2008-09**

	Department of Children and Families		
	Bureau of Early Care Regulation	Bureau of Early Childhood Education	Total
Salaries and Fringe Benefits	\$5,835,100	\$ 750,200	\$ 6,585,300
IT Services	659,400	2,672,600	3,332,000
Administration	1,301,400	127,500	1,428,900
Professional Services	481,400	690,800	1,172,200
Supplies and Services	925,500	150,000	1,075,500
Total	\$9,202,800	\$4,391,100	\$13,593,900

The Bureau of Early Care Regulation, which regulates licensed facilities, was authorized 87.65 full-time equivalent (FTE) positions and was responsible for the regulation of 5,607 licensed child care facilities in June 2009. Its FY 2008-09 administrative expenditures include payments toward a budget deficit incurred when it was part of the Department of Health Services.

The Bureau of Early Childhood Education, which oversees the Wisconsin Shares program and manages contracts with the county and tribal agencies that directly regulate certified child care facilities, was authorized 16.0 FTE positions, including 5.0 FTE positions authorized in 2009 Wisconsin Act 2 to expand and enhance oversight of Wisconsin Shares. IT services expenditures in the Bureau of Early Childhood Education included almost \$2.7 million that was related largely to the costs of statewide databases used to administer Wisconsin Shares subsidy payments and to record regulatory information for both licensed and certified child care facilities.

In 2008, county and tribal agencies spent \$15.4 million for their regulatory activities.

As shown in Table 5, the county and tribal agencies spent \$15.4 million for their regulation of certified facilities and other child care administration duties. All contract expenditures were funded entirely by a federal Child Care Development Block Grant to the State.

Table 5
County and Tribal Child Care Administration Expenditures¹
 2008

County	Expenditures
Milwaukee	\$ 7,719,831
Dane	1,396,175
Kenosha	587,978
Racine	471,219
Waukesha	443,409
Brown	361,708
Rock	338,353
Winnebago	310,699
Eau Claire	281,106
Outagamie	251,920
La Crosse	233,568
All Other Counties and Tribes	3,010,533
Total	\$15,406,499

¹ Includes county contract expenditures from January through December 2008, and tribal contract expenditures from October 2007 through September 2008.

Caseloads of Regulatory Staff

DCF staff in five regional offices regulate licensed child care facilities throughout Wisconsin.

DCF's Bureau of Early Care Regulation operates five regional offices from which regional licensing chiefs oversee the work of:

- licensing specialists, who are responsible for visiting licensed child care facilities in the region to monitor ongoing compliance with child care rules, issuing citations when violations are identified and recommending that sanctions be issued when they are not corrected, conducting additional site visits to investigate complaints against licensed and unregulated facilities, and offering technical assistance to improve the quality of care; and
- licensing program associates, who are responsible for recording citations, complaints, and sanctions against licensed facilities in a statewide licensing database maintained by DCF and for processing license applications.

As shown in Figure 2, the Southeastern region, which includes Milwaukee County, has the largest number of licensed child care facilities and also has the largest number of licensing staff.

Figure 2

DCF Child Care Licensing Regions
June 2009

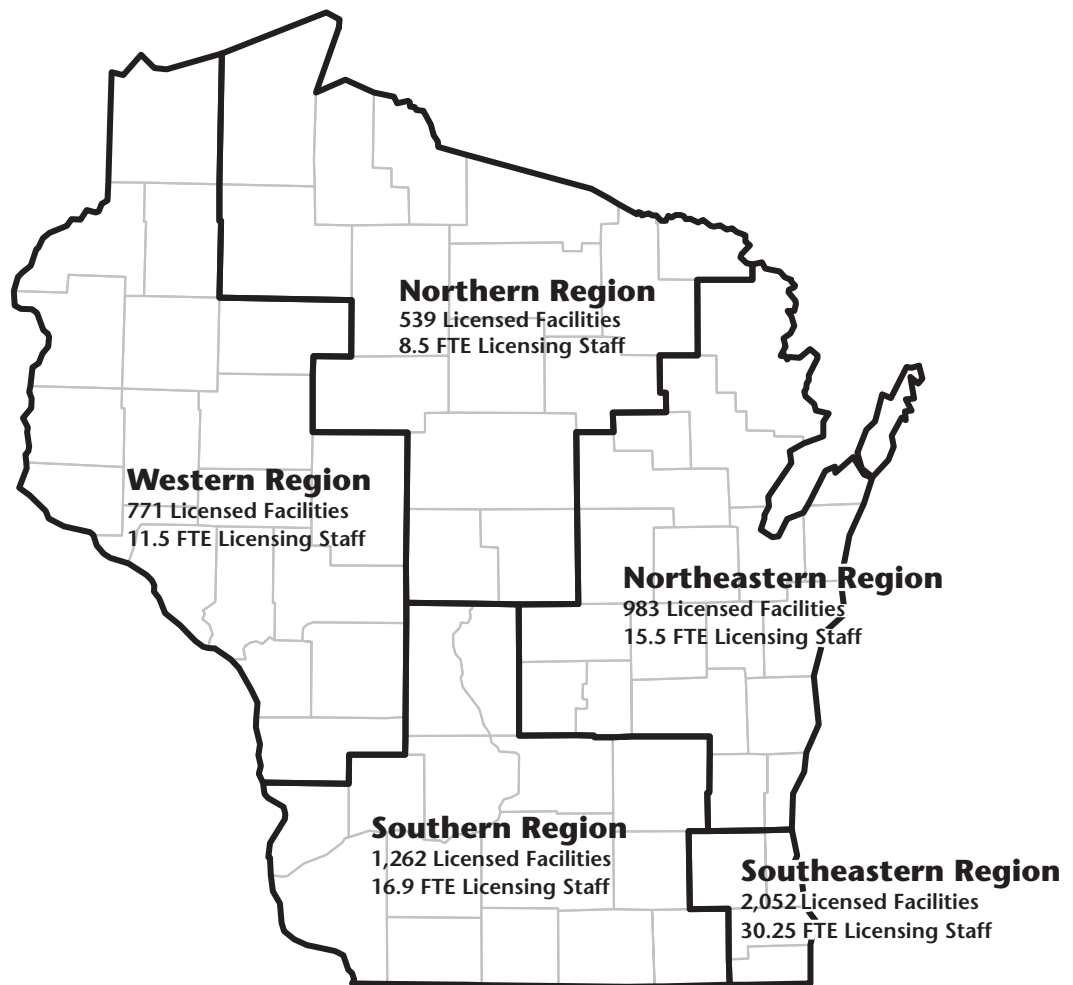


Table 6 shows average caseloads for DCF licensing specialists in June 2009. Average caseloads in all five regions exceeded the maximum recommended by the National Association for the

Education of Young Children, a children’s advocacy group, which is 75 facilities per licensing specialist. However, we note that DCF was authorized in September 2009 to hire ten additional limited-term employees in the Southeastern region to assist with regulatory visits, particularly to licensed facilities that have many citations for violating child care rules. As of November 2009, seven of these positions had been filled.

Table 6

Caseloads of State Licensing Specialists
June 2009

Region	Authorized Licensing Specialists	Regulated Facilities	Average Caseload per Specialist
Northern	4.50	539	120
Southern	11.30	1,262	112
Western	7.50	771	103
Southeastern	20.75	2,052	99
Northeastern	10.50	983	94

Regulatory staffing levels are not specified in DCF’s contracts with the counties and tribes.

County and tribal certification staff complete tasks similar to those of DCF’s licensing specialists, and contracts between DCF and county and tribal agencies require all citations to be recorded in the statewide certification database. However, the contracts neither specify staffing requirements nor require the counties and tribes to report their actual staffing levels or caseloads.

From information provided by the 11 counties we visited, we determined that caseloads varied from an average of 170 facilities per certification staff person in Racine County to an average of 23 facilities per certification staff person in Crawford County, as shown in Table 7. Except in three urban counties—Racine, Kenosha, and Dane—the average caseloads of county certification staff were below the maximum recommended by the National Association for the Education of Young Children for larger facilities. The average caseload in Milwaukee County was relatively low in June 2009, in part because the number of certified facilities in Milwaukee County declined by 40.7 percent from FY 2004-05 through FY 2008-09.

Table 7

Caseloads of County Certification Staff
June 2009

County	Authorized Certification Staff	Regulated Facilities	Average Caseload per Staff Person
Racine	1.75	298	170
Kenosha	1.00	139	139
Dane	3.00	329	110
Brown	<1.00	58	58
Trempealeau	<1.00	51	51
Milwaukee	13.00	652	50
Eau Claire	2.00	91	46
Rock	<1.00	45	45
Ashland	<1.00	41	41
Winnebago	<1.00	41	41
Crawford	<1.00	23	23

■ ■ ■ ■

Regulating and Enforcing Child Safety ■

The primary responsibility of DCF and county and tribal agencies is to protect the health and safety of children in care by ensuring that facility operators are licensed or certified, that operators and their employees have appropriate training and education, that facilities are in good repair, and that adequate administrative records are maintained. To help assess the adequacy of these safeguards, we examined:

- the application processes for licensing and certification;
- the timeliness and frequency of regulatory visits by staff in DCF and in county and tribal agencies; and
- the enforcement of citations for child care rule violations.

Application Process

The application process determines whether applicants are qualified to provide care and whether facilities are free from safety hazards.

The application process is designed primarily to determine whether applicants are qualified to provide appropriate care for children and whether facilities are free from safety hazards. The process includes submission and review of documentation, as well as a minimum of two site visits: an initial inspection to assist applicants in readying their facilities, and a subsequent visit or visits by regulatory staff to

ensure that each applicant understands child care rules and that facilities are free from safety hazards.

DCF processes applications for licensed facilities, including:

- licensed group facilities, which provide care for nine or more children, typically in locations other than the operator's home, and are likely to employ staff such as teachers and assistants; and
- licensed family facilities, which provide care for up to eight children, typically in the operator's home.

County and tribal agencies process applications for certified facilities, which provide care to a maximum of six children, typically in the operator's home. Some locally regulated facilities are provisionally certified until their operators and employees meet certain training and education requirements.

An initial inspection by a DCF contractor or by county and tribal staff is part of the application process.

Applicants for licensure by DCF and for certification by a county or tribal agency must submit a standard application form and provide information for a comprehensive background check of the facility operator, corporate officials, board members, and all household members ten years of age or older. They are also required to document their own education and training, their insurance, and the property owner's permission to operate a child care facility; to submit copies of the policies and procedures they have developed for child care staff and the parents of children for whom they will provide care; and to submit an initial inspection report indicating that the facility is in compliance with child care rules.

The Wisconsin Child Care Improvement Project (WCCIP), a private nonprofit agency that contracts with DCF, conducts the initial inspection for licensed facilities and is responsible for verifying the education and training of applicants for licensure and their employees and for assisting them in readying their facilities to meet child care rules. In FY 2008-09, WCCIP was paid \$269,000 for these services. The counties and tribes are responsible for initial inspections of certified facilities.

Training is required of all child care facility operators and their employees.

All applicants for licensing and certification and their potential employees are required by statute to document that they have completed training on sudden infant death syndrome and shaken baby syndrome. As shown in Table 8, education and training requirements are most rigorous for licensed group facilities, which care for the most children.

Table 8

Key Education and Training Requirements for Regulated Child Care Facilities

Facility Type	Education and Training ¹	Continuing Education
Licensed Group	Varies by position and facility size: teachers must have a minimum of two courses in early childhood education, a high school diploma or its equivalent, and 80 days of child care experience; all staff must have infant and child CPR training	15 hours annually for individuals who work 20 hours per week or less, and 25 hours annually for individuals who work more than 20 hours per week
Licensed Family	Three credits of early childhood education, a noncredit course in operating a child care business, 10 hours of training in infant and toddler care, and infant and child CPR	15 hours annually
Regular Certified	Two credits of early childhood education or noncredit training approved by DCF	May require up to 5 hours annually
Provisionally Certified	None	None

¹ All child care facility operators and employees must document they have completed training on sudden infant death syndrome and shaken baby syndrome.

