

FOLLOW-UP REVIEW
OF THE
CHILD DEVELOPMENT AND CARE PROGRAM
FAMILY INDEPENDENCE AGENCY

January 2003



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AUDITOR GENERAL

January 17, 2003

Ms. Nannette M. Bowler, Director
Family Independence Agency
Grand Tower
Lansing, Michigan

Dear Ms. Bowler:

This is our report on our follow-up review of the 4 material findings (Findings 1, 2, 5, and 6) and related recommendations reported in the performance and financial related audit of the Child Development and Care Program, Family Independence Agency. That audit report was issued and distributed in January 2000; however, additional copies are available on request.

Our review disclosed that the Family Independence Agency had complied with 2 recommendations (Findings 1.a. and 5), had substantially complied with 1 recommendation (Finding 1.d.), had not yet fully complied with 2 recommendations (Findings 1.b. and 1.c.), and had initiated corrective action but had not yet complied with 2 recommendations (Findings 2 and 6).

If you have any questions, please call me or Scott M. Strong, C.P.A., C.I.A., Director of Audit Operations.

AUDITOR GENERAL

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CHILD DEVELOPMENT AND CARE PROGRAM FAMILY INDEPENDENCE AGENCY FOLLOW-UP REVIEW

INTRODUCTION

This report contains the results of our follow-up review of the material findings and related recommendations reported in the performance and financial related audit of the Child Care and Development Program, Family Independence Agency (FIA). The performance and financial related audit contained 4 material findings (Findings 1, 2, 5, and 6) and 4 other reportable conditions.

PURPOSE OF REVIEW

The purpose of this follow-up review was to determine whether FIA had taken appropriate corrective measures in response to the 4 material findings.

BACKGROUND

Description of Program

FIA administers the Child Care and Development Program. The mission of the Program is to ensure the availability, affordability, and quality of child care for Michigan residents. The Program provides financial assistance to eligible families for child care services when the parent, legal guardian, or other caretaker is unavailable to provide child care because of employment, education, or treatment for a health or social condition. Federal program managers and the FIA director have acknowledged that having affordable and quality child care available to parents is critical to the success of the welfare program.

In addition, FIA administers various contracts designed to improve the availability, affordability, and quality of child care. These contracts provide for a Statewide child care referral service, child care provider training, certification for child care providers,

and the recruitment of infant care providers. The Division of Child Day Care Licensing, Department of Consumer and Industry Services (CIS), is primarily responsible for enforcing regulations intended to maintain the quality of child care services in child care organizations. In accordance with federal regulations, FIA enrolls child care aides and relative care providers. FIA requires child care aides and relative care providers to meet and attest to various requirements to be eligible to participate in the Program. In all other respects, FIA does not regulate aide and relative providers.

Eligibility

Eligibility is divided into two groups:

Categorically Eligible: A family is automatically eligible if its need is based on protective and preventative services, the parents are licensed foster parents, or the family receives Family Independence Program related services, as defined. Valid need-based reasons are high school completion, employment, family preservation, and Michigan Works Agencies approved activities. FIA reimburses 100% of child care costs of this group, up to FIA's maximum hourly rate.

Income Eligible: A family is eligible based on family size and income level as specified in the Child Development and Care Income Eligibility Scale. For instance, a family of four in fiscal year 2001-02 who had projected earnings of \$31,038 or less annually was eligible to participate in the Program. FIA reimburses 30% to 95% of the child care costs of this group, up to FIA's maximum hourly rate.

Maximum Hourly Rate

The amount paid for child care services is restricted to an approved rate, which consists of the lower of the provider's rate or FIA's maximum hourly rate. The maximum hourly rate is based on the type of child care provider, the age of the child, the shelter area in which the child care services are performed, and the provider's charge to the general public. These rates are based on market rate surveys conducted in 1994 and 1999 and are approved by the Legislature.

Income Eligibility Scale

The amount of financial assistance is determined by the Child Development and Care Income Eligibility Scale. The Scale limits the amount paid for child care services to a percentage of the maximum cost, based on family size and income. For instance, a family of four in fiscal year 2001-02 who had projected annual earnings of \$31,038

received reimbursement for child care costs at the rate of 30% of the approved agency rate.

Payments

Payments for child care services are made directly to day care centers, family day care homes, group day care homes, and relatives. Payments for aides are made through two-party checks made out to the client and the aide and mailed to the client. All providers must submit billings for payment. Day care centers, family day care homes, and group day care homes must be licensed/registered through CIS's Division of Child Day Care Licensing. Child care aides and relatives must be enrolled with FIA to receive payment.

