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OFFICE OF THE AUDITOR GENERAL



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July 17, 2013

Ms. Maura D. Corrigan, Director  
Department of Human Services  
Grand Tower  
Lansing, Michigan

Mr. Michael P. Flanagan  
Superintendent of Public Instruction  
Michigan Department of Education  
John A. Hannah Building  
Lansing, Michigan

Dear Ms. Corrigan and Mr. Flanagan:

This is our report on our follow-up of the 9 material conditions (Findings 1 through 9) and 13 corresponding recommendations reported in the performance audit of Suitability of Child Development and Care Program Providers, Department of Human Services. That audit report was issued and distributed in July 2008. Additional copies are available on request or at <<http://www.audgen.michigan.gov>>.

In August 2011, subsequent to our performance audit, Executive Order No. 2011-8 created the Michigan Office of Great Start within the Michigan Department of Education (MDE) and transferred all authority, powers, duties, functions, and responsibilities for the Child Development and Care (CDC) Program within the Department of Human Services (DHS) to MDE's Michigan Office of Great Start. Therefore, I am addressing this report to both of you.

This report contains an introduction; our purpose of follow-up; a background; our scope; follow-up results, conclusions, recommendations, and agency responses; and a glossary of acronyms and terms.

Our follow-up disclosed that DHS and MDE had complied with 5 recommendations, had partially complied with 7 recommendations, and had not complied with 1 recommendation. Material conditions still exist for 6 recommendations (Findings 1, 2, 4, 5, and 7) and reportable conditions exist for 2 recommendations (Findings 3 and 7). As a result, we have issued 1 repeat and 7 rewritten recommendations.

If you have any questions, please call me or Scott M. Strong, C.P.A., C.I.A., Deputy Auditor General.

Sincerely,

  
Thomas H. McTavish, C.P.A.  
Auditor General



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**SUITABILITY OF CHILD DEVELOPMENT AND  
CARE PROGRAM PROVIDERS  
DEPARTMENT OF HUMAN SERVICES AND  
MICHIGAN DEPARTMENT OF EDUCATION  
FOLLOW-UP REPORT**

**INTRODUCTION**

This report contains the results of our follow-up of the material conditions\* and corresponding recommendations reported in our performance audit\* of the Suitability of Child Development and Care Program Providers, Department of Human Services (DHS), 431-0299-05, which was issued and distributed in July 2008. That audit report included 9 material conditions (Findings 1 through 9) and 1 reportable condition\*. This report also contains the DHS plan to comply with our prior audit recommendations, which was required by the *Michigan Compiled Laws* and administrative procedures to be developed within 60 days after release of the July 2008 audit report.

In August 2011, subsequent to our performance audit, Executive Order No. 2011-8 created the Michigan Office of Great Start within the Michigan Department of Education (MDE) and transferred all authority, powers, duties, functions, and responsibilities for the Child Development and Care (CDC) Program\* within DHS to MDE's Michigan Office of Great Start. As a result, both DHS and MDE had responsibility as the lead agency for the CDC Program during some portion of the period of our follow-up. Therefore, our follow-up conclusions are directed to DHS and MDE.

Effective January 1, 2013, MDE became solely responsible for determining the initial suitability\* of unlicensed\* provider applicants\* and the continued suitability of active\* unlicensed providers. DHS's Bureau of Children and Adult Licensing (BCAL) remains responsible for determining the suitability of licensed and registered child care provider\* applicants at initial licensure or registration and for determining the continued suitability of actively licensed and registered child care providers. Therefore, our follow-up recommendations are primarily directed to MDE.

\* See glossary at end of report for definition.

## **PURPOSE OF FOLLOW-UP**

The purpose of this follow-up was to determine whether DHS and MDE had taken appropriate and effective corrective measures in response to the 9 material conditions and 13 corresponding recommendations noted within our July 2008 audit report.

## **BACKGROUND**

The goal\* of the CDC Program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, and accessible quality child care for qualified Michigan families. The CDC Program provides payment for child care services for qualifying families when the parent(s) or substitute parent\*(s) is unavailable to provide child care because of employment; participation in approved education or employment preparation programs; participation in an approved treatment program for a physical, mental, or emotional condition; and/or participation in high school completion classes and when the services are provided by an eligible child care provider. Child care providers are eligible to receive CDC Program payments when they provide child care to CDC Program eligible children and when the provider is enrolled\* by DHS or MDE (as of January 1, 2013) as an unlicensed provider or licensed or registered\* by DHS's BCAL as a child care provider.