Application fees are established in statute. Applicants to operate licensed group facilities pay a fee of \$30.25, plus an additional \$16.94 for each child they are licensed to serve. The application fee for a licensed family facility is \$60.50. If a license application is approved, the fees are due every two years. County and tribal agencies may charge a fee of no more than \$90.75 plus the costs of background checks to applicants for certification. DCF and county and tribal agencies are required to conduct background checks on individuals disclosed on background disclosure forms.

After DCF or county and tribal agencies receive complete application materials—including the initial inspection report—and conduct background checks, licensing or certification staff conduct one or more additional site visits to ensure that the applicant understands child care rules and that the facility is free from health and safety hazards. DCF typically issues a probationary license for the first six months of a licensed facility's operation. During that period, licensing staff are expected to closely monitor compliance with child care rules and to provide technical assistance to prevent future noncompliance.

Most applications for licensure or certification were approved in FY 2008-09.

Most applications for licensure or certification were approved in FY 2008-09, as shown in Table 9, and available information indicates that most were approved in a timely manner.

Table 9

Approvals and Denials of Applications¹

FY 2008-09	
License Applications	
Approved	706
Denied	47
Subtotal	753
Certification Applications	
Approved	915
Denied	7
Subtotal	922
Total	1,675

¹ Completed applications only.

Assessing Compliance with Child Care Rules

After facilities have been licensed or certified, regulatory staff in DCF and in county and tribal agencies conduct site visits for two purposes:

- routine visits monitor ongoing compliance with the child care rules enumerated in administrative code; and
- other visits are made in response to previous citations or to complaints about the health and safety of children in care, as well as to requests for technical assistance and to changes in the terms of a license or certification, such as the change of a facility’s address or its hours of operation.

In FY 2008-09, the majority of regulatory visits to licensed and certified facilities were to monitor compliance with child care rules, as shown in Table 10.

Table 10

Primary Reasons for Regulatory Visits
FY 2008-09

Primary Reason for Visit	Visits to Licensed Facilities	Percentage of Total	Visits to Certified Facilities	Percentage of Total
Monitoring	6,335	67.1%	2,396	59.9%
Correction of Violations	1,287	13.6	1,062	26.6
Complaint Investigation	1,278	13.5	82	2.1
Technical Assistance	414	4.4	69	1.7
Regulation Amendment ¹	130	1.4	226	5.6
Other	2	<0.1	162	4.1
Total	9,446	100.0%	3,997	100.0%

¹ Includes visits conducted to determine whether to amend the terms of a license or certification, such as the location of the child care facility or its hours of operation.

Regulatory visits are typically unannounced by DCF staff and by some counties.

Regulatory visits typically include monitoring the work of child care staff, examining the interior and exterior of the site for safety hazards, reviewing daily attendance records for accuracy, and ensuring all required employee and child records are on file. DCF licensing staff typically conduct unannounced visits, although they may make appointments for the sake of efficiency if significant travel time is required. Counties vary in their use of unannounced regulatory visits. For example, staff in Ashland and Walworth counties typically schedule visits, while staff in Dane, Milwaukee, and Rock counties typically do not.

Timeliness of Regulatory Visits

Neither statutes nor administrative code require a minimum number of regulatory visits to licensed facilities each year.

State statutes and administrative code do not require a minimum number of regulatory visits to licensed facilities each year. However, as shown in Table 11, DCF has set minimum standards based on facility type and the number of years a facility has been licensed. Facilities that have been in operation for less than two years are generally required to be visited more frequently, in part because more frequent visits allow licensing staff to identify and facility staff to correct problems before patterns of noncompliance emerge.

Table 11

DCF's Minimum Standards for Regulatory Visits to Licensed Facilities

Facility Type	Licensed Less than 2 Years	Licensed 2 Years or More
Part-Time Facilities ¹	1 visit every 12 months	1 visit every 24 months
Family Facilities	2 visits every 12 months	1 visit every 12 months
Small Group Facilities ²	2 visits every 12 months	1 visit every 12 months
Large Group Facilities ³	2 visits every 12 months	2 visits every 12 months

¹ Includes day camps, before-and-after school programs, summer-only programs, and part-day preschools.

² Includes group facilities that serve 9 to 50 children.

³ Includes group facilities that serve more than 50 children.

“Moderate” or “maximum” monitoring plans generally require more frequent visits.

Based on their regulatory histories, DCF may assign facilities that have been licensed for two years or more to “moderate” or “maximum” monitoring plans, which generally require more frequent visits. However, DCF has not formally defined the number of visits that must be completed under either a moderate or a maximum plan. We found that family and small group facilities on moderate and maximum plans were visited more frequently, on average, than those on the minimum plan, as shown in Table 12. In contrast, part-time and large group facilities on moderate and maximum plans were visited less frequently in FY 2008-09. This difference is of concern because licensing staff have indicated that the facilities on moderate and maximum plans had more difficulty following child care rules, which may indicate an increased risk to the health and safety of the children in their care.

Table 12

Regulatory Visits to Licensed Facilities by Monitoring Plan
FY 2008-09

Facility Type	Average Visits		
	Minimum Plan	Moderate Plan	Maximum Plan
Part-Time	1.4	1.3	1.2
Family	1.3	1.4	1.5
Small Group	1.6	1.8	2.1
Large Group	2.1	1.7	1.7
All Licensed Facilities	1.5	1.5	1.7

DCF's efforts to meet timeliness standards for regulatory visits have been mixed.

To analyze whether DCF licensing staff conducted visits in a timely manner, we calculated the time between visits. As shown in Table 13, DCF's recent efforts to meet its own timeliness standards have been mixed, particularly for facilities licensed less than two years. As of June 30, 2009, 32.3 percent of those facilities were overdue for regulatory visits. Of all 617 facilities that were overdue for regulatory visits, 248, or 40.2 percent, were in Milwaukee County.

Table 13

Overdue Regulatory Visits to Licensed Facilities
As of June 30, 2009

	All Facilities	Overdue for Regulatory Visits	
		Number	Percentage of All Facilities
Licensed Less than 2 Years			
Part-Time Facilities ¹	40	7	17.5%
Family Facilities	419	144	34.4
Small Group Facilities ²	150	46	30.7
Large Group Facilities ³	29	9	31.0
Subtotal	638	206	32.3
Licensed 2 Years or More			
Part-Time Facilities ¹	578	6	1.0
Family Facilities	2,120	124	5.8
Small Group Facilities ²	908	79	8.7
Large Group Facilities ³	733	202	27.6
Subtotal	4,339	411	9.5
Total	4,977	617	12.4

¹ Includes day camps, before- and after-school programs, summer-only programs, and part-day preschools.

² Includes group facilities that serve 9 to 50 children.

³ Includes group facilities that serve more than 50 children.

DCF's regulatory visits to 149 licensed facilities were more than six months overdue.

We found that as of June 30, 2009, DCF's regulatory visits to 111 licensed facilities were less than one month overdue, but regulatory visits to 149 licensed facilities were more than six months overdue. The majority of the 411 facilities that were licensed two years or more and overdue for regulatory visits as of June 30, 2009, were on the minimum plan for their next visit. However, 20 of those facilities were on the moderate plan, and 11 were on the maximum plan.

DCF reported that licensing staff are not always able to visit facilities in a timely manner because agency policy gives priority to investigating complaints concerning regulated and unregulated facilities. Improving timeliness may be difficult for licensing staff with large caseloads, large numbers of complaints about facilities on their caseloads, or significant distances to travel to conduct visits. Nevertheless, DCF could allocate its permanent or limited-term staff so that higher-risk facilities, such as those assigned to moderate or maximum visit plans, are visited first.

County and tribal agencies have generally met timeliness standards for conducting regulatory visits.

Statutes do not require county and tribal agencies to conduct a minimum number of regulatory visits to certified facilities. However, administrative code requires a site visit at the time of recertification, which typically occurs every two years. We found variation in the frequency of regulatory visits by county and tribal agencies, but available data indicate that visits to certified facilities have generally been conducted in a timely manner, and as of June 30, 2009, only three facilities had not been visited within the past two years. Staff in Eau Claire and Milwaukee counties visit facilities approximately every four months, while staff in Ashland and Trempealeau counties visit facilities approximately once every two years.

Unsuccessful Attempts to Make Regulatory Visits

The health and safety of children can be compromised if licensing and certification staff cannot gain access to child care facilities.

The health and safety of children in care can be compromised if licensing and certification staff are unable to gain access to child care facilities. DCF does not systematically record the number of unsuccessful attempts to visit licensed facilities, so we examined written comments in the statewide licensing database to estimate this number. As shown in Table 14, 1,994 licensed facilities had at least one unsuccessful visit attempt from FY 2004-05 through FY 2008-09. Approximately two-thirds of all facilities with at least one unsuccessful visit attempt were in Milwaukee County, and 168 of the 181 licensed facilities with five or more unsuccessful attempted visits were in Milwaukee County.

Table 14

Unsuccessful Attempts to Visit Licensed Facilities
FY 2004-05 through FY 2008-09

	Licensed Facilities	Percentage of Total
1	1,039	52.1%
2	447	22.4
3	223	11.2
4	104	5.2
5 or More	181	9.1
Total	1,994	100.0%

In FY 2006-07, county and tribal agencies began using a statewide database to record unsuccessful visit attempts by certification staff. As shown in Table 15, that database includes 1,047 certified facilities with one or more unsuccessful visit attempts during the three-year period that ended in FY 2008-09. A large percentage—62.6 percent—were in Milwaukee County. Of the 118 certified facilities with five or more unsuccessful visit attempts, 102 were in Milwaukee County.

Table 15

Unsuccessful Attempts to Visit Certified Facilities
FY 2006-07 through FY 2008-09

	Certified Facilities	Percentage of Total
1	511	48.7%
2	224	21.4
3	119	11.4
4	75	7.2
5 or More	118	11.3
Total	1,047	100.0%

☑ Recommendation

We recommend the Department of Children and Families direct its staff and county and tribal agencies to conduct regulatory visits of facilities that were not visited in a timely manner and report to the Joint Legislative Audit Committee by June 30, 2010, on the steps it has taken to:

- *better monitor the timeliness of regulatory visits by licensing staff, particularly for facilities that have been in operation for less than two years; and*
- *redirect its own regulatory staff resources to better monitor higher-risk facilities, such as those with numerous unsuccessful regulatory attempts.*

Enforcing Child Care Rules

Regulatory staff are required to issue citations when they identify violations of child care rules.

Regulatory staff in DCF and in county and tribal agencies 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. Facility operators are required to correct violations quickly, and they may do so during regulatory visits. However, citations for some violations may require facility operators to complete corrective action plans. Both licensed and certified facilities are required to meet specific requirements in the nine principal categories shown in Table 16, although some child care rules vary by facility type.

Table 16

Child Care Facility Requirements¹

Category	Description
Records	Includes maintaining accurate daily attendance records, child health and immunization histories, and emergency contact information for children and documenting staff work hours, training, and background check results.
Physical Environment	Includes keeping harmful objects, chemicals, and equipment away from children; ensuring the presence of working smoke and carbon monoxide detectors; maintaining written emergency procedures; and complying with building codes and with safety and cleanliness standards for the building, furnishings, and outdoor play areas.
Staffing	Includes ensuring staff meet minimum education, training, and work experience requirements; that staff regularly attend orientation sessions and staff meetings; and that a sufficient number of staff are present to care for the number of children present at the facility.
Program	Includes providing sufficient daily activities, interaction between children and staff, and toys and play equipment for children, as well as adequate supervision of children; periods for rest, meals, and snacks; and appropriate licensure of pets and other animals in the facility.
Operational Requirements	Includes developing operational policies, communicating with parents on a regular basis, providing licensing and certification staff with accurate and complete information, submitting a plan for correcting rule violations, and reporting the injury or death of children in care and all incidents involving law enforcement.
Infant and Toddler Care	Includes establishing individualized care programs, providing cribs, playpens, and other specialized equipment; requiring the prompt changing of diapers and soiled clothing; and providing nutritious infant formulas and foods.
Health	Includes dispensing medication only with parental authorization, safely storing medication, treating injuries and illnesses of children appropriately, ensuring general facility and personal cleanliness, and removing children with communicable diseases from the facility.
Transportation	Includes safely operating and maintaining vehicles used to transport children, ensuring the presence of car seats and seat belts, and ensuring that drivers of vehicles are properly licensed.
Other	Includes documenting compliance with licensing and certification application and renewal requirements and rules for both overnight care and the care of school-age children.

