

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**CHILD CARE AND
DEVELOPMENT FUND:
MONITORING OF LICENSED
CHILD CARE PROVIDERS**



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**EXECUTIVE SUMMARY: CHILD CARE AND DEVELOPMENT FUND:
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WHY WE DID THIS STUDY

The Administration for Children and Families (ACF) administers the Child Care and Development Fund (CCDF), which provides financial assistance with child care for approximately 1.6 million children each month. In accordance with Federal regulations, States must certify that they have in effect, under State or local law, requirements designed to protect the health and safety of children receiving CCDF subsidies and to monitor these requirements. Such certification helps ensure that Federal money is used to pay for care that meets health and safety requirements.

HOW WE DID THIS STUDY

For Federal fiscal years (FYs) 2010 through 2011, we reviewed each State's licensing and health and safety requirements and surveyed State staff responsible for licensing, health and safety, and monitoring providers for compliance. We selected five States (California, Florida, Illinois, Ohio, and Texas) representing 35 percent of all children in the CCDF program in FY 2009 for review. We obtained information on the results of activities to monitor child care providers through documentation review and discussions with State staff. We surveyed ACF staff to determine the extent to which ACF monitors States' licensing and health and safety requirements.

WHAT WE FOUND

Federal law requires States to have health and safety requirements in three areas: (1) the prevention and control of infectious diseases, (2) building and physical premises safety, and (3) minimum health and safety training. All States complied with the Federal requirement to have health and safety requirements for licensed child care providers in these three areas. However, States' monitoring requirements did not always meet ACF's recommendations for background screenings or the recommended standards for unannounced inspections found in the book entitled *Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Out-of-Home Child Care Program*. In selected States we reviewed, monitoring of licensed providers was not conducted in accordance with States' own requirements. Moreover, ACF did little to monitor how States were overseeing CCDF providers.

WHAT WE RECOMMEND

We recommend that ACF seek authority to develop health and safety standards and ensure that States' requirements meet them, develop requirements for States to conduct mandatory background screenings and periodic unannounced inspections, conduct periodic reviews of States' compliance with their own licensing requirements related to minimum health and safety standards, and ensure that State plans comply with health and safety requirements. Many of our concerns are addressed in ACF's Notice of Proposed Rulemaking issued on May 20, 2013. ACF concurred with all five of our recommendations.

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OBJECTIVES

For the Child Care and Development Fund (CCDF) grant program,

1. determine the extent to which States' child care licensing and health and safety requirements comply with Federal requirements,
2. determine the extent to which States' monitoring requirements for licensed providers meet Administration for Children and Families (ACF) recommendations and National Standards,
3. identify results of selected States' monitoring of child care providers related to those States' licensing and health and safety requirements, and
4. assess ACF's monitoring of States' oversight of child care providers.

BACKGROUND

ACF is the operating division within the Department of Health and Human Services (HHS) that administers CCDF.^{1,2} CCDF is authorized by the CCDBG Act and section 418 of the Social Security Act. In fiscal year (FY) 2012, Congress appropriated \$5.2 billion through the CCDBG Act to help low-income families in States, territories, and tribes obtain child care so that parent(s) could work or participate in training or education.

CCDF provides financial assistance with child care for approximately 1.6 million children each month. A child is eligible to participate in CCDF if:

- (1) the child is under 13 years old (or, at the State's option, if the child is under the age of 19 and physically or mentally unable to care for himself or under court supervision);
- (2) the child lives with a family whose income does not exceed 85 percent of the State's median income for a family of the same size; and
- (3) the child resides: (a) with a parent who is working or attending a job training or educational program or (b) with a parent other

¹ ACF, *Fundamentals of CCDF Administration*. Accessed at <http://www.acf.hhs.gov/> on March 23, 2011.

² The Child Care and Development Block Grant Act of 1990 (the CCDBG Act) (§ 5082(2) of the Omnibus Reconciliation Act of 1990, P.L. 101-508, Nov. 5, 1990) established the program (42 U.S.C. § 9858, et seq.). The CCDBG Amendments of 1996 (The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, § 603, Aug. 22, 1996) reauthorized the program.

than the one described in (a) and the child needs or receives protective services.³

The parent of an eligible child who receives or is offered child care services may either (1) enroll the child with an eligible child care provider with which the State has contracted or provided grant funds for such services or (2) receive a certificate to obtain services from a variety of providers. Categories of eligible providers include:

- center-based child care provider—defined as a provider licensed or otherwise authorized to provide child care services in a nonresidential setting,
- group home child care provider—defined as two or more individuals who provide child care services in a private residence other than the child’s residence,⁴
- family home child care provider—defined as one individual as the sole caregiver in a private residence other than the child’s residence,⁵ and
- in-home child care provider—defined as one individual who provides child care services in the child’s own residence.⁶

In FY 2011, approximately 505,000 child care providers in 50 States and the District of Columbia (States) provided child care funded through CCDF.^{7, 8} In the same FY, two types of child care providers—center-based providers and family home providers—together covered, on average, 89 percent of children in CCDF-funded care.⁹

³ 45 CFR § 98.20. The regulations at 45 CFR § 98.2 state that “parent means a parent by blood, marriage or adoption and also means a legal guardian, or other person standing in loco parentis.”

⁴ Eleven States did not have this provider type for FYs 2010–2011: the District of Columbia, Indiana, Louisiana, Maryland, Maine, North Carolina, New Jersey, Virginia, Vermont, Washington, and Wisconsin.

⁵ For center-based, group home, and family home child care providers, generally providers are allowed to provide service only for less than 24 hours per day.

⁶ 45 CFR §§ 98.30(e)(1) and 98.2 (Definitions).

⁷ Table 7, CCDF, *Preliminary Estimates of Number of Child Care Providers Receiving CCDF Funds (FFY [Federal fiscal year] 2011)*. Accessed at <http://acf.hhs.gov> on January 15, 2013. All FYs referred to in this report are Federal fiscal years.

⁸ Although there are tribal and territorial programs in CCDF, we are looking only at State programs. Tribal programs are subject to different legal requirements and policies.

⁹ Table 3, CCDF, *Average Monthly Percentages of Children Served by Types of Care (FFY 2009)*. Accessed at <http://acf.hhs.gov> on January 15, 2013.

Federal Requirements for State Participation in CCDF

For a State to be eligible to receive funds through CCDF, ACF must review and approve a State plan every 2 years.^{10, 11}

Through the State plan, each State must certify that it has:

- licensing requirements for child care services,^{12, 13}
- requirements designed to protect the health and safety of children being cared for by those who provide services under the Act,¹⁴ and
- procedures to ensure that child care providers comply with applicable health and safety requirements.¹⁵

Licensing Requirements. Each State is required to provide a detailed description of its licensing requirements.¹⁶ The Health Resources and Services Administration's (HRSA) National Resource Center for Health and Safety in Child Care and Early Education (NRC) provides an online listing of the licensing and regulatory requirements for child care in the 51 States.¹⁷ ACF accepts the NRC compilation as fulfilling the statutory requirement. According to ACF guidance, however, States should verify that the NRC listing accurately reflects their requirements.¹⁸

¹⁰ Each State Plan includes information about the State's CCDF program with regard to the way in which it administers the program, the way in which the program was developed, child care services offered, parental rights and responsibilities, activities and services to improve the quality and availability of child care, and health and safety requirements. Although section 658I(b)(1) of the CCDBG Act specifies the Secretary of HHS as responsible for reviewing and approving State plans, that responsibility has been delegated to ACF. Per section 658I(a)(3) of the CCDBG Act, ACF is also required to provide technical assistance to States in carrying out the requirements of the Act.

¹¹ 45 CFR § 98.17.

¹² Section 658E(c)(2)(E) of the CCDBG Act. The Act states that licensing requirements do not have to apply to all types of providers. Providers commonly exempted from licensing include relatives; in-home child care providers; and some center-based child care providers, such as school-based and/or school-age programs, centers that operate part-time or on a drop-in basis, and centers operated by religious organizations. Taken from ACF, *Child Care and Development Fund Report of State and Territory Plans FY 2010–2011*. Accessed at <http://acf.hhs.gov> on January 15, 2013.