Subsequent to the issuance of Executive Order No. 2011-8, MDE and DHS entered into a memorandum of understanding to set forth, among other things, the responsibilities of each department with respect to unlicensed provider enrollment (including the suitability of the provider) in the CDC Program. Prior to January 1, 2013, as the lead agency, MDE assigned the responsibilities for providing the initial suitability determination for unlicensed provider applicants and their reported adult household members\* to DHS. MDE is responsible for the determination of the continued suitability of active unlicensed providers and their reported adult household members. DHS's BCAL is responsible for determining the suitability of licensed and registered child care provider applicants and their adult household members, at both the initial licensure and/or registration and periodically thereafter. BCAL licenses and registers child care centers\*, family child care homes\*, and group child care homes\*.

\* See glossary at end of report for definition.

DHS and MDE consider individuals that are listed within DHS's Central Registry as a perpetrator\* of child abuse\* and/or neglect\*, or have convictions for certain crimes recorded in their criminal history records that DHS and MDE define as terminable convictions\*, as not meeting the requirements to be a CDC Program unlicensed provider. In addition, DHS and MDE consider individuals unsuitable\* to provide CDC Program child care services if the individual has an adult household member that is listed within DHS's Central Registry as a perpetrator of child abuse and/or neglect and/or convicted of crimes that DHS and MDE define as terminable convictions for unlicensed providers. DHS's policies require that BCAL only license and register suitable individuals to provide child care services and defines suitability, as it relates to child care licensing, as the fitness and appropriateness of a person to carry out the duties, responsibilities, and services that are conducive to the welfare of children in care. When determining suitability of individuals applying for licensure or registration, BCAL evaluates convictions of crimes specified in the Good Moral Character Act (Act 381, P.A. 1974, i.e., Sections 338.41 - 338.47 of the *Michigan Compiled Laws*), offenses listed in Section 2 of the Sex Offenders Registration Act (Act 295, P.A. 1994, i.e., Section 28.722 of the *Michigan Compiled Laws*), and other convictions for crimes considered to indicate potential harm to a child.

DHS, MDE, and BCAL use various procedures and sources to analyze an individual's background information and to determine his or her suitability to provide child care services. The methods, frequencies, and sources each uses to determine the initial and continued suitability of applicants and active child care providers vary according to the type of provider (unlicensed, licensed, or registered) and are primarily based on DHS's and MDE's policies for unlicensed providers and statutory requirements for BCAL's licensed and registered providers. The various procedures used by DHS, MDE, and BCAL include comparing information from child care provider records to DHS's Central Registry\*, the Michigan Department of State Police's (MSP's) Public Sex Offender Registry\* (PSOR), Internet Criminal History Access Tool\* (ICHAT) records and Law Enforcement Information Network\* (LEIN) records, the Department of Corrections' (DOC's) Offender Tracking Information System\* (OTIS), and the Federal Bureau of Investigation (FBI) to evaluate an applicant or active provider's suitability.

During the period May 1, 2011 through April 30, 2012, 16,941 unlicensed providers provided child care for 47,406 CDC Program children and 5,967 licensed and/or

\* See glossary at end of report for definition.

registered providers provided child care for 66,732 CDC Program children. CDC Program payments to these providers for child care services totaled \$182 million during the same period.