¹ Chapter DCF 251, Wis. Adm. Code, contains rules for licensed group facilities, Chapter DCF 250, Wis. Adm. Code, contains rules for licensed family facilities, and Chapter DCF 202, Wis. Adm. Code, contains rules for certified facilities.

Citations of Licensed Facilities

DCF policy requires agency staff to cite all violations of child care rules in licensed facilities, even though some violations represent a more severe threat to the health and safety of children in care than others do. For example, a licensed facility could be cited for inadequate supervision when a child is outside the “sight and sound” range of child care staff, or when a child is found outside of the facility without any supervision. Similarly, a citation for problems with the physical environment could indicate the presence of cleaning solutions in an unlocked bathroom cabinet or in a play area.

We reviewed all citations issued by DCF staff to licensed facilities from FY 2006-07, the first year for which data were recorded electronically, through FY 2008-09. As shown in Table 17, the most common citations were for records violations, which represented 32.2 percent of all citations during the three-year period. Records citations are issued for violations related primarily to business operations, such as failure to maintain accurate daily attendance records, as well as those that are more directly related to the health and safety of children in care, such as failure to maintain emergency contact information or missing background check results for employees. Additional information on the types of citations issued to licensed facilities in Milwaukee County and elsewhere can be found in Appendix 2.

DCF staff conducted 28,549 regulatory visits to licensed facilities over the past three fiscal years.

As shown in Table 18, DCF staff conducted 28,549 regulatory visits to licensed facilities over the past three fiscal years. In 37.6 percent of these regulatory visits they issued no citations, which indicates that the facilities were meeting all child care rules reviewed during the visits. However, in 30 visits to licensed facilities they issued more than 40 citations, which indicates serious problems at the facilities. A total of 29 facilities received more than 40 citations, and 27 were located in Milwaukee County.

Table 17

Citations Issued to Licensed Facilities
FY 2006-07 through FY 2008-09

Type of Citation	Number	Percentage of Total
Records	32,506	32.2%
Physical Environment	23,196	23.1
Staffing	13,435	13.4
Program	8,626	8.6
Operational Requirements	8,621	8.6
Infant and Toddler Care	7,385	7.4
Health	3,802	3.8
Transportation	2,775	2.8
Other ¹	135	0.1
Total	100,481	100.0%

¹ Includes 56 violations of night care rules; 43 violations regarding the care of school-age children; 25 violations related to licensing applications, renewals, and relocations; 9 violations in which licensing specialists were not permitted access to inspect the facility; 1 violation related to inappropriately discharging an employee; and 1 unknown violation.

Table 18

Citations Issued per Visit to Licensed Facilities
FY 2006-07 through FY 2008-09

Citations	Visits	Percentage of Total
0	10,740	37.6%
1 to 2	6,143	21.5
3 to 5	5,489	19.2
6 to 10	3,670	12.9
11 to 15	1,361	4.8
16 to 20	631	2.2
21 to 30	382	1.3
31 to 40	103	0.4
More than 40	30	0.1
Total	28,549	100.0%

During the course of our fieldwork, representatives from the American Federation of State, County, and Municipal Employees (AFSCME) and the Wisconsin Child Care Administrators Association expressed concerns that licensing staff issue citations inconsistently or for minor violations. For example, they asserted to us that some licensing staff inspect each classroom in a facility and cite all violations, while others may limit their inspection to administrative records. As shown in Table 19, we found regional variations, but the available data did not allow us to readily determine the reasons for individual variation in the average number of citations issued by licensing staff. Potential causes of the variation we documented could include the professional discretion of licensing staff, the type and number of facilities assigned to licensing staff, frequency of visits, or regional variations in facilities' operations.

Table 19

Licensing Citations Issued by Region
FY 2008-09

Region	Average Number of Citations per Licensing Specialist
Southeastern	971
Northern	475
Northeastern	447
Southern	387
Western	250

Citations of Certified Facilities

We also reviewed citations issued to certified facilities by county and tribal regulatory staff over the five-year period from FY 2004-05 through FY 2008-09. As shown in Table 20, 43.7 percent of these citations were for records violations. The frequency of other types of citations was generally parallel for certified and licensed facilities.

Table 20

Citations Issued to Certified Facilities
FY 2004-05 through FY 2008-09

Type of Citations	Number	Percentage of Total
Records	6,605	43.7%
Physical Environment	3,726	24.6
Operational Requirements	1,492	9.9
Program	818	5.4
Infant and Toddler Care	811	5.3
Staffing	809	5.3
Transportation	567	3.8
Health	286	1.9
Other ¹	13	0.1
Total	15,127	100.0%

¹ All 13 citations were for not permitting certification staff access to inspect the facility.

County and tribal agencies conducted 19,582 regulatory visits to certified facilities over the past five fiscal years.

As shown in Table 21, county and tribal staff conducted 19,582 regulatory visits to certified facilities from FY 2004-05 through FY 2008-09. They did not issue citations in 78.7 percent of these visits, which is a significant difference from the citations per visit issued to licensed facilities that was shown in Table 18. Additional information on the types of citations issued to certified facilities in Milwaukee County and elsewhere can be found in Appendix 3.

Table 21

Citations Issued per Visit to Certified Facilities
FY 2004-05 through FY 2008-09

Citations	Visits	Percentage of Total
0	15,416	78.7%
1	1,204	6.1
2 to 3	1,625	8.3
4 to 6	1,011	5.2
7 to 9	248	1.3
10 or More	78	0.4
Total	19,582	100.0%

The reasons for variation in the number and types of citations issued to certified facilities cannot be determined from available data, but it is likely that county and tribal regulatory staff are not citing or recording all violations of the child care rules enumerated in administrative code. For example, staff in Brown, Eau Claire, and Kenosha counties do not cite all instances of noncompliance, including some safety hazards and inadequate supervision of children. During visits to five certified facilities in Brown County, we noted 12 violations of child care rules that the county certification staff person acknowledged but failed to cite, including an unsupervised child playing in the yard of a neighbor, missing enrollment forms, and inoperable carbon monoxide detectors. DCF contacted Brown County to investigate the concerns we noted and subsequently reported to us that the facilities had been retroactively cited for all violations we identified.

Information on the number of citations issued to certified facilities is also understated because not all certification staff record citations in the statewide certification database, as is required in DCF's contracts with county and tribal regulatory agencies. For example, staff in Eau Claire County stated that they do not record citation information in the statewide certification database if a facility resolves the instance of noncompliance that was cited. Eight counties and five tribes recorded no citations during the five-year period we reviewed.

DCF is aware that some county and tribal agencies are not consistently identifying and recording information in the statewide certification database and reports that it issues reminders for certification staff to cite any identified noncompliance, and to record citations accurately and promptly. However, DCF does not routinely conduct analyses to identify and correct noncompliance with contractual reporting requirements.

Neither licensing nor certification staff can rate the severity of violations they cite.

Because of missing data, and because neither licensing nor certification staff can rate the severity of violations associated with the citations they issue, information maintained in the statewide licensing and certification databases is of limited analytical and managerial value. For example, available data are not sufficiently detailed to allow managers to readily detect patterns of repeated or severe violations. Without improved management information, DCF and regional licensing chiefs cannot adequately focus regulatory efforts on higher-risk facilities with the most severe health and safety concerns.

☑ Recommendation

We recommend the Department of Children and Families report to the Joint Legislative Audit Committee by June 30, 2010, on the steps it has taken to improve the management data it collects on regulatory activities by:

- *establishing a severity index for violations associated with the citations issued by regulatory staff;*
- *documenting unsuccessful attempted visits to licensed facilities in the statewide licensing database; and*
- *ensuring that all county and tribal agencies document all information in the statewide certification database, as required under contract.*

■ ■ ■ ■

Regulating and Enforcing Wisconsin Shares ■

Most of the regulatory activities of licensing and certification staff relate more directly to ensuring health and safety than to the operation of Wisconsin Shares. However, as part of their routine visits to assess ongoing compliance with the child care rules enumerated in administrative code, licensing and certification staff review daily attendance records—which serve as the basis for Wisconsin Shares payments—for accuracy and completeness. To better understand why regulators did not consistently detect the volume of improper payments that have dominated discussions of the Wisconsin Shares program in 2009, we reviewed a sample of facilities cited for attendance record violations to determine whether any payment errors were subsequently identified and whether facility operators were required to make repayments. We also reviewed DCF’s program integrity efforts.

Attendance Record Violations and Subsidy Payment Errors

When regulators gain access to a facility, attendance record citations can be issued for a number of reasons, including:

- failing to have attendance records on file on the day of the regulatory visit or for the days on which care was provided since the last regulatory visit;

- recording children on the attendance records who are not currently in care at the facility;
- failing to record daily arrival and departure times of children who are in care at a facility; and
- incomplete or illegible names or arrival and departure times.

Certified facilities with attendance record citations are infrequently assessed for Wisconsin Shares subsidy payment errors.

We reviewed Wisconsin Shares subsidy payment histories for a random sample of 50 licensed and 50 certified facilities that participated in the program and had attendance record citations, to determine whether payment errors had been identified and repayments required. We found that 21 of the licensed facilities, or 42.0 percent, and 41 of the certified facilities, or 82.0 percent, were not assessed for subsidy payment errors.

Available databases do not indicate the reasons facilities received attendance record citations, and not all facilities with attendance record citations were paid in error. However, a citation does indicate that a facility may have attendance record issues that, if reviewed more closely, could help to identify potential fraud. DCF reported that since early 2009, licensing staff have been verbally instructed in training sessions to identify potential Wisconsin Shares violations. However, as of November 2009, DCF had not provided specific written guidance to regulatory staff on how to identify potential violations, what documentation to collect, or to whom the information should be reported.

Licensing and certification staff also do not always know which children are receiving subsidized care, because they have not been instructed in how to regularly check DCF's separate subsidy payment system before conducting site visits, nor do they all have access to it. While there is not sufficient time in a regulatory visit for developing evidentiary materials to support a case for potential fraud, basic documentation could be gathered and directed to state staff in the Fraud Detection and Investigation Unit or to county and tribal fraud investigation staff, who could use it to support initial investigations and recover Wisconsin Shares payments made in error or to suspend payments to operators of facilities.

Recommendation

We recommend the Department of Children and Families strengthen Wisconsin Shares fraud prevention and report to the Joint Legislative Audit Committee by June 30, 2010, on the status of its efforts to instruct licensing and certification staff in how to better identify and address subsidy payment errors and gather basic documentation to support initial investigations of potential fraud.

Fraud Detection Efforts

Before the creation of DCF, the detection and investigation of potential fraud in Wisconsin Shares was not a clear priority. As we noted in our June 2009 report on Wisconsin Shares, approximately one position was authorized in DCF to conduct program integrity activities before the enactment of 2009 Wisconsin Act 2, which authorized 5.0 FTE positions for program integrity. Fraud investigation was only one of a wide range of allowable activities under the terms of the \$15.9 million in county and tribal contracts issued in 2008, which also allow funding to support the cost of regulation and certain other administrative functions.

The State's allocations for child care administration represent the largest single source of funds for county administration of child care, but in 2008 the Department of Health Services allocated an additional \$1.8 million to county and tribal agencies for program integrity efforts, including the investigation of potential fraud by participants in all of the State's public assistance programs. In June 2009, we estimated that \$16.7 to \$18.5 million in improper subsidy payments were made in 2008 because of problems in the eligibility determination process for Wisconsin Shares participants. To the extent counties assess eligibility properly, the potential for participant fraud can be controlled. We have already recommended adherence to existing requirements for documenting claims of self-employment, as well as training for county and tribal staff about resources available to verify employment information.