Expenditures

In fiscal years 1999-2000 and 2000-01, Program expenditures for child care services were approximately \$419 million and \$425 million, respectively.

SCOPE

We reviewed FIA policies and procedures to determine whether there were any changes since our audit. We interviewed FIA personnel and performed various tests to determine whether the corrective action taken to comply with the material recommendations was working as FIA had intended. In addition, FIA's compliance with Finding 6 (Case File Approval and Documentation Procedures) was reviewed as part of our concurrent performance audit of FIA's Field Operations Administration.

FOLLOW-UP REVIEW RESULTS

QUALITY OF CHILD CARE SERVICES

FINDING

1. Screening and Monitoring of Aides and Relative Care Providers

RECOMMENDATIONS

We recommend that FIA improve its screening and monitoring of applicants and enrollees by:

- (a) Verifying that applicants are not on the Central Registry before enrolling them as child care aides and relative care providers.
- (b) Identifying crimes against a child and other crimes that could be considered sufficient reason for rejecting a child care aide or relative care provider application and obtaining authority to perform history checks on all applicants.
- (c) Determining if child care aide and relative care provider applicants have had their child care licenses revoked.
- (d) Periodically checking the status of enrolled child care aides and relative care providers to determine if they have been added to the Central Registry, the State of Michigan criminal history files, or CIS's listing of revoked child care licenses.

AGENCY PRELIMINARY RESPONSE

FIA agreed with recommendation (a) and responded that it has complied. A memorandum was issued to each local office as soon as FIA learned of these occurrences in February 1999. The local offices were instructed to take appropriate action for each child care aide or relative care provider identified by the Office of the Auditor General (OAG) on the Central Registry who had been convicted of a crime against a child or who had his/her license revoked. Training was conducted during summer 1999 and staff were reminded of proper procedures.

Also, FIA agreed with recommendations (b), (c), and (d) and responded that it is researching its options for implementation.

However, FIA responded that it disagrees with the presentation of the facts within part b. of the finding as it relates to other states' policies and procedures on criminal checks and resulting denials or revocations. FIA stated that, per the OAG, the information on other states' practices came from the *1998 Family Child Care Licensing Study* produced by the Children's Foundation. This study covered the criminal and central registry practices in all 50 states, Washington, D.C., and various U.S. territories for the licensure/registration of group and family day care homes. It did not cover day care centers, child care aides, or relative care providers. The entries for Michigan correctly cited CIS policies regarding criminal and other checks for those applying to become licensed/registered group and family day care home providers. FIA also stated that this presentation is leading the reader to believe that other states have policies and procedures on criminal checks and resulting denials or revocations for aide and relative providers when this is not true.

Further, part d. of the finding states that FIA did not have a policy to periodically check the status of enrolled child care aides or relative care providers to determine if they had been added to the State of Michigan criminal history files. FIA responded that, while this is true, it should be noted that FIA did not have legal authority to perform this function so there would have been no policy to perform an illegal act.

EPILOGUE

The *1998 Family Child Care Licensing Study* did not address criminal record checks for child care aides and relative care providers; however, we do not believe that a different standard should be applied to any provider who has direct access to children.

Although FIA did not have the authority to check the State of Michigan criminal history files during our audit, FIA did have the authority to check the Central Registry and the CIS listing of revoked child care licenses.

FOLLOW-UP REVIEW CONCLUSION

FIA had taken various corrective actions to comply with these recommendations. Our review of FIA's corrective actions disclosed:

- a. We conclude that FIA had complied with this recommendation. However, FIA should enhance its other processes and perform both Central Registry and criminal record checks on other members of a relative care provider's household.

FIA revised Program Eligibility Manual (PEM) item 704 to require that aide and relative care provider applicants be checked to determine whether they are listed as a perpetrator on the Central Registry or have been convicted of certain felonies. The Central Registry check is performed at enrollment and every week thereafter. The criminal record check is not performed at enrollment unless the applicant "self-declares" a felony conviction but is performed thereafter on a monthly basis. Also, FIA identified specific crimes, based on crimes listed in *Michigan Administrative Code R 400.1152*, that would exclude an applicant from participation as an aide or relative provider.