¹³ 45 CFR § 98.2 defines licensing or regulatory requirements as requirements necessary to legally provide child care services in a State or locality, including registration requirements established under State or local law.

¹⁴ Section 658E(c)(2)(E) and (F) of the CCDBG Act.

¹⁵ Section 658E(G) of the CCDBG Act.

¹⁶ Section 658E(c)(2)(E) of the CCDBG Act.

¹⁷ Under contract from HRSA's Maternal and Child Health Bureau, this database is maintained by the University of Colorado Health Sciences Center School of Nursing. The NRC database can be accessed at <http://nrckids.org/>.

¹⁸ ACF, *CCDF State and Territories Plan Preprint Guidance, FFY 2010–2011*. Accessed at <http://www.acf.hhs.gov/> on February 1, 2011.

Health and Safety Requirements. Each State must certify that it has in effect under State or local law requirements designed to protect the health and safety of children.¹⁹ Federal law requires States to have health and safety requirements in three areas: (1) the prevention and control of infectious diseases (including by immunizations), (2) building and physical premises safety, and (3) minimum health and safety training appropriate to the provider setting.²⁰

States have discretion in how they meet health and safety requirements. ACF acknowledged in July 2012 that because the CCDBG Act does not specifically define health and safety standards, some States lack requirements for such things as criminal background checks, training on first aid and cardiopulmonary resuscitation (CPR), and safe sleep practices.²¹ In testimony before the Senate Subcommittee on Health, Education, Labor, and Pensions, Linda Smith, the Deputy Assistant Secretary and Inter-Departmental Liaison for Early Childhood Development, noted that

... in too many cases, it takes well-publicized deaths in child care settings to prompt State action to strengthen their licensing standards to better address children's safety. These tragic losses emphasize the importance of health and safety standards and building a strong foundation for high quality care.

Monitoring and Compliance. ACF accepts States' licensing descriptions as proof that they effectively enforce licensing requirements. In its plan, each State is required to certify it has procedures to ensure that child care providers comply with applicable health and safety requirements.²²

The CCDBG Act requires Federal monitoring of each State's compliance with its plan.²³ Although the Act does not require States to (1) conduct routine unannounced inspections of child care providers, (2) perform background screenings on providers (or their family members), or (3) require providers to report serious injuries that occur while a child is in care, ACF guidance instructs each State to indicate whether it performs these three activities. States are also asked to describe any other methods

¹⁹ Section 658E(c)(2)(F) of the CCDBG Act.

²⁰ Section 658E(F)(i)–(iii) of the CCDBG Act.

²¹ Statement of Linda Smith, Deputy Assistant Secretary for Early Childhood Development, ACF, *Child Care and Development Block Grant Reauthorization: Hearing Before the U.S. Senate Subcommittee on Children and Families, Committee on Health, Education, Labor and Pensions*, 112th Cong. (2012).

²² Section 658E(G) of the CCDBG Act.

²³ Section 658I(b)(1) of the CCDBG Act.

they use to enforce health and safety requirements (e.g., requiring that a certain percentage of providers be inspected annually and specifying the length of time between inspections).²⁴

ACF-Recommended Practices

Although the CCDBG Act does not require criminal background screenings, ACF released an information memorandum on September 20, 2011, to all States, child care licensing agencies, child care resource and referral agencies, and other interested parties that strongly recommended comprehensive background screenings for all providers who care for children receiving CCDF subsidies. A comprehensive criminal background screening, in ACF's guidance, includes all of the following:

- using fingerprints for checks of State criminal history records,
- using fingerprints for checks of Federal Bureau of Investigation (FBI) criminal history records,
- checking the child abuse and neglect registry, and
- checking the sex offender registries.²⁵

Additionally, ACF revised the FY 2012–2013 State Plan guidance to highlight areas of interest to the Federal Government, including a section addressing the types and frequency of background screenings that States require for child care providers and other child care workers.²⁶

National Health and Safety Performance Standards

The CCDBG Act and implementing regulations contain no specific health and safety standards for child care providers that States must follow. Instead, ACF partners with HRSA to disseminate the book entitled *Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Out-of-Home Child Care Programs*, funded by a HRSA grant. In this report, we refer to the standards in this book as the National Standards. According to industry experts, the National Standards represent the best evidence, expertise, and experience on quality health and safety practices and policies that should be followed in early care and

²⁴ ACF, *CCDF State and Territories Plan Preprint Guidance, FFY 2010–2011*. Accessed at <http://www.acf.hhs.gov/> on February 1, 2011.

²⁵ ACF, Log No: CCDF-ACF-IM-2011-05. Guidance released to States by the Office of Child Care related to criminal background checks, September 20, 2011.

²⁶ ACF, *CCDF State and Territories Plan Preprint Guidance, FFY 2012–2013*. Accessed at <http://www.acf.hhs.gov/> on October 15, 2012.

education settings.²⁷ The National Standards include guidelines on facility inspections and monitoring.

According to the National Standards, every State should require its licensing inspectors to conduct onsite inspections to measure compliance with licensing rules prior to issuing an initial operating license to a child care center or family home. The licensing agency should conduct at least two inspections per year of each center and family home. At least one of the inspections should be unannounced; more unannounced inspections should be conducted if needed for the facility to achieve satisfactory compliance. Routine unannounced inspections are a means for States to determine whether providers are operating healthy and safe environments for children who qualify for public funds.

Related Studies

In 2010, the Office of Inspector General (OIG) identified provider noncompliance with health and safety requirements in Head Start, another ACF program.²⁸ Of the 24 Head Start grantees that OIG reviewed, none complied fully with Federal Head Start or State requirements to protect children from unsafe materials and equipment. In addition, 21 of 24 grantees did not comply fully with Federal Head Start or State requirements to conduct background screenings, recurring background screenings, checks of child care exclusion lists, or checks of child abuse and neglect registries or with requirements to document those records checks.

A 2011 Government Accountability Office (GAO) report found cases of sex offenders working for child care providers or living in homes where child care was provided. GAO found programs that employed offenders while receiving Federal Head Start or CCDF funds.²⁹

In 2012, the National Association of Child Care Resource & Referral Agencies (NACCRRA) issued white papers that identified vulnerabilities to children's health and safety.³⁰ NACCRRA found that only 12 States

²⁷ American Public Health Association, American Academy of Pediatrics, NRC, *Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Out-of-Home Child Care Programs*, 2011.

²⁸ OIG issued 24 reports on health and safety compliance in Head Start facilities following site visits conducted in FY 2010. Accessed at <https://oig.hhs.gov/oas/reports/region10/11102503.asp> on December 6, 2012.

²⁹ GAO, *Child Care: Overview of Relevant Employment Laws and Cases of Sex Offenders at Child Care Facilities*, GAO-11-747. Accessed at <http://www.gao.gov> on October 12, 2012.

³⁰ NACCRRA, *Effective Inspections Policies Promote Children's Safety and Healthy Development in Child Care*, and *Background Checks: It Is Time To Protect Children in Child Care*. Accessed at <http://www.naccrra.org> on October 12, 2012.

required staff in child care centers to have comprehensive background screenings, and only 10 States required family home providers to have comprehensive background screenings. They also found that only 8 States conducted monitoring inspections at least quarterly for centers and that 20 conducted inspections of centers once a year or less frequently.

Proposed Regulations

Subsequent to our study period, ACF issued a Notice of Proposed Rulemaking (NPRM) that included regulations to strengthen health and safety requirements and oversight of license-exempt providers.³¹ These regulations, as written, impose more stringent health and safety requirements on center-based, group home, and family home providers who care for children receiving CCDF subsidies, including license-exempt providers. (States, however, have the option to exempt in-home providers and continue to have the option to exempt relatives from some or all of these requirements.)