The issue of responsibility for fraud detection, investigation, and prosecution has become contentious, particularly in Milwaukee County, which represents approximately 24.0 percent of the child care facilities and accounts for nearly 60.0 percent of Wisconsin Shares subsidy payments in FY 2008-09. Some have argued that Milwaukee County has had clear responsibility in this area and believe it devoted inadequate resources to essential fraud detection and investigation activities. Others argue that DCF and its predecessor agencies have failed to provide adequate program oversight or to target resources for fraud detection and investigation and work cooperatively with Milwaukee County.

We note that beginning in 2007, Milwaukee County's child care contract stipulated that \$500,000 in allocated funds be used for four specific activities: improvement of customer service; monitoring certified facilities; identifying, assessing, and recovering Wisconsin Shares subsidy payment errors; and fraud investigation activities. However, the contract did not specify or limit the amount Milwaukee County should spend for each of these activities. As shown in Table 22, although county and tribal agencies spent less than the \$15.9 million they were allocated under their 2008 contracts,

Milwaukee County underspent its contract by \$872,000, which was the largest amount. Appendix 4 contains additional information on all counties' and tribes' contract allocations and expenditures.

Table 22
County and Tribal Child Care Administration Contracts¹
 2008

County	2008 Allocation	2008 Expenditures	Difference
Milwaukee	\$ 8,591,831	\$ 7,719,831	\$872,000
Dane	1,255,030	1,396,175	(141,145)
Kenosha	587,950	587,978	(28)
Racine	497,925	471,219	26,706
Waukesha	427,718	443,409	(15,691)
Brown	409,000	361,708	47,292
Rock	338,353	338,353	0
Winnebago	287,829	310,699	(22,870)
Eau Claire	213,935	281,106	(67,171)
Outagamie	235,183	251,920	(16,737)
La Crosse	187,999	233,568	(45,569)
Others	2,901,626	3,010,533	(108,907)
Total	\$15,934,379	\$15,406,499	527,880

¹ Includes county contract expenditures from January through December 2008, and tribal contract expenditures from October 2007 through September 2008.

In 2009, significant changes were made to improve the detection and investigation of potential fraud in Wisconsin Shares.

The State announced in early 2009 that it was assuming responsibility for all public assistance programs in Milwaukee County, which will begin in January 2010. Significant changes have also been made to improve the detection and investigation of potential fraud in Wisconsin Shares at both the state and county levels in 2009:

- In September 2009, a task force with membership representing DCF, the Department of Justice, the City of Milwaukee Police Department, and the offices of Milwaukee County's Sheriff and District Attorney was created to begin more aggressive identification and prosecution of potentially fraudulent activities of Wisconsin Shares participants and child care facility operators.

- In October 2009, counties and tribes were allocated \$325,000 by the State to investigate fraudulent activities on the part of W-2 recipients and child care facilities in calendar year 2009. Milwaukee County was allocated \$154,000, or 47.4 percent, of that amount.
- In October 2009, DCF contracted with a private investigation firm, at a cost of \$24,750, to conduct further fraud investigations in the Southeastern licensing region.

It is too early to determine the long-term effectiveness of these program integrity efforts, and continued monitoring by the Legislature will be important. However, we note that on December 3, 2009, charges were filed against two child care facility operators in Milwaukee County—the first since the task force was formed.

Recommendation

We recommend the Department of Children and Families report to the Joint Legislative Audit Committee by June 30, 2010, on the status of its fraud detection and investigation efforts in Wisconsin Shares, particularly in Milwaukee County.

■ ■ ■ ■

Sanctioning Child Care Facilities ■

Progressively severe sanctions are issued to address serious or persistent violations of child care rules.

After issuing citations during regulatory visits to licensed and certified facilities that have violated the child care rules enumerated in administrative code, DCF and county and tribal agencies may address serious or persistent violations with progressively severe sanctions that culminate in the suspension or revocation of a license or certification. We analyzed the sanctions issued by DCF and county and tribal agencies, including the most severe sanctions and the extent to which facilities have been repeatedly sanctioned.

Sanctioning Licensed Facilities

Over the past five fiscal years, DCF sanctioned 1,911 licensed facilities.

Four of the five sanctions that DCF may issue to licensed facilities that have already been cited for violating child care rules are enumerated in s. 48.715, Wis. Stats. Only warning letters, which DCF considers a “pre-enforcement action” to increase the impact of a citation for noncompliance, are not enumerated in statutes. DCF issued 3,362 sanctions over the past five fiscal years, as shown in Table 23. In addition to warning letters, these sanctions included letters ordering facilities to correct noncompliance; forfeitures of up to \$1,000 per violation per day; summary suspension, which is immediate 72-hour closure because of imminent danger to children in care; and license revocation. A total of 1,911 facilities were sanctioned, and \$367,200 was paid in forfeitures during the period shown.

Table 23

Sanctions Against Licensed Facilities

Sanctions	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Total
Warning Letter	140	147	204	301	273	1,065
Orders Letter	143	166	206	303	399	1,217
Forfeiture	119	133	134	192	198	776
Summary Suspension	27	7	6	6	9	55
Revocation	46	28	28	49	98	249
Total	475	481	578	851	977	3,362

DCF does not routinely analyze sanction information and therefore could not explain why licensed facilities in Milwaukee County received approximately one-quarter of all sanctions against licensed facilities from FY 2004-05 through FY 2008-09, but received 70.9 percent of all summary suspensions and 62.7 percent of all revocations. However, licensing staff in the Southeastern region reported that when their initial sanctioning recommendations are not reviewed on a timely basis, noncompliance may continue to an extent that eventually warrants a more severe sanction. DCF has informed us that as of August 2009, 47 warning letters, orders, and forfeitures were pending in the Southeastern region, but DCF could not provide information about how long these sanctions have been pending.

Current practices limit the value of available data on sanctions as a management tool.

Sanctions are recorded in the statewide licensing database under several broad categories, rather than by specific administrative code violations, and DCF has not issued written policies that clarify which categories apply to particular violations. Licensing staff must therefore rely on their best judgment, and consequently might not use the same categories consistently. As a result, the value of available data on sanctions as a management tool is limited.

Available records show that most license revocations were for not maintaining complete and accurate records.

We therefore completed additional analyses of the most serious sanctions issued, as well as the facilities that were most frequently sanctioned. First, we examined electronic records for 249 facilities whose licenses had been revoked from FY 2004-05 through FY 2008-09. As shown in Table 24, the most common reason for revocation was failure to maintain complete and accurate records, which includes daily attendance records and therefore has consequences for the regulation and enforcement of Wisconsin Shares, but also includes failure to maintain complete and accurate records related to the health and safety of children, such as forms related to immunizations, allergies, medications, and emergency contact information.

Table 24

Revocation Reasons for Licensed Facilities¹
 FY 2004-05 through FY 2008-09

	Milwaukee County	Balance of State	Total
Administration and Records	59	29	88
Unknown ²	58	29	87
Alleged Child Abuse or Neglect	24	24	48
Tax Delinquency	32	9	41
Background Check	27	10	37
Supervision and Staff Coverage	12	13	25
Safety Hazards	13	7	20
Other ³	61	34	95
Total	286	155	441

¹ Includes the reasons for the revocations of 249 facilities' licenses during the period, as recorded by DCF licensing staff.

² Information on the type of sanction was not recorded in the statewide licensing database.

³ Includes various reasons, such as staff qualifications, transportation, physical plant, inappropriate discipline, and sanitation and cleanliness.

Second, we compared license revocation records to DCF data on substantiated findings of child abuse and neglect during the time period shown in Table 24. We found that child welfare officials had either confirmed abuse or neglect of a child or determined that it was likely to occur in 34 of the 48 facilities whose licenses had been revoked for this reason. The operators of 29 of these licensed facilities had abused or neglected a child, and someone other than the facility operator had abused or neglected a child in the remaining 5.

Only a small percentage of licensed facilities are repeatedly sanctioned for serious or persistent violations of child care rules.

To determine whether licensing staff adequately exercised their enforcement authority in specific areas, we analyzed whether any sanctions had been issued to 29 facilities that we identified as having serious noncompliance issues because they received more than 40 citations in a single visit, as was shown in Table 18. We found that only 14 of these licensed facilities had been sanctioned by DCF. We also found that only a small percentage of all licensed facilities are repeatedly sanctioned. However, as shown in Table 25, 57 facilities received more than 5 sanctions over the past 5 fiscal years for serious or persistent violations of child care rules.

Table 25

Number of Sanctions per Licensed Facility
 FY 2004-05 through FY 2008-09

Sanctions	Facilities	Percentage of Total
1	1,222	63.9%
2	393	20.6
3	143	7.5
4	64	3.3
5	32	1.7
6 to 10	40	2.1
11 to 15	13	0.7
16 or More	4	0.2
Total	1,911	100.0%

Three of the four licensed facilities that were issued 16 or more sanctions continued to operate as of November 2009, including:

- one licensed group facility in Dane County that received 18 sanctions, including 10 sanctions following repeated citations for inaccurate child, medical, and attendance records, and also received \$150,900 in Wisconsin Shares subsidy payments from January through November 2009;
- another licensed group facility in Dane County that received 17 sanctions, including 9 sanctions following repeated citations for inadequate supervision of children, and also received \$276,700 in Wisconsin Shares subsidy payments from January through November 2009; and
- a third licensed group facility in Dane County that received 16 sanctions, including 5 sanctions following repeated citations for inaccurate child, medical, and attendance records, as well as 6 sanctions following repeated citations for inadequate supervision of children, and also received \$562,300 in Wisconsin Shares subsidy payments from January through November 2009.

Sanctioning Certified Facilities

The county and tribal agencies that regulate certified child care facilities are limited by administrative code to two types of sanctions for addressing serious or persistent violations of child care rules:

- suspension, which is closure of a facility for up to 60 days because of imminent danger to children in care; and
- revocation of certification.

Both the number of sanctions issued by county and tribal agencies and the number of certified facilities have declined.

As shown in Table 26, the number of sanctions issued by county and tribal agencies increased from FY 2004-05 through FY 2006-07 and then declined, as did the number of certified facilities during the same period. Certified facilities in Milwaukee County received 592 sanctions, or 70.2 percent of all sanctions issued during the period shown. There is insufficient information in the statewide certification database to explain why facilities in Milwaukee County received so many more sanctions, and the database does not identify the citations related to the sanctions.

Table 26

Sanctions Against Certified Facilities

Sanctions	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Total
Suspension	7	60	143	134	80	424
Revocation	30	66	143	94	86	419
Total	37	126	286	228	166	843

To help determine whether county and tribal agencies adequately exercised their enforcement authority, we analyzed whether any sanctions had been issued in visits to 74 certified facilities that we identified as having serious noncompliance issues because they received ten or more citations in a single visit, as was shown in Table 21. We found that only 19 of these certified facilities had been sanctioned by county and tribal agencies.

As shown in Table 27, a total of 734 certified facilities were sanctioned from FY 2004-05 through FY 2008-09. In contrast to licensed facilities, no certified facilities received more than three

sanctions. However, only the most severe of the five sanctions that may be imposed on licensed facilities by DCF may be issued by county and tribal agencies to address serious and persistent violations of child care rules. Furthermore, available data are insufficient for program managers to ensure that sanctions are issued consistently and used effectively to achieve the desired corrective effects in licensed and certified child care facilities.

Table 27

Number of Sanctions per Certified Facility
FY 2004-05 through FY 2008-09

Sanctions	Facilities	Percentage of Total
1	639	87.1%
2	81	11.0
3	14	1.9
Total	734	100.0%

Recommendation

We recommend the Department of Children and Families report to the Joint Legislative Audit Committee by June 30, 2010, on its efforts to:

- *better ensure that facilities receiving large numbers of citations are subsequently sanctioned and that sanctions are issued consistently; and*
- *target its regulatory resources to those facilities receiving the most sanctions.*



Background Checks ■

In September 2009, we reported on an analysis in which we matched the addresses of registered sex offenders with the addresses of child care facilities. Statutes prohibit the provision of child care by any facility operator or employee of a facility who has been convicted of certain felonies, including sex crimes. Statutes also prohibit any person convicted of those crimes from living in a home where child care is provided. However, when we compared the most recently reported home addresses of all registered sex offenders to child care site addresses maintained by DCF for all active licensed and certified facilities, we identified four matches.