FIA also implemented Central Registry and criminal record checks on other members of a relative care provider's household, for which we commend FIA. However, we noted the following weaknesses in this process. FIA requires a Central Registry check of other members of a relative care provider's household (where a child receives care) only if FIA learns that a household member may be on the Central Registry. Also, FIA does not perform subsequent Central Registry checks on household members, although they could later be placed on the Registry. In addition, criminal record checks of other household members are left to the discretion of the local office and/or local office workers. Further, FIA's aide and relative care provider application form requests only the names of household members 18 years old or older, excluding any juvenile who may be on the Central Registry or have a criminal conviction. As a result, other household members may never be subject to initial or ongoing Central Registry or criminal record checks.

- b. We conclude that FIA had not yet fully complied with this recommendation.

Our review of FIA's criminal record check process during our concurrent performance audit of FIA's Field Operations Administration disclosed that FIA did not properly match names between its various data files and the State's criminal history files. As a result, FIA did not remove numerous individuals who were ineligible to serve as aides or relative care providers.

Also, FIA's specified crimes list does not include National Crime Information Center (NCIC) convictions listed on the State's Law Enforcement Information Network criminal history files. Our audit report, released in January 2000, identified 318 convictions for crimes against a child and 9,635 other crimes. Of these convictions, 98 (30.8%) and 1,396 (14.5%), respectively, were NCIC convictions.

In addition, FIA did not include other felonies and some misdemeanors related to crimes against a child on its listing, although *Michigan Administrative Code* R 400.1152 makes persons convicted of these crimes ineligible to serve as aides or relative care providers. For example, during our audit released in January 2000, we identified 4 instances of gross indecency between a male and female, which is a felony, and 2 instances of criminal sexual conduct in the fourth degree involving a child 13 to 16, which is a misdemeanor. FIA's incomplete listing did not contain these crimes.

Further, FIA requires a criminal record check at enrollment only if the applicant discloses a conviction. As a result, an applicant with a conviction not permitted by FIA policies and procedures who does not make a self-declaration could be enrolled as an aide or relative provider until such time as FIA performs the next monthly criminal record check and follows up on any exceptions.

- c. We conclude that FIA had not yet fully complied with this recommendation.

FIA does not determine whether aide and relative care provider applicants have had their day care license or registration revoked. FIA did not disenroll all aides and relative care providers whom we had previously identified as having their license or registration revoked. FIA conducted a one-time data file match in June 2000 to determine if any aides or relative care providers had their day care licenses or registrations revoked. Local offices were to follow up and disenroll all providers who matched. Also, in May 2001, Program staff

made a request, which has not been initiated, to have periodic data file matches performed.

A test of aides and relative care providers showed 11, 8, and 7 individuals with revoked licenses who provided child care services in calendar year 2000, in calendar year 2001, and from January 1, 2002 through July 14, 2002, respectively. FIA reimbursed these ineligible individuals \$193,800 during these periods. Also, of the 26 revocation exceptions noted during our last audit, we determined that 6 were still actively enrolled as aides or relative care providers.

- d. We conclude that FIA had substantially complied with this recommendation.

As noted above, Central Registry checks are performed on aides and relative care providers at application and every week thereafter. Criminal history checks are performed on aides and relative care providers on a monthly basis. However, a periodic check is not performed on revoked child care licenses.

FINDING

2. Continuous Quality Improvement (CQI) Process

RECOMMENDATION

We recommend that FIA improve its CQI process by developing both output and outcome measures and by better documenting the monitoring process over Program operations.

AGENCY PRELIMINARY RESPONSE

FIA agreed with the finding and recommendation and responded that it will comply. FIA has continued to make progress, since prior to the time of the audit, in contract language, contractor reporting formats, Project Zero monitoring procedures, client satisfaction survey standards, etc.

FOLLOW-UP REVIEW CONCLUSION

We conclude that FIA had initiated corrective action but had not yet complied with this recommendation.

FIA establishes specific outcomes for identified initiatives as part of its business plan for each fiscal year. Also, the Program includes evaluation criteria in its contracts. However, FIA had no formal monitoring process of outputs and outcomes and had not developed outcome-related performance indicators. Therefore, results are monitored on an informal basis and there is no quantitative evidence that the Program has achieved its mission to ensure the availability, affordability, and quality of child care for Michigan residents.

AVAILABILITY AND AFFORDABILITY

FINDING

5. Providing Affordable Child Care With Limited State Resources

RECOMMENDATION

We recommend that FIA develop, and submit to the Legislature for its consideration, a comprehensive analysis of State and recipient child care affordability issues.