Licensing Requirements. ACF proposes requiring a description of any exemptions to licensing requirements and a rationale for such exemptions.

Health and Safety Requirements. ACF proposes minimum requirements for “building and physical premises safety,” including:

- Comprehensive background checks on child care providers. These checks must include use of fingerprints for checks of State criminal history records; use of fingerprints for checks of FBI criminal history records; clearance through the child abuse and neglect registry, if available; and clearance through sex offender registries, if available.
- Compliance with State and local fire, health, and building codes for child care. These codes must include the ability to evacuate children in the case of an emergency. Compliance must be determined before child care providers can serve children receiving CCDF assistance.
- Emergency preparedness and response planning, including provisions for evacuation and relocation, sheltering in place, and family reunification.

ACF proposes adding a list of minimum health and safety preservice and orientation training, appropriate to the provider setting and ages of children served, including, but not limited to, first aid, CPR, and safe sleep practices.

³¹ 78 Fed. Reg. 29441 (May 20, 2013). Comments were due by August 5, 2013.

Monitoring and Compliance. ACF proposes requiring that all providers who care for children receiving CCDF subsidies be subject to specific monitoring for compliance with health and safety requirements. The State's procedures:

- must include unannounced onsite monitoring,
- may not rely solely on child care providers' self-certifying their compliance with health and safety requirements without documentation or other verification that requirements have been met,
- must require an unannounced visit in response to a complaint pertaining to the health and safety of a child in the care of a provider paid with CCDF funds, and
- must require child care providers paid with CCDF funds to report to a designated State entity any serious injuries or deaths of children occurring in child care.

METHODOLOGY

For FYs 2010 and 2011, we used multiple data sources and approaches to determine and describe (1) each State's licensing and health and safety requirements, (2) the results of selected States' monitoring activities, and (3) ACF's monitoring of compliance with States' licensing and health and safety requirements.

Scope

We included all 51 States in an initial survey about child care licensing and health and safety requirements. We selected a purposive sample of five States representing 35 percent of children served in licensed settings by the CCDF program in FY 2009. Licensing is State permission required to operate a child care facility, which includes meeting specific standards depending on the provider type. Some States may call their regulatory processes "certification" or "registration"; for the purpose of this study, the terms "licensing" or "licensed" are used to represent all regulatory processes. Although a given State (e.g., New York) may have received more funding than the sampled States, we selected the States that served the most children in licensed settings. We conducted an in-depth review to determine those States' policies and practices for monitoring child care providers' compliance with licensing and health and safety requirements. We also reviewed the results of the monitoring activities conducted by the five States. We excluded in-home providers from our sample because most States do not require the licensing of in-home providers paid with CCDF funds. We excluded group home providers from our 51-State

review because they represent only 5 percent of children in CCDF-funded care.

Sample Selection

We selected a purposive sample of five States (California, Florida, Illinois, Ohio, and Texas) representing 35 percent of all children receiving care from licensed providers in the CCDF program in FY 2009. We obtained a list of all potential CCDF child care providers in FYs 2010 and 2011 and selected a stratified random sample of 125 licensed providers from each of the 5 States. See Table 1 for numbers of providers by State and type of provider.

Table 1: CCDF-Funded Licensed Child Care Providers in Sampled States

State	Licensed Center-Based Providers	Licensed Group Home Providers	Licensed Family Home Providers	Total Licensed Providers	OIG Sample
California	4,910	6,518	13,853	25,281	125
Florida	5,732	n/a*	3,661	9,393	125
Illinois	2,637	364	8,125	11,126	125
Ohio	4,266	287	8,489**	13,042	125
Texas	6,620	807	1,771	9,198	125
Total	24,165	7,976	35,899	68,040	625

*Florida does not have the group home provider type.

**In Ohio, family homes are certified. Certification in Ohio is a form of regulation under a process that is very similar to licensing; because these providers are still regulated, we consider them to be licensed.

Source: OIG analysis of ACF data, 2011.

Data Collection

State Licensing Requirements, Health and Safety Requirements, and Monitoring Activities. To determine the licensing and health and safety requirements for child care providers in each State, we obtained listings from the NRC Web site and obtained State plans from State Web sites or ACF. We reviewed the licensing and health and safety information to identify the differences in licensing requirements by provider type and across States.

We then surveyed in all 51 States the State staff who are responsible for licensing, health and safety, and monitoring. We used the survey results to verify how States' licensing and health and safety requirements apply to different provider types within a State. We also used the survey results to identify how each State reports that it monitors providers for compliance with licensing and health and safety requirements.

Monitoring of Individual Providers. We requested documentation from the five selected States to determine whether they comply with their own policies and procedures for monitoring child care providers.

Documentation included licensing inspection reports, reported findings,

parental or other complaints, background screening verification lists, and proof of provider training. We worked with State staff to identify the specific types of documents used to support oversight.

We received responses from the States for all 625 providers included in our sample. In Florida, we excluded 46 providers from our sample because they had closed prior to our review period or were exempt from licensing requirements and excluded an additional 18 providers from our sample because they were under the purview of local licensing districts with unique standards.³² This resulted in an adjusted sample size of 561.

ACF Monitoring Activities. We surveyed ACF headquarters and regional office staff about their monitoring of States' licensing and health and safety requirements. We asked for documentation supporting the extent to which ACF verifies State standards. We also asked about methods that ACF uses to review States' CCDF plans for policies and procedures related to monitoring of licensing and health and safety requirements.

Analysis

We used information from the NRC Web site, the collected State plans, and the State surveys to determine States' compliance with Federal licensing and health and safety requirements. We used these same data sources to compare States' practices to the ACF and National Standards recommendations related to background checks and unannounced visits, respectively.

We compared the monitoring information for the 561 sampled child care providers against the States' own standards and the National Standards to determine the extent to which the States met these standards. If sampled providers were not operating during our entire review period (FYs 2010 through 2011), we applied only those standards that applied while they were operational (e.g., if providers had been open for less than a year, we would not expect a yearly followup inspection if one was required by the State). When possible, we projected our results for the sampled providers to the population of all licensed CCDF providers in FYs 2010 and 2011 in each of the five States or for the five States combined. Estimates and 95-percent confidence intervals for these projections are in Appendix A.

We used the ACF survey results to determine the extent to which ACF monitored States' compliance with licensing requirements and health and safety requirements.

³² In 7 of Florida's 67 counties, licensing is overseen by the county, rather than by the Department of Children and Families.

Standards

This study was conducted in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

FINDINGS

All States complied with the Federal requirement to have health and safety requirements for licensed child care providers in three basic areas

All of the 51 States had requirements designed to protect the health and safety of children served by licensed child care providers in 3 areas: (1) prevention and control of infectious disease, (2) building and physical premises safety, and (3) minimum health and safety training. The Act does not contain minimum requirements within the three areas; States reported various methods through which they met Federal requirements.

State licensing regulations provide a framework for ensuring health and safety in three areas for licensed child care providers. States reported meeting the requirements in many different ways. See Table 2 for an example of how two States met Federal health and safety requirements for licensed child care providers—one with many requirements and one with fewer requirements.

Table 2: Examples of Two States' Reported Health and Safety Requirements for Licensed Providers

Federal Health and Safety Requirement	State A	State B
Prevention and Control of Infectious Disease	<ol style="list-style-type: none"> 1. Child immunizations 2. Physical exam for children 3. Physical exam for providers 4. Tuberculosis check for providers 5. Health care plan 	<ol style="list-style-type: none"> 1. Child immunizations 2. Physical exam for children 3. No admittance if serious transmissible infection or communicable diseases present
Building and Physical Premises Safety	<ol style="list-style-type: none"> 1. Fire inspection 2. Building inspection 3. Environmental health inspection 4. Safe sleep policy 5. Smoking ban 6. Transportation policy 	<ol style="list-style-type: none"> 1. Fire inspection 2. Building inspection 3. Lead-safe or lead-free facility
Health and Safety Training	<ol style="list-style-type: none"> 1. CPR certification every 12 months 2. First aid certification every 36 months 3. Twelve annual hours of training 4. Bloodborne pathogens training within 6 months of initial hire 	<ol style="list-style-type: none"> 1. Current CPR certification 2. Current first aid certification 3. Completion of medication administration training by at least one center employee present

Source: OIG Survey of States, 2011.