We continued our analysis by comparing DCF's electronic information about operators of child care facilities, other household members, and employees, with criminal records maintained by the Department of Justice and with records of substantiated cases of child abuse and neglect maintained by DCF.

Applicants are generally prohibited from becoming licensed or certified if they or members of their households have been convicted of any of the offenses shown in Appendix 5, which include offenses such as homicide, sexual assault, and abuse or neglect of a child. However, statutes continue to permit DCF or county and tribal agencies to allow individuals convicted of some of the prohibited offenses to provide care, to be employed by a facility, or to reside in the home if they have been rehabilitated. The Department of Health Services makes rehabilitation decisions related to operators of licensed facilities; county and tribal agencies make rehabilitation decisions related to certified facilities.

Analysis of Crimes and Child Abuse and Neglect Reports

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 maintained by the Department of Justice for all felony and misdemeanor convictions during the period from January 1985 through July 2009; and
- information maintained by DCF on substantiated findings of child abuse and neglect during the period from July 2004 through June 2009.

We also matched these data with data for household members and employees reported to DCF by licensed and certified facilities. We took several steps to be reasonably assured that our analyses did not incorrectly exclude facility operators, household members, or their employees. However, it is possible for an individual to have been excluded if the felony was committed in another state or if incomplete or inaccurate information was submitted to DCF or to county or tribal agencies.

We found eight cases in which convicted felons or those who abused children were employed by or living at child care facilities.

We identified eight matches, which indicate gaps in the oversight and management of the background check process:

- A household member residing at a licensed family facility in Milwaukee County was convicted of felony battery in May 1995. DCF's electronic information indicates it conducted two criminal background checks of the household member, but no action was taken. After we notified DCF of the match on October 7, 2009, it notified the facility operator that the individual could not reside at the facility. DCF subsequently reported to us that the individual moved out of the facility three days later. Through November 2009, the facility received \$57,000 in Wisconsin Shares subsidy payments.
- A household member residing at a certified facility in Racine County was convicted of felony battery in January 2004. Racine County conducted a criminal background check of the household member in March 2009, but no action was taken. After we notified DCF of our finding, the county revoked the

facility's certification on October 9, 2009. In 2009, the facility received \$6,200 in Wisconsin Shares subsidy payments.

- A household member residing at a certified facility in Kenosha County was convicted of felony battery in June 1995. Kenosha County conducted a criminal background check of the household member in November 2008, but no action was taken. After it was notified by DCF of our finding, the county revoked the facility's certification on October 15, 2009. In 2009, the facility received \$22,900 in Wisconsin Shares subsidy payments.
- A household member residing at a licensed family facility in Lincoln County had a substantiated finding of child neglect in January 2009. Lincoln County child welfare staff placed the individual, who was a minor, in the foster home of an individual who was also an operator of a licensed family facility. After we notified DCF of the match, Lincoln County reported that it was aware that the foster parent operated a licensed facility but believed that the placement was in the best interest of the minor. The minor has not resided at the facility since April 2009. Through November 2009, the facility received \$2,100 in Wisconsin Shares subsidy payments.
- A household member residing at a licensed family facility in Green Lake County had two substantiated findings of child abuse in August and October 2006. When notified of the match, DCF reported that it had learned of the substantiated abuse findings in August 2008 but already determined after an investigation that the individual was no longer living at the facility. DCF cited the facility operator for failing to report the household member and, in October 2009, revoked the facility's license for other violations of child care regulations. The facility is currently operating, pending an appeal. Through November 2009, the facility received \$41,100 in Wisconsin Shares subsidy payments.

- An employee of a licensed family facility in Racine County had a substantiated finding of child abuse in July 2004. When notified of the match, DCF indicated that the employee did not report it on her background disclosure form. Because facilities are not able to obtain information on substantiated findings of child abuse and neglect when they conduct background checks, the facility operator was not aware of the finding. DCF reported that, effective October 23, 2009, the facility is no longer licensed. In 2009, the facility received \$19,500 in Wisconsin Shares subsidy payments.
- A household member residing in a certified facility in Waukesha County had a substantiated finding of child abuse in June 2008. After we notified DCF of the match, it reported that county certification staff were aware that the individual resided at the facility but did not believe that children were at risk of being harmed. In October 2009, DCF notified Waukesha County that the individual could not continue to reside at the facility and subsequently reported to us that the individual no longer does so. Through November 2009, the facility received \$29,500 in Wisconsin Shares subsidy payments.
- A household member residing at a certified facility in Dane County had a substantiated finding of child abuse in March 2009. The facility did not report the finding to certification staff and, as a result, the county's contractor did not become aware of the finding until September 2009, when it received an anonymous complaint. Available information indicates, however, that county child welfare staff were aware that the individual resided at the facility, although they did not realize the facility was authorized to care for children. The facility's certification was revoked on September 28, 2009. In 2009, the facility received \$6,200 in Wisconsin Shares subsidy payments.

DCF believes no children were harmed in the eight situations we identified. However, we could not independently determine whether the felons or child abusers we identified had ever been present while care was being provided.

The matches we identified reflect offenses that, until recently, either barred individuals from child care facilities or required evidence of their rehabilitation. Section 48.685(2)(bb), Wis. Stats., enumerates seven other criminal offenses—including misdemeanor battery and disorderly conduct—for which DCF, county and tribal agencies, and facility operators must conduct an investigation if an individual has been convicted in the past five years. DCF and county or tribal agencies may deny licensure or certification to individuals who have been convicted of these offenses, or refuse to approve their employment or residence in a regulated child care facility if the investigation indicates that they pose a potential threat to the children in care. Appendix 6 lists offenses that are required to be investigated.

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

We identified 317 individuals with a total of 387 convictions for the seven criminal offenses requiring investigation. Milwaukee County accounted for 54 of the 317 individuals with convictions shown in Table 28, and 60 of the 387 convictions.

Table 28

Convictions for Seven Criminal Offenses Requiring Investigation

Facility Type	Facility Operators	Household Members	Employees	Total
Licensed	34 ¹	71 ²	8	113
Certified	103	100	1	204
Total	137	171	9	317

¹ Includes one facility that is both licensed and certified.

² Includes household members living at nine facilities that are both licensed and certified.

Although county and tribal agencies must conduct investigations of individuals with convictions for the seven criminal offenses specified in s. 48.685(2)(bb), Wis. Stats., electronic data maintained in statewide licensing and certification databases do not indicate whether the required investigations occurred. On December 1, we submitted the names to DCF for follow-up, and it is reviewing this information in conjunction with its own review and analysis.

Strengthening the Background Check Process

The Legislature and DCF have already taken several steps to improve the criminal background check process. For example, 2009 Wisconsin Act 76 requires:

- a criminal background check of all facility operators once every three months, rather than once every four years as had previously been required;
- that each criminal background check include a review of the sex offender registry; and
- expansion of the list of offenses that permanently prohibit an applicant from obtaining licensure or certification to provide child care.

Operators of 184 licensed facilities and 20 certified facilities were overdue for criminal background checks as of June 30, 2009.

However, conducting more frequent background checks of facility operators may be challenging for both DCF and county and tribal regulatory agencies. The substantially less-stringent requirements that had been in effect were not consistently met. As shown in Table 29, we found that operators of 184 licensed facilities and 20 certified facilities were overdue for criminal background checks as of June 30, 2009, and background checks for 6 licensed facility operators and 5 certified facility operators were more than 10 months overdue. Operators of licensed facilities in Milwaukee County were 42.9 percent of those overdue for criminal background checks.

Table 29

**Overdue Criminal Background Checks of Licensed and Certified Facility Operators
As of June 30, 2009**

Months Overdue	Licensed Facilities		Certified Facilities	
	Licensed Operators	Percentage	Certified Operators	Percentage
Less than 1	33	17.9%	6	30.0%
1 to 4	70	38.1	6	30.0
5 to 7	51	27.7	2	10.0
8 to 10	24	13.0	1	5.0
More than 10	6	3.3	5	25.0
Total	184	100.0%	20	100.0%

The process for documenting employee background checks needs improvement.

In addition, several management and policy issues remain unresolved:

- Facility operators are responsible for conducting background checks of their employees but do not always do so. From FY 2006-07 through FY 2008-09, DCF licensing staff issued 1,945 citations for failures to conduct background checks at licensed facilities. Furthermore, because DCF does not maintain a database of child care facility employees, it cannot verify information submitted by facility operators or readily investigate concerns that may arise. When we attempted to do so, we were able to match only 527 employees at licensed facilities—or less than 3.0 percent of the estimated 20,000 individuals statewide who are employed at any one time in licensed or certified facilities—with criminal records maintained by the Department of Justice and information on findings of abuse or neglect.
- Compliance with requirements that facility operators report any criminal convictions, pending criminal charges, or contact with law enforcement or child welfare agencies involving themselves, members of their households, or their employees to DCF or to county or tribal regulatory agencies within one business day may be low because of the potential effects of disclosure on the livelihood of facility operators.
- Instead of assigning its own staff to conduct background checks using WiSACWIS, the statewide child welfare database, DCF relies on county child welfare staff to report when a facility operator, household member, or employee has abused or neglected a child. However, child welfare staff do not always share complete information with DCF or county and tribal agencies, in part because they are not always aware of when to do so. DCF intends to resolve this issue by including substantiated child abuse and neglect records in the background check system currently used by licensing staff.
- Operators of licensed child care facilities cannot comply with a requirement in s. 48.685, Wis. Stats., to review substantiated findings of child abuse or neglect by their employees because DCF will not release the necessary information. DCF is concerned that because some individuals

may not have been informed that an allegation against them has been substantiated, the State could be sued if the information were used to deny employment without DCF first providing an individual the opportunity to appeal the finding.

Recommendation

We recommend the Department of Children and Families report to the Joint Legislative Audit Committee by June 30, 2010, on its plans to:

- *improve the timeliness of the background check process;*
- *ensure that operators of child care facilities are conducting necessary background checks and disclosing required information related to criminal convictions, pending charges, and contact with law enforcement agencies or child welfare agencies; and*
- *address facility operators' need for information to comply with s. 48.685, Wis. Stats., and ensure their employees have no substantiated findings of child abuse or neglect.*

Although law enforcement agencies maintain that fingerprints are the most accurate method of verifying criminal histories, DCF does not currently collect them as part of the background check process because of the cost to the State and to facility operators. Doing so is permissible under statutes now in effect, and federal legislation requiring fingerprinting of facility operators is currently being considered. However, both DCF and the Legislature may wish to give additional consideration to whether still more stringent controls, such as fingerprinting, should become a required part of the background check process for facility operators, their employees, or household members, or whether the health and safety of children and the integrity of the Wisconsin Shares program can be better addressed by efforts to improve the quality of other information available to program managers and staff, such as data on the frequency of inspections, the number and severity of the violations cited by DCF and county and tribal regulatory staff, the extent to which sanctions are issued to address serious or persistent violations of the child care rules enumerated in administrative code, and the results of the most recently enacted legislation to improve the background check process.

Future Considerations ■

DCF and the Legislature are working to increase the safety of children in regulated facilities and reduce improper payments under Wisconsin Shares.

The Legislature and DCF have taken numerous steps to address fraud and abuse in the Wisconsin Shares program, correct program deficiencies, and improve management and operations. The creation of DCF in 2008 merged child care administration, licensing, and Wisconsin Shares functions. Legislative action to restore public confidence and strengthen the integrity of Wisconsin Shares continued with 2009 Wisconsin Act 2, which authorized 5.0 FTE program integrity staff positions and \$500,000 for development of an automated attendance system.

Other provisions to strengthen program integrity were included in 2009 Wisconsin Act 28, the 2009-11 Biennial Budget Act, which:

- limits the number of employees' children for whom a facility operator may care and also receive subsidy payments;
- limits the number of hours of subsidized care any child may receive in one day;
- requires that Wisconsin Shares subsidy payments be reduced when facility operators are suspected of fraud or abuse; and
- requires operators of facilities that receive subsidy payments to retain attendance records for three years, even if they cease to participate in Wisconsin Shares.