AGENCY PRELIMINARY RESPONSE

FIA agreed with the recommendation but disagreed with parts a. and d. of the finding. FIA stated that it has provided the Legislature with accurate and relative data on child care costs and program funding requirements each year. The dramatic increases in child care funding referenced in the OAG audit are reflections of this ongoing data analysis, sharing with the Legislature, and legislative response to the need. In addition, for the budget discussions for fiscal year 2000-01, FIA is providing the Legislature with a comprehensive analysis of these issues.

FIA, in its approved State Plan, defined "affordable child care" as "Child day care services provided at the rate of payment or reimbursement by the Family Independence Agency." Also, what is affordable is debated each year in the legislative process. The OAG's own survey of child day care program clients demonstrated that 191 (51.8%) of 369 clients did not pay any money out of pocket for their day care services and 105 (60.3%) of 174 stated that day care was affordable. The survey summary also stated that most written comments received from those surveyed were favorable. This is particularly significant as the respondents included clients using all types of providers (day care centers, group

and family day care homes, child care aides, and relative care providers) and clients who had copays as well as clients who did not.

FIA has formally proposed revisions to the rates in previous budgets. However, they were not approved in the legislative process. Further, *Michigan Administrative Code* R 400.5009 states that provider reimbursement rates will be based on available appropriations and the number of eligible recipients.

FOLLOW-UP REVIEW CONCLUSION

We conclude that FIA had complied with this recommendation.

In January 2000, in accordance with Section 645, Act 135, P.A. 1999, FIA issued a report to the Legislature entitled, "Child Day Care Analysis and Recommendations." The report provided a comprehensive analysis of the Child Day Care Program, including its eligibility structure, provider rate scale, low-income child care fee scale, potential enhancements, and recommendations for continued operations and improvements. FIA did not recommend any changes to the provider rate scale but did suggest that, if the Legislature wanted to make changes to the rates, it concentrate on the youngest children. As a result, in FIA's appropriations act for fiscal year 2000-01 (Section 640, Act 294, P.A. 2000), the Legislature authorized the expenditure of up to \$16.7 million for a rate increase to providers serving children up to 2 1/2 years of age. The rate increase was to be based on the September 30, 1999 market rate study. Also, in FIA's appropriations act for fiscal year 2001-02 (Section 640, Act 82, P.A. 2001), the Legislature authorized up to \$8.0 million for incentive payments to providers serving children up to 2 1/2 years of age.

COMPLIANCE

FINDING

6. Case File Approval and Documentation Procedures

RECOMMENDATION

WE AGAIN RECOMMEND THAT FIA COMPLY WITH ESTABLISHED CASE FILE PROCEDURES FOR APPROVING AND DOCUMENTING APPLICANT ELIGIBILITY AND AUTHORIZING PAYMENTS FOR CHILD CARE SERVICES.

AGENCY PRELIMINARY RESPONSE

FIA agreed with the recommendation and responded that it will comply.

However, FIA disagreed with part i. of the finding. The finding addresses documentation to support the hours of care authorized for day care services. The specialist authorizes the maximum number of day care hours that are reasonable for the clients and their circumstances. Thus, authorized hours were based on expected need rather than actual documentation. This policy was implemented to cover unexpected increases that may occur due to an increase in a parent's hours of employment, unexpected overtime, adverse weather conditions which may require additional time for the parent to travel to or from work, etc. It should, however, be noted that these positive bill providers submit bills for the actual hours of care provided at the end of each payment period. So while extra hours may be authorized, payment is based only on the actual hours of day care provided.

Also, FIA disagreed with part l. of the finding. The finding states that PEM item 705 requires FIA to verify day care center rates charged to the general public. FIA made a change in December 1996 whereby the provider certified the rate on the child day care billing/attendance invoice (FIA-105A), which contains the statement "I am not charging the FIA more than I charge the general public." The provider recertifies this requirement by signing the FIA-105A each time an invoice is submitted for payment. A payment is not made unless the FIA-105A is completed and signed. However, PEM item 705 was not changed to reflect this change in policy.

EPILOGUE

FIA responded that its policy allowed caseworkers to approve up to 10 additional hours of child care beyond documented need. All 11 exceptions in item i. had more than 10 hours of care authorized beyond documented need.

FOLLOW-UP REVIEW CONCLUSION

We conclude that FIA initiated corrective action but had not yet complied with this recommendation.

FIA's corrective action plan stated that additional training was provided to local office staff for improving case documentation and that staff were subsequently given additional training on Program policy in conjunction with the Program redesign effort completed in August 2001.

Our review of case file management during our concurrent performance audit of FIA's Field Operations Administration disclosed a continued high error rate in case file documentation and inappropriate and inaccurate child care payments.