We considered all States to be compliant with Federal health and safety requirements for licensed child care providers because they reported at least one licensing regulation related to each requirement. ACF does not distinguish between States that have instituted many regulations in a given area and States that have fewer regulations per area.

States' monitoring requirements did not always meet ACF's recommendations for background screening and the recommended National Standards for unannounced inspections

ACF requires States to certify that they have procedures to ensure that licensed child care providers comply with all applicable health and safety requirements. A principal way that States enforce health and safety requirements of licensed providers is through monitoring for compliance with State regulations. States reported that monitoring consists largely of background screenings and inspections, yet these do not always meet ACF's recommendations or the recommended National Standards.

Although all States reported screening child care workers, many reported not checking FBI fingerprint databases or sex-offender registries in accordance with ACF's recommendations

Not all States check all sources that ACF recommends in its September 2011 memorandum. Given the lack of a national system for checking criminal history and child abuse records, multiple checks are necessary. As part of the 2011 memorandum, ACF strongly encouraged States to conduct a comprehensive criminal background screening that includes a fingerprint-based check of State criminal records, fingerprint-based check of FBI criminal records, and a child-abuse registry check for all prospective child care staff and for any other persons who have regular access to children in these child care settings. Only 15 States reported performing checks sufficient to be considered comprehensive background screenings for both center-based and family home providers.

Even in States that reported checking all of ACF's recommended sources, the checks did not always apply to all child care staff. Michigan reported that fingerprint-based checks of FBI criminal records were required for directors and owners, but not for child care providers. In Washington State, fingerprint-based checks of FBI criminal records are done on potential providers only if they have lived 3 years or less in the State.

The sources least often checked by States were FBI criminal records and sex-offender registries. See Table 3 for sources that States reported requiring for background screenings and Appendix B for specific requirements States reported related to the sources checked and individuals subject to background screenings.

Table 3: Number of States Checking Background Screening Sources

Source for Background Screening	Number of States Checking Source for Center-Based Providers	Number of States Checking Source for Family Home Providers
State Criminal Records	49	48
FBI Criminal Records	35	33
Child-Abuse Registry	45	48
Sex-Offender Registry	28	28

Source: OIG survey of States, 2011.

Twenty-one States did not report requirements for routine unannounced inspections that met recommended National Standards

Routine unannounced inspections are one way to determine whether providers are operating healthy and safe environments for children who qualify for public funds. The National Standards recommend that each provider undergo at least two inspections each year, with at least one of the inspections being unannounced. Ten States failed to meet that standard for center-based providers and 21 failed to meet it for family home providers.³³

Although some States require routine unannounced inspections, their frequency did not meet the National Standards. Additionally, two States did not require any unannounced inspections for family home providers and one State did not require any unannounced inspections for center-based providers. See Appendix B for specific requirements States reported related to the frequency of routine unannounced inspections.

In selected States, monitoring was not conducted in accordance with States' own requirements

States did not always conduct unannounced inspections when required by State law, missing opportunities to identify and correct health and safety deficiencies

Four of the five selected States required unannounced inspections at least annually to ensure provider compliance with State licensing requirements, yet they failed to comply with their own requirements. None of the four States conducted all the required unannounced inspections.³⁴ Texas and

³³ Although the National Standards do not differentiate among provider types, States have different requirements for different types of child care providers. Thus, the findings of this report differentiate between center-based providers and family home providers.

³⁴ Because our review period included only 2 years, we could not review California's requirement for an unannounced inspection every 5 years.

Florida had the lowest noncompliance rates, missing less than 1 percent and 10 percent of required inspections, respectively. Illinois had the highest noncompliance rate, missing 82 percent of its required inspections; it conducted many inspections, but failed to record whether they were unannounced. See Table 4 for details on States’ requirements for unannounced monitoring inspections and percentages of missed inspections and Appendix A for the confidence intervals.

Table 4: Unannounced Monitoring Inspections in Five States

State	Requirements for Unannounced Monitoring Inspections	Percentage of Missed Inspections FYs 2010–2011
California	Every 5 years	n/a
Florida	Every 4 months for centers; every 6 months for family homes	10.3%
Illinois	Annually	81.6%
Ohio	Annually	25.6%
Texas	Annually for centers; every 2 years for family homes	<1%

Source: OIG analysis of State data and documents related to inspection requirements and compliance, 2012.

When States do not conduct monitoring, they miss opportunities to identify deficiencies and recommend provider improvements. Across all five States that conducted one or more inspections during our review period, States identified deficiencies for 62 percent of providers. Of all providers with at least 1 inspection, 11 percent had more than 10 deficiencies. Examples of deficiencies cited during unannounced monitoring inspections included: number of children in care significantly differing from the number of children recorded on the sign in/sign out log, not enough staff for the license capacity, expired CPR and first aid certification, and bleach in an unlocked cabinet in the classroom.

States have different methods of categorizing the number and severity of deficiencies. For example, in Florida a single deficiency in the area of “Outdoor Equipment” could include peeling paint on play equipment (a “Class 2” violation) and ill-maintained ground cover under play equipment (a “Technical Support” violation). In Texas, the area of safety was more narrowly defined. For example, the State found a provider to have two deficiencies: one in the area of “Safety—Areas Free From Hazard” for a red tricycle missing a pedal (“Medium High” weight) and another in “Safety Requirements for Active Play Equipment” for a toy car that had a crack on the seat (“High” weight).

States missed opportunities to identify unscreened individuals or individuals with expired background screenings

None of the five sampled States adhered to their own frequency requirements for reviewing providers’ compliance with State requirements for background screening. When States did review providers’ compliance in this area, they found that 22 percent of providers had not initiated or renewed their background screenings as required by the State. In all five States we reviewed, a single deficiency related to background screening could account for multiple individuals, making it difficult to determine the extent to which individuals have missing or expired background screenings.

Deficiencies in background screenings ranged from overdue screenings to unscreened persons living in the house. Texas had the highest noncompliance rate for reviewing background screenings when required by State law, but Texas also required the most frequent reviews. In Florida, Illinois, and Ohio, the States review provider compliance with background screening as part of their routine inspections. Therefore, when the States failed to conduct routine inspections, provider compliance with the background screening could not be checked by the State. See Table 5 for details on States’ reviews of provider compliance with requirements for background screening and for details on States’ missing reviews; see Appendix A for the confidence intervals.

Table 5: Background Screening Monitoring in Five States

State	Inspections During Which Monitoring of Background Screening Is Required	Percentage of Missing Reviews FYs 2010–2011
California	Prelicensing inspections, annual/random/5-year inspections, followup inspections (if pertinent)	7.5%
Florida	License renewal inspections (all individuals), routine inspections (new employees)	11.0%
Illinois	Every unannounced annual inspection	13.1%
Ohio	All inspections except inspections for a specific purpose	8.4%
Texas	Any inspection	20.3%

Source: OIG analysis of State data and documents related to compliance with monitoring of background screening requirements, 2012.

ACF did little to monitor how States were overseeing CCDF providers

Federal law allows States to self-certify that their licensed and license-exempt child care providers meet health and safety requirements in three areas. For our review period (FYs 2010–2011), ACF did not require

States to describe how their licensing regulations covered these three areas for licensed providers. ACF did require States to describe how they meet health and safety requirements with regard to providers that are exempt from licensing. All States met this requirement except Mississippi.

Mississippi failed to describe to ACF how it met health and safety requirements for license-exempt providers. ACF did not identify this failure by Mississippi and therefore did not require Mississippi to submit health and safety requirements for license-exempt providers before the State could receive CCDF block grant funding. ACF data from FY 2010 show that 23 percent of children receiving CCDF subsidies in Mississippi are in license-exempt care.