Requirements for more frequent background checks were established in 2009 Wisconsin Act 76, which also expanded the list of offenses that permanently bar individuals from participation in the child care industry and was enacted in November 2009. In the same month, 2009 Wisconsin Act 77 made corporate owners and limited-liability partners personally liable for financial obligations resulting from failures to comply with Wisconsin Shares requirements. Appendix 7 shows the key provisions of recent legislation.

DCF will directly regulate and administer Wisconsin Shares in Milwaukee County beginning in January 2010, and it has already begun a series of statewide management improvements in response to recently enacted legislation and at its own initiative. For example, DCF has:

- reorganized its own operations to address concerns related to Wisconsin Shares that were reported by us and in the *Milwaukee Journal Sentinel*;
- created the Fraud Detection and Investigation Unit and developed “red flag” reports to identify and respond to facility operators that represent a high risk for fraudulent behavior; and
- worked with counties and other state and local government agencies to launch three task forces that will pursue and prosecute fraud by facility operators.

To assist the Legislature in carefully monitoring its efforts to improve the integrity of Wisconsin Shares, DCF is preparing a number of reports, including monthly reports to the Joint Committee on Finance related to fraud detection activities and suspensions of Wisconsin Shares facility operators, and its plans for an electronic monitoring system to help control improper attendance reporting in licensed child care facilities, for which \$1.0 million in GPR has been appropriated in the 2009-11 biennial budget. Finally, DCF anticipates reporting to the Joint Legislative Audit Committee by June 30, 2010, on management improvements it will make in response to our recommendations in this report.

The Legislature has deliberated child care quality improvement in each of the last three biennia. The Governor has proposed a quality rating system for child care facilities, based on the recommendations of a 21-member task force he created in 2004. The most recent proposal identified five different quality levels, with the lowest requiring compliance with regulatory standards and the highest requiring accreditation by one of several national child care

organizations. DCF anticipates submitting a detailed implementation plan for the quality rating system to the Joint Committee on Finance by June 30, 2011.

In the future, DCF could take additional steps to strengthen management of the background check process, and both DCF and the Legislature may wish to give additional consideration to whether still more stringent controls, such as fingerprinting, should become a required part of the background check process for regulated child care facilities.

It is too early to know whether recently initiated changes in statutes and program administration can more completely address the program integrity issues we identified over the course of our work related to Wisconsin Shares, or whether additional changes should be considered. To a large extent, the success of recently initiated efforts will depend on DCF's ability to use available financial and other resources to ensure that:

- all child care facilities are inspected on a timely and routine basis;
- higher-risk facilities are given greater regulatory attention;
- data management is improved, including recording the severity of violations;
- repeated unsuccessful attempted regulatory visits are identified and promptly addressed;
- attendance records problems are corrected, payments received in error are repaid by facility operators, and potential fraud is addressed and its recurrence prevented; and
- child care facilities conduct required background checks of their employees in a timely and complete manner.

■ ■ ■ ■

Appendix 1

Child Care Facilities by County and Tribe

FY 2008-09

County or Tribe	Licensed Group ¹	Licensed Family	Certified	Total	Percentage of Total
County					
Adams	3	8	12	23	0.2%
Ashland	7	29	55	91	0.8
Barron	17	18	62	97	0.9
Bayfield	4	6	22	32	0.3
Brown	124	70	85	279	2.5
Buffalo	3	13	30	46	0.4
Burnett	8	7	33	48	0.4
Calumet	17	22	21	60	0.5
Chippewa	23	39	48	110	1.0
Clark	10	22	20	52	0.5
Columbia	32	33	14	79	0.7
Crawford	6	13	38	57	0.5
Dane	297	331	412	1,040	9.4
Dodge	36	30	30	96	0.9
Door	11	8	9	28	0.3
Douglas	25	19	64	108	1.0
Dunn	12	23	12	47	0.4
Eau Claire	62	46	132	240	2.2
Florence	1	–	1	2	<0.1
Fond du Lac	42	26	39	107	1.0
Forest	7	6	48	61	0.5
Grant	23	56	55	134	1.2
Green	13	33	22	68	0.6
Green Lake	7	11	7	25	0.2
Iowa	8	14	30	52	0.5
Iron	1	1	18	20	0.2
Jackson	5	9	30	44	0.4
Jefferson	32	22	14	68	0.6
Juneau	10	9	21	40	0.4
Kenosha	73	61	176	310	2.8
Kewaunee	8	11	5	24	0.2
La Crosse	63	69	231	363	3.3
Lafayette	7	19	15	41	0.4
Langlade	9	15	21	45	0.4

County or Tribe	Licensed Group ¹	Licensed Family	Certified	Total	Percentage of Total
Lincoln	10	21	39	70	0.6%
Manitowoc	30	28	16	74	0.7
Marathon	64	95	208	367	3.3
Marinette	11	16	11	38	0.3
Marquette	6	1	7	14	0.1
Menominee	2	–	22	24	0.2
Milwaukee	590	1,236	812	2,638	23.5
Monroe	13	27	50	90	0.8
Oconto	10	16	50	76	0.7
Oneida	22	12	16	50	0.4
Outagamie	90	71	76	237	2.1
Ozaukee	48	10	12	70	0.6
Pepin	1	15	14	30	0.3
Pierce	9	55	34	98	0.9
Polk	8	30	56	94	0.8
Portage	35	57	35	127	1.1
Price	5	9	39	53	0.5
Racine	100	39	413	552	5.0
Richland	6	14	42	62	0.6
Rock	88	86	54	228	2.1
Rusk	6	5	39	50	0.4
Sauk	19	62	25	106	1.0
Sawyer	8	13	40	61	0.5
Shawano	14	11	41	66	0.6
Sheboygan	45	35	68	148	1.3
St. Croix	41	65	45	151	1.4
Taylor	3	14	18	35	0.3
Trempealeau	13	26	69	108	1.0
Vernon	6	23	33	62	0.6
Vilas	13	7	9	29	0.3
Walworth	48	22	29	99	0.9
Washburn	5	11	52	68	0.6
Washington	71	11	27	109	1.0
Waukesha	200	72	51	323	2.9
Waupaca	21	20	15	56	0.5
Waushara	8	17	11	36	0.3
Winnebago	88	58	47	193	1.7
Wood	55	36	166	257	2.3
Subtotal	2,818	3,445	4,623	10,886	97.9

County or Tribe	Licensed Group ¹	Licensed Family	Certified	Total	Percentage of Total
Tribe					
Bad River	–	–	66	66	0.5%
Forest County Potawatomi	–	–	19	19	0.2
Lac Courte Oreilles	–	–	53	53	0.5
Lac du Flambeau	–	–	20	20	0.2
Oneida Nation	–	–	4	4	<0.1
Red Cliff	–	–	25	25	0.2
Sokaogon	–	–	17	17	0.2
Stockbridge-Munsee	–	–	30	30	0.3
Subtotal	–	–	234	234	2.1
Total	2,818	3,445	4,857	11,120	100.0%

¹ Includes some part-time facilities, such as day camps and before- and after-school programs.

Appendix 2

Citations Issued to Licensed Facilities

FY 2006-07 through FY 2008-09

Type of Citation	Milwaukee County	Balance of State	Total	Percentage of Total
Records				
Child Records	7,809	8,818	16,627	16.4%
Staff Records	6,191	5,589	11,780	11.7
Attendance Records	2,147	1,952	4,099	4.1
Subtotal	16,147	16,359	32,506	32.2
Physical Environment				
Safety Hazards	4,441	3,389	7,830	7.8
Emergency and Fire Protection	3,207	3,611	6,818	6.8
Building Characteristics	2,452	2,923	5,375	5.3
Sanitation	1,631	1,477	3,108	3.1
Outdoor Play Spaces	36	29	65	0.1
Subtotal	11,767	11,429	23,196	23.1
Staffing				
Staff Qualifications	3,468	4,633	8,101	8.1
Staff Development	1,889	773	2,662	2.6
Number of Children in Care	655	1,216	1,871	1.9
Staff Responsibilities	312	489	801	0.8
Subtotal	6,324	7,111	13,435	13.4
Program				
Equipment	1,204	764	1,968	2.0
Supervision of Children	589	1,111	1,700	1.7
Rest Periods	718	703	1,421	1.4
Meals and Snacks	476	787	1,263	1.3
Pets and Animals	236	862	1,098	1.1
Activities	258	380	638	0.6
Provider-Child Interactions	114	424	538	0.5
Subtotal	3,595	5,031	8,626	8.6
Operational Requirements				
Administration	2,430	2,505	4,935	4.9
Required Reporting	1,588	1,406	2,994	3.0
Communication with Parents	213	479	692	0.7
Subtotal	4,231	4,390	8,621	8.6

Type of Citation	Milwaukee County	Balance of State	Total	Percentage of Total
Infant and Toddler Care				
General Requirements	1,625	1,588	3,213	3.2%
Diapering and Toileting	1,015	1,264	2,279	2.3
Feeding	617	479	1,096	1.1
Infant Care Programming	297	500	797	0.8
Subtotal	3,554	3,831	7,385	7.4
Health				
Medications	456	1,192	1,648	1.8
Injury Treatment	248	695	943	0.9
Cleanliness	262	564	826	0.8
Treatment of Ill Children	47	186	233	0.2
Health Precautions	47	91	138	0.1
Communicable Disease Contact	5	9	14	<0.1
Subtotal	1,065	2,737	3,802	3.8
Transportation				
Vehicle Characteristics	815	342	1,157	1.2
Vehicle Operation	849	192	1,041	1.0
Driver Characteristics	344	233	577	0.6
Subtotal	2,008	767	2,775	2.8
Other¹	38	97	135	0.1
Total	48,729	51,752	100,481	100.0%

¹ Includes 56 violations of night care rules; 43 violations regarding the care of school-age children; 25 violations related to licensing applications, renewals, and relocations; 9 violations in which licensing specialists were not permitted access to inspect the facility; 1 violation related to discharging an employee; and 1 unknown violation.

Appendix 3

Citations Issued to Certified Facilities

FY 2004-05 through FY 2008-09

Type of Citation	Milwaukee County	Balance of State	Total	Percentage of Total
Records				
Child Records	3,423	2,442	5,865	38.8%
Attendance Records	417	320	737	4.9
Staff Records	0	3	3	<0.1
Subtotal	3,840	2,765	6,605	43.7
Physical Environment				
Safety Hazards	1,298	944	2,242	14.8
Emergency and Fire Protection	165	472	637	4.2
Building Characteristics	214	237	451	3.0
Sanitation	199	196	395	2.6
Outdoor Play Spaces	0	1	1	<0.1
Subtotal	1,876	1,850	3,726	24.6
Operational Requirements				
Communication with Parents	164	837	1,001	6.6
Required Reporting	136	331	467	3.1
Administration	2	22	24	0.2
Subtotal	302	1,190	1,492	9.9
Program				
Supervision of Children	89	214	303	2.0
Pets and Animals	80	199	279	1.8
Activities	14	73	87	0.6
Provider-Child Interactions	2	70	72	0.5
Rest Periods	20	20	40	0.3
Meals and Snacks	3	19	22	0.1
Equipment	2	13	15	0.1
Subtotal	210	608	818	5.4
Infant and Toddler Care				
General Requirements	448	220	668	4.4
Diapering and Toileting	36	45	81	0.5
Infant Care Programming	32	30	62	0.4
Subtotal	516	295	811	5.3

Type of Citation	Milwaukee County	Balance of State	Total	Percentage of Total
Staffing				
Number of Children in Care	193	376	569	3.7%
Staff Qualifications	8	232	240	1.6
Subtotal	201	608	809	5.3
Transportation				
Vehicle Operation	244	279	523	3.5
Vehicle Characteristics	20	8	28	0.2
Driver Characteristics	13	3	16	0.1
Subtotal	277	290	567	3.8
Health				
Cleanliness	160	39	199	1.3
Medications	2	43	45	0.3
Injury Treatment	42	0	42	0.3
Subtotal	204	82	286	1.9
Other¹	7	6	13	0.1
Total	7,433	7,694	15,127	100.0%

¹ All 13 violations were for not permitting certification staff access to inspect the facility.