## SCOPE

Our fieldwork was conducted primarily from May through August 2012. We interviewed DHS, MDE, and BCAL personnel and reviewed their corrective action plans to help determine the status of compliance with our recommendations for Findings 1 through 9. We reviewed CDC Program policies and procedures and applicable State statutes to determine whether there were any changes since our performance audit, issued in July 2008. We obtained an understanding of DHS's, MDE's, and BCAL's policies and procedures for determining the suitability of child care provider applicants and active child care providers. We also obtained an understanding of DHS's, MDE's, and BCAL's policies and procedures for denying and terminating child care provider eligibility for individuals determined to be unsuitable. We reviewed reports of the interface run schedules and results for the automated clearances of unlicensed providers to DHS's Central Registry records, MSP's PSOR and ICHAT records, and DOC's OTIS records to confirm the occurrence and frequency of the automated clearances. We reviewed reports of unlicensed provider terminations to determine the number of active and inactive\* unlicensed providers that DHS and MDE terminated\* for the period May 1, 2011 through April 30, 2012, the timing of the terminations, and which automated clearance process resulted in the providers' terminations. We compared DHS's and MDE's terminable crimes and codes list\* for unlicensed providers to the National Crime Information Center\* (NCIC) codes; the Prosecuting Attorneys Coordinating Council (PACC) Electronic Warrant Manual\* (E-Warrant Manual) codes; and the *Michigan Compiled Laws*, including offenses listed in Section 2 of the Sex Offenders Registration Act (Act 295, P.A. 1994, i.e., Section 28.722 of the *Michigan Compiled Laws*), to determine if DHS's and MDE's terminable crimes and codes list was complete and specifically included the crimes and codes necessary to identify unsuitable unlicensed provider applicants and active unlicensed providers. We verified that DHS and MDE made the terminable crimes and codes list for unlicensed providers available to DHS local office staff via the DHS Intranet\*. We performed electronic comparisons of DHS's, MDE's, and BCAL's records of CDC Program child care providers that received payment for child care services during the period May 1, 2011 through April 30, 2012

\* See glossary at end of report for definition.

and their adult household members with DHS's Central Registry perpetrator records, MSP's PSOR and ICHAT records, and DOC's OTIS records. We compared our results with DHS's, MDE's, and BCAL's provider records to determine the effectiveness of DHS's and MDE's corrective actions to address the 9 material conditions noted in our July 2008 audit report. Our review of BCAL's licensed and registered child care providers was limited to the licensed and registered providers that received payment for providing child care services to CDC Program children during the period May 1, 2011 through April 30, 2012.

# **FOLLOW-UP RESULTS, CONCLUSIONS, RECOMMENDATIONS, AND AGENCY RESPONSES**

## **EFFECTIVENESS\* OF EFFORTS IN DETECTING UNSUITABLE INDIVIDUALS AND PREVENTING THEM FROM PROVIDING CHILD CARE SERVICES**

### **SUMMARY OF THE JULY 2008 FINDING**

#### **1. Central Registry Records Check Processes**

DHS's Central Registry records check processes were not effective in identifying individuals with substantiated histories as perpetrators of child abuse and/or neglect and preventing them from providing child day-care (now referred to as child care) services. We noted that DHS used only the applicant's or provider's social security number (SSN) to match against Central Registry's perpetrator records. DHS did not use a combination of other identifiers, such as name and date of birth, to help determine the Central Registry status of applicants and providers. In addition, the Central Registry did not contain SSNs for all individuals on the registry because the SSN was not required information for the Central Registry and DHS did not match against records without an SSN. As a result, DHS authorized\* 428 unsuitable individuals listed on its Central Registry as perpetrators of child abuse and neglect to provide child care services for 1,018 CDC Program children. DHS policies required a check of Central Registry records for child care provider applicants prior to their enrollment, licensure, or registration. DHS policies also required a weekly automated Central Registry records check for active child care providers and immediate termination of child care provider eligibility when an active child care provider was identified as a Central Registry perpetrator.

### **RECOMMENDATION (AS REPORTED IN JULY 2008)**

We recommend that DHS strengthen its Central Registry records check processes to help ensure that DHS effectively identifies individuals with substantiated histories as perpetrators of child abuse and/or neglect and prevents them from providing child care services.

\* See glossary at end of report for definition.

## **AGENCY PLAN TO COMPLY\***

The *Michigan Compiled Laws* and administrative procedures required DHS to develop a plan to comply with our audit recommendations within 60 days of the release of the July 2008 audit report. DHS indicated in its September 30, 2008 plan to comply that it submitted a work order request on June 29, 2007 to expand the data that it uses to confirm a match on the Central Registry. DHS indicated that the work order was ranked in the top three for Bridges Integrated Automated Eligibility Determination System\* (Bridges) processing.

## **FOLLOW-UP CONCLUSION**

We concluded that DHS and MDE had partially complied with this recommendation and that a material condition still exists.