States self-certify monitoring procedures to ACF. For our review period, ACF asked States to describe, at a minimum, whether they enforce health and safety requirements through routine unannounced site inspections, through background screenings, and/or by requiring providers to report serious injuries that occur while a child is in care. Six States submitted descriptions of enforcement policies that lacked routine unannounced site inspections, and two States lacked a requirement to report serious injuries. ACF did not report to us whether it required these States to incorporate such oversight into their monitoring procedures before they could receive CCDF block grant funding.

CONCLUSION AND RECOMMENDATIONS

Legislation governing the CCDF program allows States to establish their own requirements related to (1) the prevention and control of infectious diseases, (2) building and physical premises safety, and (3) minimum health and safety training. States complied with the Federal requirement to have health and safety requirements for licensed child care providers in three basic areas. However, States' requirements for monitoring licensed providers did not always meet ACF's recommendations for background screenings and the recommended National Standards for unannounced inspections. In the States we reviewed, monitoring was not conducted in accordance with the States' own requirements. ACF did little to monitor how States were overseeing CCDF providers.

Many of our concerns are addressed in ACF's NPRM issued on May 20, 2013. We recommend that ACF consider the findings and recommendations of this report when finalizing the proposed rule. Specifically, we recommend that ACF:

Seek authority to develop health and safety standards and to ensure that States' requirements meet them

During the next reauthorization of the CCDBG Act and/or through finalizing the proposed rule, ACF should use the recommended National Standards to require States to meet minimum health and safety standards for all CCDF providers. Only by requiring States to meet these standards, either through licensing or through regulation, will ACF be able to protect the health and safety of all children in the CCDF program.

Develop requirements for States to conduct mandatory background screenings

We recognize that ACF has taken steps to encourage States to institute comprehensive background screenings; however, some States are likely to fall short in this area unless they are required to conduct these checks. Mandatory comprehensive background screenings of both licensed and license-exempt providers would better ensure that individuals caring for vulnerable children did not themselves present risks to the safety and well-being of those children.

Develop requirements for States to conduct periodic unannounced inspections

Periodic unannounced inspections both of licensed and license-exempt providers should enable States to better ensure that health and safety standards are met by all providers receiving CCDF funds. ACF could

require States to conduct at least two inspections per year of each provider, with at least one of the inspections being unannounced.

Conduct periodic reviews of States' compliance with their own requirements related to minimum health and safety standards

To ensure that States' monitoring efforts provide for the health and safety of all children in licensed settings, ACF should periodically assess States' compliance with their own monitoring requirements.

Ensure that State plans comply with health and safety requirements, and take action when States do not comply

We recognize that ACF's review of State plans is an important part in ensuring that States comply with statutory requirements. ACF needs to ensure that, as a result of the review, States are brought into full compliance with all requirements.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

ACF concurred with all five of OIG's recommendations. ACF stated that it has already taken initial steps towards meeting the recommendations through its NPRM, which was published on May 20, 2013, and made available for public comment through August 5, 2013.

In response to our first recommendation, ACF proposes to define health and safety standards in areas where the regulations were previously silent. ACF noted that having a clearly defined minimum standard for State health and safety standards would make it much more feasible to monitor State compliance with the requirement.

In response to our second recommendation, ACF states that the NPRM requires that States' standards include comprehensive criminal background checks on child care providers that include use of fingerprints for both State checks of criminal history records and FBI criminal history records, as well as clearance through child abuse and neglect and sex offender registries.

In response to our third recommendation, ACF stated that although the NPRM would add new provisions, such as unannounced onsite monitoring of all CCDF providers, it does not specify a frequency of monitoring. Despite ACF's recommendation that child care providers caring for children receive an initial onsite monitoring visit and at least one annual unannounced onsite monitoring visit, the rules will not meet the National Standards until periodic unannounced inspections are required in every

State. ACF stated that it specifically requested public comment regarding whether this recommendation should become a requirement.

In response to our fourth recommendation, ACF stated that it is exploring options to conduct periodic reviews of States' compliance. ACF hopes to build on OIG's approach and experience in conducting this study.

In response to our fifth recommendation, ACF stated that it uses the biennial CCDF State Plans to ensure compliance with health and safety requirements. ACF went on to say that it has strengthened its internal control procedures for reviewing the FY 2014–2015 Plans by establishing a new validation checklist to ensure all States comply with CCDF requirements.

The full text of ACF's comments is provided in Appendix C.

APPENDIX A

Point Estimates and Confidence Intervals Based on Case File Reviews

We calculated confidence intervals for key data points for the selected States' monitoring activities. The sample sizes, point estimates, and 95-percent confidence intervals are given for each of the following:

Table A-1: Confidence Intervals for States' Noncompliance in Conducting Unannounced Inspections

State	Unannounced Monitoring Inspection Requirements	Sample Size	Point Estimate (percentage)	95-Percent Confidence Interval
California	Every 5 years	125	n/a	n/a
Florida	Every 4 months for centers; every 6 months for family homes	61	10.3%	3.5%–17.2%
Illinois	Annually	125	81.6%	75.9%–87.2%
Ohio	Annually	125	25.6%	18.6%–32.6%
Texas	Annually for centers; every 2 years for family homes	125	0.4%	0.1%–3.0%

Source: OIG analysis of State data and documents related to inspection requirements and compliance, 2012.

Table A-2: Confidence Intervals for States' Deficiencies

Data Element Description	Sample Size	Point Estimate (percentage)	95-Percent Confidence Interval
Providers cited for at least one deficiency	561	62.5%	58.1%–66.7%
Providers cited for more than 10 deficiencies	561	11.1%	8.7%–13.5%
Providers cited for at least one deficiency related to background screenings	561	22.3%	18.8%–25.9%

Source: OIG analysis of State data and documents related to inspection requirements and compliance, 2012.

Table A-3: Confidence Intervals for States' Compliance Conducting Background Screening Reviews

State	Inspection Types During Which Monitoring of Background Screening Is Required	Sample Size	Point Estimate (percentage)	95-Percent Confidence Interval
California	Prelicensing inspections, annual/random/5-year inspections, followup inspections (if pertinent)	125	7.5%	3.5%–11.4%
Florida	License renewal inspections (all individuals), routine inspections (new employees)	61	11.0%	4.1%–17.8%
Illinois	Every unannounced annual inspection	125	13.1%	7.3%–18.9%
Ohio	All inspections except inspections for a specific purpose	125	8.4%	4.0%–12.9%
Texas	Any inspection	125	20.3%	13.8%–26.9%

Source: OIG analysis of State data and documents related to compliance with requirements for monitoring of background screening, 2012.