Appendix 4

County and Tribal Child Care Administration Contracts¹ 2008

	2008 Allocation	2008 Expenditures	Difference
Counties			
Adams	\$ 20,000	\$ 18,620	\$ 1,380
Ashland	36,173	37,214	(1,041)
Barron	40,804	58,492	(17,688)
Bayfield	20,000	21,659	(1,659)
Brown	409,000	361,708	47,292
Buffalo	20,000	20,000	0
Burnett	20,000	14,565	5,435
Calumet	45,440	45,441	(1)
Chippewa	102,221	80,762	21,459
Clark	20,000	22,326	(2,326)
Columbia	53,723	53,723	0
Crawford	20,000	20,000	0
Dane	1,255,030	1,396,175	(141,145)
Dodge	112,722	65,615	47,107
Door	31,863	89,950	(58,087)
Douglas	76,756	71,416	5,340
Dunn	20,000	20,254	(254)
Eau Claire	213,935	281,106	(67,171)
Florence	20,000	9,362	10,638
Fond du Lac	104,284	103,610	674
Forest	20,000	19,585	415
Grant	30,737	14,760	15,977
Green	45,971	68,929	(22,958)
Green Lake	20,000	33,940	(13,940)
Iowa	20,000	22,275	(2,275)
Iron	20,000	20,151	(151)
Jackson	20,000	33,803	(13,803)
Jefferson	59,364	78,147	(18,783)
Juneau	20,000	23,018	(3,018)
Kenosha	587,950	587,978	(28)
Kewaunee	20,000	19,833	167
La Crosse	187,999	233,568	(45,569)
Lafayette	20,000	20,024	(24)
Langlade	28,492	33,518	(5,026)

County	2008 Allocation	2008 Expenditures	Difference
Lincoln	\$ 32,199	\$ 28,669	\$ 3,530
Manitowoc	65,289	60,259	5,030
Marathon	216,324	216,324	0
Marinette	21,144	21,144	0
Marquette	20,000	22,504	(2,504)
Menominee	20,000	17,627	2,373
Milwaukee	8,591,831	7,719,831	872,000
Monroe	42,323	43,323	(1,000)
Oconto	51,917	83,883	(31,966)
Oneida	50,115	24,532	25,583
Outagamie	235,183	251,920	(16,737)
Ozaukee	92,492	96,472	(3,980)
Pepin	20,000	22,821	(2,821)
Pierce	32,220	29,717	2,503
Polk	31,571	55,120	(23,549)
Portage	96,000	131,164	(35,164)
Price	20,000	16,607	3,393
Racine	497,925	471,219	26,706
Richland	20,000	19,147	853
Rock	338,353	338,353	0
Rusk	20,000	13,018	6,982
Sauk	50,165	59,291	(9,126)
Sawyer	42,192	43,258	(1,066)
Shawano	42,647	42,647	0
Sheboygan	94,315	112,013	(17,698)
St. Croix	44,684	42,931	1,753
Taylor	20,000	24,502	(4,502)
Trempealeau	38,774	44,434	(5,660)
Vernon	20,000	17,573	2,427
Vilas	20,000	31,699	(11,699)
Walworth	61,684	72,574	(10,890)
Washburn	20,000	16,515	3,485
Washington	152,777	111,224	41,553
Waukesha	427,718	443,409	(15,691)
Waupaca	36,612	28,108	8,504
Waushara	20,000	20,000	0
Winnebago	287,829	310,699	(22,870)
Wood	118,531	121,919	(3,388)
Subtotal	15,755,278	15,227,977	527,301

County	2008 Allocation	2008 Expenditures	Difference
Tribes			
Bad River	\$ 20,000	\$ 12,474	\$ 7,526
Forest County Potawatomi	20,000	19,108	892
Lac Courte Oreilles	20,000	20,000	0
Lac du Flambeau	20,000	20,000	0
Oneida Nation	39,101	52,214	(13,113)
Red Cliff	20,000	15,373	4,627
Sokaogon	20,000	20,000	0
Stockbridge Munsee	20,000	19,353	647
Subtotal	179,101	178,522	579
Total	\$15,934,379	\$15,406,499	\$527,880

¹ Includes county contract expenditures from January through December 2008, and tribal contract expenditures from October 2007 through September 2008.

Appendix 5

**“Serious Crimes” Requiring Denial of a
Child Care License or Certification**

As of October 2009

Statute ¹	Description
940.01	First-Degree Intentional Homicide
940.02	First-Degree Reckless Homicide
940.03	Felony Murder ²
940.05	Second-Degree Intentional Homicide
940.12	Assisting Suicide
940.19(2),(4),(5),(6)	Battery, Substantial Battery, Aggravated Battery
940.19(3), 1999 stats.	Substantial Battery
940.22(2),(3)	Sexual Exploitation by a Therapist
940.225(1),(2),(3)	1st, 2nd, or 3rd Degree Sexual Assault
940.285(2)	Abuse of an Individual at Risk
940.29	Abuse of Residents of Penal Facilities
940.295	Abuse or Neglect of Patients and Residents
940.302(2)	Human Trafficking
948.02(1),(2)	1st or 2nd Degree Sexual Assault of a Child
948.025	Repeated Sexual Assault of the Same Child
948.03(2)	Physical Abuse of a Child
948.05	Sexual Exploitation of a Child
948.051	Trafficking of a Child
948.055	Causing a Child to View or Listen to Sexual Activity
948.06	Incest with a Child
948.07	Child Enticement
948.08	Soliciting a Child for Prostitution
948.085	Sexual Assault of a Child in Substitute Care
948.11(2)(a),(2)(am)	Exposing a Child to Harmful Material or Harmful Descriptions or Narrations
948.12	Possession of Child Pornography
948.13	Child Sex Offender Working with Children
948.21(1)	Child Neglect
948.30	Child Abduction
948.53	Child Unattended in Child Care Vehicle

¹ The definition of serious crimes also includes violations of the laws of any other state that would be a violation of one of the statutes listed if committed in Wisconsin.

² Defined as murder committed while committing or attempting to commit other specified crimes.

Appendix 6

Offenses for Which Denial of a Child Care License or Certification Could Be Required¹

As of October 2009

Statute	Description
940.19(1)	Misdemeanor battery
940.195	Battery to an unborn child
940.20	Battery, special circumstances
941.30	Reckless endangerment
942.08	Invasion of privacy
947.01	Disorderly conduct
947.013	Harassment

¹ A conviction for these offenses requires DCF, county and tribal agencies, and facility operators to determine whether the offense is substantially related to the care of children only if the offense occurred within five years from the date of the background check.

Appendix 7

**Summary of Legislation Related to the Wisconsin Shares Program
2009**

Legislation	Date Enacted	Description
2009 Wisconsin Act 2	2/19/2009	<ul style="list-style-type: none"> ▪ Provides \$500,000 in federal revenue in FY 2008-09 to implement an automated system to monitor attendance in licensed child care facilities. ▪ Provides \$337,500 in federal revenue and 5.0 FTE positions beginning in FY 2008-09 to expand monitoring and oversight of Wisconsin Shares in DCF's Fraud Detection and Investigation Unit.
2009 Wisconsin Act 28, the 2009-11 Biennial Budget Act	6/29/2009	<ul style="list-style-type: none"> ▪ Authorizes DCF to take over administration of Wisconsin Shares in Milwaukee County and increases its position authority by 7.0 FTE positions. ▪ Requires DCF to request \$1.0 million under s. 13.10, Wis. Stats., to implement an electronic attendance monitoring system. ▪ Requires Wisconsin Shares subsidy payments to be reduced if attendance is below authorized levels. ▪ Limits the number of children of employees that a provider may care for and still receive Wisconsin Shares subsidy payments. ▪ Requires providers to maintain written attendance records for all children who receive subsidized child care under the Wisconsin Shares program for three years, even if the provider ceases to participate in the program. ▪ Requires DCF to establish rules permitting it to impose forfeitures on, recoup, or withhold payments from providers who fail to comply with Wisconsin Shares program rules or who submit false information to DCF. ▪ Provides for county, tribal, or W-2 agency retention of all recovered incorrect or fraudulent payments ▪ Generally limits the number of hours in a day that a child may receive care under the Wisconsin Shares program to 12. ▪ Freezes maximum reimbursement rates to child care facilities through FY 2010-11. ▪ Requires DCF to submit a specific plan for the implementation of a quality rating system by June 30, 2011.

Legislation	Date Enacted	Description
2009 Wisconsin Act 76	11/13/2009	<ul style="list-style-type: none"> <li data-bbox="834 268 1416 388">▪ Increases the frequency with which background checks are conducted and explicitly requires a check of the sex offender registry as part of the background check process. <li data-bbox="834 409 1416 529">▪ Expands the list of serious crimes that would prohibit individuals from becoming licensed or certified, or from working or residing at a child care facility. <li data-bbox="834 550 1416 615">▪ Prohibits individuals convicted of certain serious crimes from demonstrating rehabilitation. <li data-bbox="834 636 1416 732">▪ Requires counties to notify DCF within 15 days if an individual is determined to have abused or neglected a child. <li data-bbox="834 753 1416 850">▪ Prohibits individuals found to have violated Wisconsin Shares requirements from receiving subsidy payments for up to five years. <li data-bbox="834 871 1416 936">▪ Requires mandatory reporting by DCF, county, and tribal staff of suspected fraud. <li data-bbox="834 957 1416 1071">▪ Requires annual reporting to the Legislature by DCF of applicants for licensure or certification found to be ineligible through the background check process, and the resulting actions.
2009 Wisconsin Act 77	11/13/2009	<ul style="list-style-type: none"> <li data-bbox="834 1108 1416 1278">▪ Allows individuals with at least 20 percent ownership in a corporation or limited liability company to be held liable for financial obligations owed as a result of submitting false information to DCF or failing to comply with Wisconsin Shares requirements.



Jim Doyle
Governor

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Secretary

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December 10, 2009

Ms. Janice Mueller
State Auditor
Legislative Audit Bureau
22 E. Mifflin Street, Suite 500
Madison, WI 53703

Dear Ms. Mueller:

Thank you for the opportunity to respond to the Legislative Audit Bureau's (LAB) evaluation of child care regulation and quality in the State of Wisconsin.

As with LAB's earlier audit of the Wisconsin Shares program, this evaluation affirms actions the Department has taken to ensure the health and safety of children as well as improving child care quality statewide. The Department of Children and Families (DCF) agrees with the LAB recommendations on suggested improvements to the manner in which child care regulation is managed.

With these efforts, combined with our continued strong actions to eliminate fraud in the Wisconsin Shares program, the Department will have effectively rebuilt the foundation of the State's role in early care and education – but this is only the foundation. If, and only if, we adopt a Quality Rating and Improvement System that clearly recognizes and supports high quality child care, can we transform the child care landscape in the State of Wisconsin.

Response to Audit Findings

The focus of this audit was child care regulation and quality. The Department's top priority in its regulation of child care facilities is ensuring that children are healthy and safe.

Wisconsin's child care licensing rules are considered among the best in the country for promoting the health, safety and well-being of children. In a recent study conducted by the National Association of Child Care Resource and Referral Agencies (NACCRRA), Wisconsin was ranked sixth in the nation for its child care center standards. Wisconsin has been selected by the National Association of Regulatory Agencies (NARA) as one of the top ten states in the nation for its strong and effective regulatory program for licensed children's facilities.

With strong regulations in place, DCF has identified (and the Legislative Audit Bureau confirmed) ways in which the implementation of those regulations should be improved.

The audit states, and the Department agrees, that the success of our efforts is contingent upon the degree to which:

- child care facilities conduct required background checks of their employees in a timely and complete manner;
- data management is improved, including recording the severity of violations; and
 - all child care facilities are inspected on a timely and routine basis;
 - higher risk facilities are given greater regulatory attention;
 - repeated unsuccessful attempted regulatory visits are identified and promptly addressed.
- attendance records problems are corrected, overpayments are collected, and potential fraud is addressed and its recurrence prevented.

The Department has taken significant action to address these issues and will continue to do so.