APPENDIX B

State-Reported Specific Requirements

Table B-1: Background Screening Sources for Licensed Center-Based Providers

State	Background Screening Type				Other
	State Criminal	FBI	Child Abuse Registry	Sex Offender Registry	
Alabama	X		X		
Alaska	X	X	X	X	
Arizona	X	X			
Arkansas	X	X	X		
California	X	X	X	X	
Colorado	X		X	X	
Connecticut	X	X	X		
Delaware	X	X	X	X	
District of Columbia	X	X	X	X	
Florida	X	X	X	X	
Georgia	X	X			
Hawaii	X	X	X	X	
Idaho	X	X	X	X	
Illinois	X	X	X	X	
Indiana	X	X	X	X	
Iowa	X	X	X	X	
Kansas	X	X	X		
Kentucky	X		X	X	
Louisiana	X				State Central Registry if the individual discloses or it becomes known that the individual is recorded on the State central registry.
Maine	X		X		Motor vehicle records.
Maryland	X	X	X		
Massachusetts	X		X		
Michigan	X	X	X	X	FBI fingerprint background checks are required for directors and owners.
Minnesota	X		X		FBI and juvenile records are reviewed when there is a reasonable cause.
Mississippi	X	X	X	X	
Missouri	X		X	X	
Montana	X	X	X		Department of Motor Vehicles. Tribal checks are conducted if the individual has lived on a reservation within the last 5 years. FBI checks are conducted only if individual has lived out of State in the last 5 years.
Nebraska			X		Adult Protective Services Central Registry.
Nevada	X	X	X		
New Hampshire	X	X	X	X	
New Jersey	X	X	X	X	
New Mexico	X	X		X	Job references, personal references.
New York	X		X		References on each employee.
North Carolina	X	X		X	
North Dakota	X	X	X	X	
Ohio	X	X			
Oklahoma	X		X	X	Child Abuse Registry check required for owners only. Other checks—Child Care Restricted Registry.
Oregon	X	X	X		Sex offenders are identified through criminal background check.
Pennsylvania	X	X	X		
Rhode Island	X	X	X		
South Carolina	X	X	X	X	
South Dakota	X		X	X	
Tennessee	X	X	X	X	State Vulnerable Persons Registry.
Texas	X	X	X	X	
Utah	X	X	X		In Utah the Sex Offender Registry is a secondary source of information. Utah checks the primary source.
Vermont	X		X		Adult Abuse Registry.
Virginia	X		X		Sworn statement disclosing criminal charges and convictions and founded child abuse/neglect complaints inside and outside Virginia.
Washington	X	X	X	X	FBI fingerprints are currently done on potential providers if they have lived 3 years or less in the State.
West Virginia	X	X	X		
Wisconsin	X		X	X	Other professional licenses; child abuse and neglect information maintained by the department; Nurse Aide Registry.
Wyoming			X	X	A prescreening is conducted using the Child Abuse Registry in Division of Criminal Investigation (DCI), and if warranted, a fingerprint check through DCI is required.
Total	49	35	45	28	

Source: OIG survey of States, 2011.

Table B-2: Background Screening Sources for Licensed Family Home Child Care Providers

State	Background Screening Type				Other
	State Criminal	FBI	Child Abuse Registry	Sex Offender Registry	
Alabama	X	X	X		
Alaska	X	X	X	X	
Arizona	X	X	X		
Arkansas	X	X	X	X	
California	X	X	X	X	
Colorado	X		X	X	
Connecticut	X	X	X		
Delaware	X	X	X	X	
District of Columbia	X	X	X	X	
Florida	X	X	X	X	
Georgia	X	X	X	X	
Hawaii	X	X	X	X	
Idaho	X	X	X	X	
Illinois	X	X	X	X	
Indiana	X	X	X	X	FBI background check is required for the licensee only.
Iowa	X		X	X	May check dependent adult abuse registry.
Kansas	X		X		
Kentucky	X		X	X	
Louisiana	X				
Maine	X		X		Bureau of Motor Vehicles check.
Maryland	X	X	X		
Massachusetts	X		X		
Michigan	X	X	X	X	FBI fingerprint background checks are required for providers. State background checks are required for all employees and household members 18 years and older.
Minnesota	X		X		FBI and juvenile records are reviewed when there is a reasonable cause.
Mississippi	X	X	X	X	
Missouri	X		X	X	
Montana	X	X	X		Department of Motor Vehicles. Tribal checks are conducted if the individual has lived on a reservation within the last 5 years. FBI checks are conducted only if individual has lived out of State in the last 5 years.
Nebraska			X		Adult Protective Services Central Registry.
Nevada	X	X	X		
New Hampshire	X	X	X	X	
New Jersey			X		Criminal conviction self-disclosure.
New Mexico	X	X	X		
New York	X		X		References.
North Carolina	X	X		X	
North Dakota	X	X	X	X	
Ohio	X	X			
Oklahoma	X		X	X	Child Abuse Registry check required for owners and adults signing the application only. Other checks—Child Care Restricted Registry.
Oregon	X	X	X		Sex offenders are identified through criminal background check.
Pennsylvania	X	X	X		
Rhode Island	X	X	X		
South Carolina	X	X	X	X	
South Dakota	X	X	X	X	
Tennessee	X	X	X	X	State Vulnerable Persons Registry.
Texas	X		X	X	
Utah	X	X	X		
Vermont	X		X		Adult Abuse Registry.
Virginia	X		X		Sworn statement disclosing criminal charges and convictions and founded child abuse/neglect complaints inside and outside Virginia.
Washington	X	X	X	X	FBI fingerprints are currently done on potential providers if they have lived 3 years or less in WA.
West Virginia	X	X	X	X	
Wisconsin	X		X	X	Other professional licenses; child abuse and neglect information maintained by the department; Nurse Aide Registry.
Wyoming			X	X	A prescreening is conducted using the Child Abuse Registry in Division of Criminal Investigation (DCI), and if warranted, a fingerprint check through DCI is required.
Total	48	33	48	28	

Source: OIG survey of States, 2011.

Table B-3: Types of Individuals Subject to Background Screenings in Licensed Center-Based Child Care Providers

State	Individual Type					
	Directors	Owners	Child Care Staff	Transportation	Janitorial	Other
Alabama	X	X	X	X	X	
Alaska	X	X	X	X	X	Individuals specified in Alaska State Code 7 AAC 10.900(b).
Arizona	X	X	X	X	X	
Arkansas	X	X	X	X	X	
California	X	X	X	X		Any person who provides care and supervision.
Colorado	X		X	X	X	
Connecticut	X		X			
Delaware	X	X	X	X	X	
District of Columbia	X	X	X	X	X	
Florida	X	X	X	X	X	
Georgia	X		X	X	X	
Hawaii	X	X	X			Any individuals used to meet the staff/child ratios.
Idaho	X	X	X	X	X	All individuals 13 and older who have direct contact with children.
Illinois	X		X	X	X	Any person who has unsupervised access to children.
Indiana	X		X	X	X	
Iowa	X		X	X		Anyone used to meet the staff/child ratio; anyone with access to, or left alone with, child; anyone 14 or older living in the facility.
Kansas	X	X	X	X	X	All individuals over 10 years of age residing or working at the facility.
Kentucky	X	X	X	X	X	
Louisiana	X	X	X	X	X	Each paid and nonpaid staff person.
Maine	X	X	X	X		
Maryland	X	X	X	X		
Massachusetts	X	X	X	X		Interns and anyone with the potential for unsupervised contact with children.
Michigan	X	X	X			
Minnesota	X	X	X			
Mississippi	X	X	X	X	X	
Missouri	X	X	X	X	X	
Montana	X	X	X	X	X	Background checks required for administrative staff, aides, kitchen staff, and all persons over the age of 18 who reside or stay at the facility regularly or frequently.
Nebraska	X	X	X	X	X	Owners only if working directly with children.
Nevada	X	X	X	X		
New Hampshire	X	X	X			All child care personnel—anyone who has regular/daily contact with children.
New Jersey	X	X	X	X	X	
New Mexico	X	X	X	X		
New York	X	X	X	X	X	All employees who have regular and substantial contact with children.
North Carolina	X	X	X	X	X	
North Dakota	X	X	X	X	X	All positions require at least some level of background check.
Ohio	X	X	X	X	X	All center staff.
Oklahoma	X	X	X	X		Others with unsupervised access to children.
Oregon	X	X	X	X	X	
Pennsylvania	X	X	X			An employee who works with children and is used to meet staff/child ratio must have clearances.
Rhode Island	X	X	X	X	X	Consultants and anyone coming in regular contact with children.
South Carolina	X		X	X	X	Owners are required to undergo background screening if they work within the facility.
South Dakota	X	X	X			Owners who work at the center; employees who have contact with children or who are used to meet the staff/child ratio.
Tennessee	X	X	X	X		Based upon determination of any individual's access to children.
Texas	X	X	X	X	X	A name-based criminal history check and a Department of Family and Protective Services Central Registry check for each person employed at the operation.
Utah	X	X	X	X	X	Assistant Directors, substitutes, and members of the governing body.
Vermont	X	X	X	X		
Virginia	X	X	X			Anyone involved in the day-to-day operation or alone with, in control of, or supervising one or more children.
Washington	X	X	X	X	X	All staff must have a background check, and the person applying for the license must have a background check.
West Virginia	X	X	X	X	X	
Wisconsin	X	X	X	X	X	Any person who meets the statutory definition of a caregiver.
Wyoming	X	X	X	X	X	
Total	51	44	51	43	33	

Source: OIG survey of States, 2011.

Table B-4: Types of Individuals Subject to Background Screenings in Licensed Family Home Child Care Providers

State	Individual Type			
	Provider	Family Member	Those Living in Residence	Other
Alabama	X		X	Adult family members; and adults living in residence.
Alaska	X	X	X	Individuals specified in Alaska State Code 7 AAC 10.900(b).
Arizona	X	X	X	
Arkansas	X	X	X	
California	X	X	X	Any person who provides care and supervision.
Colorado	X		X	
Connecticut	X	X	X	
Delaware	X	X	X	Volunteers, substitutes, and others with direct access.
District of Columbia	X	X	X	
Florida	X	X	X	Volunteers working 10 or more hours per month in home or left to supervise children.
Georgia	X	X	X	
Hawaii	X	X	X	All household members over 18 years old.
Idaho	X	X	X	All individuals 13 and older who have direct contact with children.
Illinois	X	X	X	Members of the household who are age 13 years or older.
Indiana	X	X	X	Volunteers.
Iowa	X	X	X	Substitutes; anyone over 14 living in the residence.
Kansas	X	X	X	All individuals over 10 years of age living, working, or volunteering at the facility.
Kentucky	X	X	X	
Louisiana	X	X	X	All adults living at the provider's residence or employed by the provider in their home or on their property.
Maine	X	X	X	Anyone frequenting the home.
Maryland	X	X	X	Paid substitutes and the additional adult if caring for three to four infants.
Massachusetts	X	X	X	For individuals regularly on the premises.
Michigan	X	X	X	
Minnesota	X	X	X	When there is reasonable cause, individuals who may have unsupervised access to children.
Mississippi	X	X	X	
Missouri	X	X	X	
Montana	X	X	X	Background checks required for administrative staff, aides, volunteers, kitchen staff, and all persons over the age of 18 who reside or stay at the facility regularly or frequently.
Nebraska	X		X	
Nevada	X	X	X	
New Hampshire	X	X	X	Anyone who has regular/daily contact with children.
New Jersey	X		X	
New Mexico	X	X	X	Any person over the age of 18 and spouse of the provider.
New York	X	X	X	Volunteers.
North Carolina	X	X	X	
North Dakota	X	X	X	
Ohio	X	X	X	
Oklahoma	X	X	X	
Oregon	X	X	X	
Pennsylvania	X		X	Household members age 18 and over who reside in the family home 30 or more days in the calendar year.
Rhode Island	X		X	Anyone having routine contact with children (volunteers, drivers, consultants).
South Carolina	X	X	X	
South Dakota	X	X	X	Any adult living in the home who has contact with the children in care.
Tennessee	X	X	X	
Texas	X	X	X	Each household member who is 14 years or older and who will regularly or frequently be present.
Utah	X	X	X	Substitutes and volunteers.
Vermont	X	X	X	
Virginia	X	X	X	
Washington	X	X	X	
West Virginia	X	X	X	
Wisconsin	X	X	X	Any volunteer, substitute or other person meeting the definition of a "caregiver" is required to have a caregiver background check.
Wyoming	X	X	X	
Total	51	44	51	

Source: OIG survey of States, 2011.

Table B-5: Unannounced Inspections for Licensed Center-Based Child Care Providers

State	Interval		
	Annually	Every 6 Months or More or Frequent	Other Frequency
Alabama			Every 2 years.
Alaska	X		All complaint investigation inspections are unannounced.
Arizona	X		To follow up on complaints and previous compliance issues.
Arkansas		X	
California			Not less than once every 5 years.
Colorado			Inspections occur, on average, every 2 years.
Connecticut			At least every 2 years.
Delaware	X		As needed to inspect condition of the facility.
District of Columbia	X		Additional unannounced visits are made as part of a followup to a complaint.
Florida		X	
Georgia		X	
Hawaii	X		To conduct complaint investigations and to monitor as a result of corrective action plans.
Idaho		N/A	
Illinois	X		
Indiana	X		
Iowa	X		
Kansas	X		
Kentucky	X		At time of application.
Louisiana	X		During compliance visits, after construction or renovation, and in response to complaints.
Maine	X		
Maryland	X		
Massachusetts			Complaint investigation or monitoring.
Michigan	X		
Minnesota			Every 2 years, and unannounced visits are made for licensing complaint investigations.
Mississippi		X	Complaint investigations.
Missouri		X	
Montana	X		Facilities may receive inspections every 1-3 years depending on the type of license.
Nebraska	X	X	Conducted annually for centers licensed for fewer than 30 children; every 6 months for those licensed for 30 or more children.
Nevada		X	
New Hampshire	X		More often if needed (e.g., in response to a complaint).
New Jersey	X		
New Mexico		X	
New York			As needed for monitoring, complaints, and child abuse reports.
North Carolina	X		
North Dakota	X		At least annually, more frequently if concerns exist.
Ohio	X		At the receipt of complaints and for monitoring as needed.
Oklahoma		X	
Oregon	X		
Pennsylvania			Each licensor must conduct six allocated unannounced inspections each year.
Rhode Island		X	To follow up on any complaints received against a provider.
South Carolina		X	Investigations of complaints.
South Dakota	X		Additional visits are made to verify correction of noncompliance or to address complaints.
Tennessee		X	
Texas	X		Other inspections can be announced or unannounced.
Utah	X		Followup inspections and complaint investigations are conducted mostly unannounced as needed.
Vermont	X		When a complaint is received.
Virginia		X	
Washington			Followup visits are made to respond to complaints and to ensure that compliance issues have been resolved.
West Virginia	X		
Wisconsin	X	X	For child care centers licensed to care for 50 or fewer children or operating part-day programs at least 1 unannounced visit per year is conducted. For full-day child care programs licensed to care for 51 or more children at least 2 unannounced visits per year are conducted.
Wyoming	X		
Total	29	14	

Source: OIG survey of States, 2011.

Table B-6: Unannounced Inspections for Licensed Family Home Providers

State	Interval		
	Annually	Every 6 Months or More Frequent	Other Frequency
Alabama			Every 2 years.
Alaska	X		All investigations inspections are unannounced as well.
Arizona	X		
Arkansas		X	Unannounced visits three times per year.
California			Not less than once every 5 years.
Colorado			Visits occur, on average, every 2 years.
Connecticut			One-third of licensed family day care homes must be inspected annually.
Delaware	X		
District of Columbia	X		Additional unannounced visits are made as part of a followup to a complaint.
Florida		X	Does not include unannounced complaints and unannounced inspections.
Georgia		X	Additional visits are made if necessary.
Hawaii	X		For complaint investigations and for monitoring as a result of corrective action plans.
Idaho	N/A		
Illinois	X		
Indiana			Every other year; alternates with the announced visits.
Iowa			Monitoring target of 40%.
Kansas	X		
Kentucky	X		At time of application.
Louisiana	N/A		
Maine	X		
Maryland	X		
Massachusetts			Complaint investigation or monitoring.
Michigan			10% of family homes are inspected at time of renewal.
Minnesota			County agencies typically make unannounced visits to conduct investigations.
Mississippi		X	Complaint investigations.
Missouri		X	
Montana			Required to inspect 20 percent of all family and group child care providers annually.
Nebraska	X		
Nevada		X	
New Hampshire	X		More often if needed (e.g., in response to a complaint).
New Jersey			Unannounced complaints, monitoring, and reinspections.
New Mexico	X		Follow up to deficiencies.
New York			As needed for monitoring, complaints, and child abuse reports.
North Carolina	X		
North Dakota	X		At least annually, more frequently if concerns exist.
Ohio	X		
Oklahoma		X	
Oregon			Complaint investigation; compliance verification
Pennsylvania			Inspections are done on a random sample basis, upon complaint, at the request of the operator, or for correction of regulatory violations.
Rhode Island			Once every 2 years and as a part of followup when a complaint is received.
South Carolina		X	Investigations of complaints.
South Dakota			Once every 2 years with additional visits to ensure correction of noncompliance or to address complaints.
Tennessee		X	Each agency receives a minimum of four to six unannounced visits each year.
Texas			Once every 2 years; frequency is based on compliance history.
Utah	X		All necessary followup inspections and complaint investigations are conducted mostly unannounced as needed.
Vermont			Every 3 years and when a complaint is received.
Virginia		X	
Washington			To respond to complaints and to ensure that compliance issues have been resolved.
West Virginia	X		
Wisconsin	X		
Wyoming		X	
Total	19	10	

Source: OIG survey of States, 2011.