1. Strengthening Background Check Requirements and Process

Since the passage of the Caregiver Law (HFS 12) in 1998, background checks conducted on child care licensees, household members, and employees have only been required to occur every four years. Interim offenses or substantiations of abuse and neglect were either expected to be self-reported or identified by Child Protective Services (CPS) officials or law enforcement and shared with child care regulators. Unfortunately, in reviewing the effectiveness of this standard, the Department of Children and Families identified instances where self-reporting or connections with CPS did not occur. There are several reasons. In some cases, employees legitimately do not know that they had been substantiated for abuse or neglect. In other cases, the CPS or law enforcement agencies do not realize that the perpetrator works in a child care facility and, thus, does not share the information. And in still other instances, providers actively conceal information about household members or employees out of economic self interest.

In July 2009, the Department began testing ways to use technology to supplement the background checks being conducted under the Caregiver Law. The Department conducted initial tests of matching data in the Wisconsin Consolidated Court Automation Programs (CCAP) in July 2009 and continued to improve on the matching processes in subsequent months.

In October 2009, the Department launched its Child Care Provider Background (CCPB) system, in which on a monthly basis, we upload automated matches between the Wisconsin Consolidated Court Automation Programs (CCAP), Wisconsin Statewide Automated Child Welfare Information System (eWiSACWIS), Wisconsin Sex Offender Registry, Children's Licensing Information Computer System (CLIC), and Child Care Provider Certification (CCPC) databases. These matches are distributed to counties and licensors for immediate follow up and action. This process has already resulted in the revocation of 28 certified and licensed providers. DCF also worked closely with the Legislature to draft 2009 Wisconsin Act 76, which both increases the frequency of employee background checks and creates a set of barred offenses for which rehabilitation review is not possible.

Beyond the monthly CCAP background matches, DCF is currently preparing to implement 2009 Wisconsin Act 76 to ensure that no criminal activity goes undetected.

When LAB did cross-checks of providers using the Department of Justice (DOJ) database, there were instances in which information had not appeared in CCAP. With the passage of 2009 Wisconsin Act 76, DCF will have access to both data sources.

Finally, DCF has been working with the Department of Health Services and the Department of Justice to integrate child abuse and neglect findings into the standard child care background check process, and we anticipate finalizing this project in July 2010. DCF agrees strongly with LAB's finding that providers should not have to rely on self-reported information before hiring a teacher that has been substantiated for abusing a child. DCF has pursued this issue aggressively, but in doing so, we have recognized complexities in the state child welfare system which complicate the issue. First, some adults who have been substantiated for child abuse or neglect were not afforded due process at the time of the substantiation. Second, the quality of available data, depending on when a county began using eWISACWIS, varies significantly. Third, in Wisconsin, substantiations of abuse and neglect are sometimes made because it is the only way for a parent to receive available services and not as a determinant that an individual is a risk to children.

2. Using Data to Improve Managerial Decision Making, including recording the severity of violations; completing inspections on a timely and routine basis; giving greater regulatory attention to high need facilities; and identifying and promptly addressing repeated unsuccessful attempted regulatory visits.

The LAB report discusses in several locations the difficulty of accessing meaningful data given the current information system for child care licensing (Children's Licensing Information Computer System) and the need for the Department to improve its use of data to manage licensing visits. The LAB noted many frustrations that the Department has already identified, including:

- inability to use data to directly link citations to specific sanctions;
- inability to directly quantify "No Access" visits (in which zero children or adults are present) without manually reviewing notes fields for individual cases;
- inability to automatically produce management reports (without significant manual manipulation) to differentiate between high need cases or severity of licensing violations; and
- average licensing caseloads significantly above the national recommended averages.

The Department has taken several actions to address these concerns. We are in the process of developing a new child care licensing information system, which we anticipate to be completed by December 2010. This system is being designed to improve the Department's ability to use real-time reporting to appropriately direct its limited staffing resources. With this system, we will be able to perform the functions listed above.

In the meantime, however, we are not waiting for data to become available in more useful forms. Instead, we are taking our data and using manual processes to manage issues like overdue visits, high-need providers, and no-access visits.

In August 2009, the Department launched KidStat, a Department-wide effort to use data to drive improved decision-making in all DCF programs. The Secretary's Office identified priorities and key outcomes that each Division seeks to achieve through its programs and policies. For the Division of Early Care and Education (DECE), some outcomes that measure child care regulation include the frequency and timeliness of licensee monitoring visits by region and by staff person and the magnitude of revocations, denials and orders.

KidStat has helped identify exactly where overdue visits are and to manage licensors to complete overdue visits as soon as possible. At the same time, KidStat has also allowed us to focus in on specific providers with the highest number of violations, as discussed in the audit, and we have made organizational changes to reflect these findings. More specifically, the Department identified 143 licensed providers with more than 20 citations during the last licensing visit. Of those 143, 129 of these providers are located in the Southeast Region, and 115 are located in Milwaukee County. As a result, the Department recently announced the creation of a High Risk Unit, which will be based in Milwaukee. This unit will be responsible for licensing those providers with whom we have significant concerns – fraud or child care citation related – and will eventually be co-located with staff of the Fraud Detection and Investigation Unit in Milwaukee. While the average caseload for licensors statewide hovers around 100, our goal is to have caseloads under 50 in this unit, which will ensure that more frequent visits are conducted and monitoring is more frequent and intensive. The Department has also hired several limited-term employees to assist the Southeast Region's efforts to cut down on fraudulent and high-risk providers.

As indicated in this audit, data in its current format provides limited accessibility for licensors and managers to prioritize based on the nature and severity of citations. Citations of varying levels of seriousness appear the same way in our data system. We are creating a "severity index" for license violations and incorporating it into our data system, which will allow us to identify, quantify, and prioritize follow up on those violations that are more serious in nature.

3. Improvement of Connection Between Licensing and Shares Oversight to ensure that attendance records problems are corrected, overpayments are collected, and potential fraud is addressed and its recurrence prevented.

When the Department of Children and Families was created in July 2008, a primary goal was bringing together child care subsidy and licensing staff into the same Department and the same Division. As we described in our recent letter to the Joint Legislative Audit Committee, when child care licensing and Wisconsin Shares were administered in separate Departments, counties were expected to serve as the conduit of information between subsidy and licensing. It has been clearly documented by DCF, the LAB and in the media's reporting that this approach was ineffective in many situations, particularly in Milwaukee County.

Child care licensing staff and the Wisconsin Shares Fraud Detection and Investigation Unit are now in regular communication about providers for which there are Shares-related compliance concerns. Today, DCF licensors and DCF Shares staff directly share tips, exchange information, and conduct joint investigations. Moreover, child care licensors are playing lead roles, along with the Department's Fraud Detection and Investigation Unit, in the Child Care Anti-Fraud Task Forces that have been created in Milwaukee, Racine, and Kenosha Counties. Investigations

include a review of data supplied by the Fraud Detection and Investigation Unit and the licensors for the respective facilities being investigated.

Licensors have been instructed by their supervisors to note red flags and directly share those concerns with the Fraud Detection and Investigation Unit. Red flags include "No Access" visits; whether providers claim to have significant numbers of children in care during second and third shift; whether providers are resistant to or evasive about producing attendance records; whether a disproportionate number of children in care are the offspring of provider staff; whether any extraordinary enrollment incentives being offered to families to attend; and whether licensees that have previously been cited for attendance-related violations. This information is being shared directly with the Fraud Detection and Investigation Unit and followed up on together. In Milwaukee County, the Department has deployed teams of licensors to work directly with the Fraud Detection and Investigation Unit to visit providers that have been flagged through hotline tips, quantitative red flags, or licensing histories. DCF staff have also worked in direct partnership with law enforcement officers from the Milwaukee Police Department, the Department of Justice, and the Milwaukee County Sheriff's Department.

The results of these efforts are already being seen. More than 120 child care providers have been suspended from the Wisconsin Shares program. Last week, the Milwaukee County Task Force, led by DCF and the Milwaukee County District Attorney, announced the filing of criminal charges against two providers accused of bilking the Wisconsin Shares program for more than \$1 million dollars for children who were either receiving no services or providing much less care than they were billing the Shares program. In a separate case, a search warrant was executed, in part on the basis of data assembled during licensing visits and in part because of quantitative analysis performed by the Fraud Detection and Investigation Unit.

The Department will continue to work to strengthen the procedures by which these links are made, such that providers intent on defrauding the Shares program recognize clearly that licensors are directly connecting the dots in the Shares program.

Additional Responses to LAB Audit

The Department agrees with the LAB's audit findings and recommendations, but would also take the opportunity in this response letter to address an important issue that we had hoped to be included in the audit and to identify additional actions the Department is taking.

The Audit speaks to regulatory compliance but does not address the drastic differences in quality among regulated child care providers.

Academic researchers of early childhood education, child care advocates, and practitioners agree that the quality of child care young children receive, particularly low-income children, matters significantly to their long-term development. The most famous longitudinal studies on early childhood education -- the Abecedarian Project in North Carolina which began in the 1970's and the Perry Pre-School in Michigan which began in the 1960's -- suggest clearly that the quality of a child's experience in early childhood affects long-term outcomes. Both Abecedarian and Perry Preschool were designed as true experiments in which researchers have followed children who participated in high quality, early childhood education programs and compared their outcomes to

those of control groups. In assessing the costs and benefits of these programs, researchers found that:

- The children in high-quality programs are projected to make roughly \$143,000 more over their lifetimes than those who didn't take part in the program (Abecedarian).
- Mothers of children who were enrolled can also expect greater earnings – about \$133,000 more over their lifetimes (Abecedarian).
- School districts can expect to save more than \$11,000 per child because participants are less likely to require special or remedial education (Abecedarian).
- Violent crime is 45% higher among non-participants (Perry Preschool).
- Property crime is 61% higher among non-participants (Perry Preschool).
- Drug crime is 143% higher among non-participants (Perry Preschool).

The State invests in many successful programs, like TEACH, which provides scholarships for early childhood professionals, and REWARD, which supplements pay for teachers working in early childhood education. These programs, along with contracts with the State's Child Care Resource and Referral network, provide a base from which to build a larger quality initiative. But the State has not systemically invested in lifting the quality of all regulated child care providers, and until this gap is addressed, much of the State's investment in child care subsidies will fail to live up to its promise in helping Wisconsin's children to succeed in school and in life.

I also wanted to share additional actions that the Department has taken to improve oversight of child care regulation and the Wisconsin Shares program, including:

- DCF has created an Office of Regional Operations and is in the process of creating five regional positions specifically dedicated to the support and oversight of child care certification and subsidy at the county level. Historically, child welfare, W-2, and child support have had regional staff, but prior to DCF, early care and education had no such resources (which contributed to the lack of oversight of these crucial programs).
- In partnership with the Wisconsin County Human Services Association (WCHSA), DCF has organized a committee of county leaders specifically dedicated to child care subsidy and certification issues to improve communication and training with counties. Again, historically, child care issues have been fragmented within counties, and our intent is to assist counties in connecting the same dots DCF is connecting at the state level.
- DCF has made several additional organizational changes to ensure that we are capable of delivering on the recommendations of both LAB audits, including moving oversight of certification to our Bureau of Early Care Regulation, to ensure closer coordination with licensing; creating a High Needs Licensing Unit in Milwaukee; and centralizing background checks to improve timeliness and quality assurance.

Conclusion

The Department of Children and Families, in close partnership with the Legislature, has charted a new course for early care and education in the State of Wisconsin. By the end of this biennium, as a result of our collective efforts, the Wisconsin Shares program will provide

Ms. Janice Mueller
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regulated child care that will be safer than it has ever been, and processes will be in place to ensure that the progress we have made is maintained in years to come.

We must not be content with this progress until every child in the State of Wisconsin has access to high quality early childhood education experiences; until parents can make informed choices about the quality of care; until providers have access to meaningful supports to help them improve; and until the achievement gap entering kindergarten has been eliminated.

The 2009-11 biennial budget directed DCF to establish a quality rating and improvement system proposal for the consideration of the Joint Committee on Finance. We look forward to working with the Legislature to finalize the creation of a Quality Rating and Improvement System for all Wisconsin providers and children.

We look forward to reporting back to you in June 2010 on the progress that the Department has made. We would like to express our gratitude to the Legislative Audit Bureau for the cooperative manner in which this audit was completed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Reggie Bicha".

Reggie Bicha
Secretary