APPENDIX C

Agency Comments



DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

August 12, 2013

The Honorable Daniel R. Levinson
Inspector General
U.S. Department of Health and Human Services
330 Independence Avenue, SW
Washington, DC 20201

Dear Inspector General Levinson:

I am writing to respond to the Office of the Inspector General's draft report, "Child Care and Development Fund: Monitoring of Licensed Child Care Providers" OEI-07-10-00230, which contains recommendations for ACF regarding the Child Care and Development Fund (CCDF) program. The monitoring of licensed child care providers is an important factor in ensuring the health and safety of children in child care and ACF appreciates OIG's thorough examination of the issue. As noted in the report, ACF has already taken initial steps towards addressing the recommendations made in the report, the most notable step being the publication of the Child Care and Development Fund (CCDF) Notice of Proposed Rulemaking (NPRM) on May 20th, 2013. ACF appreciates the opportunity to review the report and provides the rationale for our concurrences as well as several technical comments and notes below.

CONCURRENCES

ACF concurs with all of the recommendations in the draft report (p. 18-19) and has already taken initial steps towards meeting these goals through the CCDF NPRM, which was published on May 20, 2013, and made available for public comment through August 5. ACF will now consider and respond to public comments as part of development of a Final Rule. The rule would require States to develop and monitor health and safety standards that apply to child care providers who serve children receiving CCDF assistance.

In addition to the NPRM, ACF has issued other relevant guidance (including recommendations on the use of comprehensive criminal background checks), and has provided extensive technical assistance. In particular, the National Center on Child Care Quality Improvement has developed resources to assist States with licensing and health and safety standards. ACF is also partnering with the Health Resources and Services Administration (HRSA) to disseminate *Caring for Our Children: National Health and Safety Performance Standards*, and to develop additional related materials such as *Stepping Stones* and the forthcoming *Essentials*--both of which contain a subset of priority standards to help States strengthen their requirements.

Our efforts as they relate to OIG's recommendations are discussed in more detail below:

Recommendation: Seek authority to develop health and safety standards, and to ensure that States' requirements meet these standards.

Through the CCDF NPRM, ACF proposes to define health and safety standards in areas where the regulations were previously silent. This includes a list of minimum health and safety trainings based on recommendations made by Caring for Our Children and monitoring requirements. Having a clearly defined minimum standard for State health and safety standards will make it much more feasible to monitor State compliance with the requirement.

Recommendation: Develop requirements for States to conduct mandatory background screenings.

In the CCDF NPRM, under the section on "building and physical premises safety", the proposed rule would require that States' standards include:

"Comprehensive background checks on child care providers that include use of fingerprints for State checks of criminal history records, use of fingerprints for checks of Federal Bureau of Investigation (FBI) criminal history records, clearance through the child abuse and neglect registry (if available), and clearance through sex offender registries (if available)". (45 CFR 98.41(2)(i))

Recommendation: Develop requirements for States to conduct periodic unannounced inspections.

Current regulations require States to certify that procedures are in effect to ensure that CCDF providers are in compliance with health and safety requirements. The proposed rule would add new provisions that would require that each State's procedures:

- 1) Include unannounced on-site monitoring of all CCDF providers;
- 2) Can no longer rely on self-certification without documentation or other verification to certify compliance with health and safety requirements; and
- 3) Must require an unannounced visit in response to the receipt of a complaint pertaining to the health and safety of CCDF children.

The OIG report states that "Although some States require routine unannounced inspections, the frequency of those routine inspections did not meet the National Standards." Our proposed rule does not specify a frequency of monitoring, though we do make a recommendation that child care providers caring for children receiving a subsidy receive an initial onsite monitoring visit and at least one annual unannounced on-site monitoring visit. We recognize that on-site monitoring requires adequate licensing and monitoring staff and other resources. Therefore, we specifically requested public comment on this recommendation and whether it should become a requirement, and welcomed input as to alternative monitoring frequencies

Recommendation: Conduct periodic reviews of States' compliance with their own requirements related to minimum health and safety standards

ACF is exploring options to conduct periodic reviews of States' compliance (see further discussion below), and we hope to build on OIG's approach and experience in conducting this study. ACF will be pursuing additional monitoring to ensure compliance with the new regulations when they are finalized, perhaps building on existing procedures, such as the administrative error rate reviews, while adding more on-site components as resources permit.

The CCDF NPRM proposes to increase the technical assistance set-aside from $\frac{1}{4}$ to $\frac{1}{2}$ of one percent. This will increase ACF's ability to provide States with assistance in complying with requirements by increasing the technical assistance support available. Under current law, these funds cannot be used for direct federal monitoring of States. However, ACF has requested legislative authority to use the funds for monitoring and oversight¹, which would enhance the ability to ensure compliance. .

Recommendation: Ensure that State plans comply with health and safety requirements, and take action when States do not comply

ACF uses the biennial CCDF State Plans to ensure compliance with health and safety requirements and can withhold funding or issue other penalties if requirements are not being met. ACF has strengthened its internal control procedures for reviewing the FY2014-15 Plans by establishing a new validation checklist to ensure all States comply with CCDF requirements.

New provisions included in a Final Rule are expected to become effective 30 days from the date of publication of a Final Rule. Compliance with provisions in the Final Rule would be determined through ACF review and approval of CCDF Plans and through the use of Federal monitoring in accordance with 45 CFR 98.90, including on-site monitoring visits as necessary. ACF expects that provisions included in a Final Rule would be incorporated into the review of FY 2016-2017 CCDF Plans that would become effective October 1, 2015.

ACF is also investigating effective policy options to improve federal monitoring efforts, including a review of best practices for monitoring block grant programs, research of how best to leverage regional and TA expertise, and an internal workgroup that is seeking to identify mechanisms to improve compliance with the provisions of the new proposed rule. This will help ACF determine the most appropriate and effective mechanisms for monitoring compliance with health and safety requirements, including the proposed provisions in the NPRM.

NONCONCURRENCES

There are no nonconcurrences.

¹ ACF Congressional Justification for FY2014, page 56.

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Again, ACF appreciates the opportunity to provide comments on the draft report and welcomes any further questions that OIG may have regarding these issues. Please direct any follow-up inquiries to our Office of Legislative Affairs and Budget OIG liaison, Scott Logan at (202) 401-4529.

Sincerely,

/S/

George H. Sheldon
Acting Assistant Secretary
for Children and Families

ACKNOWLEDGMENTS

This report was prepared under the direction of Brian T. Whitley, Acting Regional Inspector General for Evaluation and Inspections in the Kansas City regional office.

Teresa Dailey served as the project leader for this study. Other Office of Evaluation and Inspections staff from the Kansas City regional office who conducted the study include Brian T. Pattison and Dennis Tharp. Central office staff who provided support include Kevin Farber, Christine Moritz, Debra Roush, Talisha Searcy, and Sherri Weinstein. Office of Counsel to the Inspector General staff who provided support included Diana Merelman.

Office of Inspector General

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