## **FOLLOW-UP RESULTS**

Our follow-up disclosed that DHS and MDE developed and implemented an automated interface between Bridges and the Central Registry database to help staff identify unlicensed provider applicants with Central Registry perpetrator status during the enrollment process. In addition, DHS and MDE developed and implemented a daily Central Registry records check process for all active unlicensed providers. Further, DHS and MDE expanded the criterion they used when conducting checks of Central Registry perpetrator records to better identify applicants and active licensed and unlicensed providers with Central Registry perpetrator status.

Although DHS and MDE attempted to strengthen Central Registry records check processes, DHS's and MDE's corrective measures were not always effective in preventing unsuitable individuals with substantiated histories of child abuse and/or neglect from providing child care services to CDC Program children, and they did not fully address the conditions noted in our July 2008 report. We determined that DHS's and MDE's Central Registry records check processes did not effectively identify 44 unlicensed provider applicants and active unlicensed providers with records of substantiated histories as perpetrators of child abuse and/or neglect during the period May 1, 2011 through April 30, 2012. As a result, DHS and MDE authorized these 44 unsuitable individuals to provide child care services for 180 CDC Program children for periods ranging from 46 days to over 2 years, with

\* See glossary at end of report for definition.

an average of approximately 11 months. At the time of our follow-up, 6 of the 44 unlicensed providers were still actively enrolled unlicensed providers. Upon our notification, MDE terminated eligibility for these 6 active unlicensed providers.

In addition, DHS did not attempt to address the condition noted in our July 2008 report concerning the inclusion of inactive unlicensed child care providers in its Central Registry records check processes. As a result, DHS and MDE did not identify and flag\* the records of inactive providers listed on the Central Registry as perpetrators of child abuse and/or neglect to help prevent DHS and MDE from enrolling these individuals in the future as unlicensed providers.

MDE informed us that DHS and MDE did not identify the Central Registry perpetrator status of some individuals because of ongoing technological changes that prevented staff from seeing the complete match information. MDE also informed us that, in some cases, when a provider was previously included in a Central Registry match process (with either a valid or an invalid match), the provider would not be picked up in a subsequent match process unless the provider had a new substantiated record of child abuse and/or neglect. MDE informed us that it plans to submit a Bridges work request to remedy this defect with the Central Registry records check process.

### **FOLLOW-UP RECOMMENDATIONS**

We recommend that MDE conduct periodic tests of its Central Registry records check processes to ensure that its Central Registry records check processes effectively identify individuals with substantiated histories as perpetrators of child abuse and/or neglect and prevent them from providing child care services.

We also recommend that MDE include inactive unlicensed child care providers in its Central Registry records check processes.

### **FOLLOW-UP AGENCY RESPONSE**

DHS and MDE agree. DHS and MDE stated that preenrollment match enhancements were made partially through the audit period to automate the process, thereby ensuring that matches were conducted on all provider applicants and created consistency in how these matches were performed.

\* See glossary at end of report for definition.

DHS and MDE informed us that they, in conjunction with the Department of Technology, Management, and Budget, investigated the Central Registry technology deficiencies that resulted in delayed and missed matches and both items have been corrected through a technology fix.

Also, DHS and MDE informed us that MDE will continue to periodically test the Central Registry check process to ensure that it is effectively identifying individuals. DHS and MDE believe centralization of the unlicensed providers within MDE will help ensure that staff are trained in regards to provider enrollment and the review of the Central Registry records.

## **SUMMARY OF THE JULY 2008 FINDING**

### **2. Criminal History Checks at Enrollment**

DHS had not implemented effective controls to detect child care aide and relative care (now referred to as unlicensed) provider applicants with unsuitable criminal histories and prevent their enrollment as child care providers. As a result, DHS enrolled 712 unlicensed child care providers with unsuitable criminal conviction histories recorded in their ICHAT records at the time of enrollment. DHS authorized these unsuitable providers to care for 1,566 CDC Program children. DHS relied on unlicensed child care provider applicants to self-report their criminal convictions as its primary control to detect unsuitable applicants with criminal histories and prevent them from providing child care services. Applicants were asked to identify on their applications whether their backgrounds were suitable to provide child care services by stating if they had been convicted of a crime.

## **RECOMMENDATION (AS REPORTED IN JULY 2008)**

We recommend that DHS implement effective controls to detect unlicensed provider applicants with unsuitable criminal histories and prevent their enrollment as child care providers.

## **AGENCY PLAN TO COMPLY**

DHS indicated in its September 30, 2008 plan to comply that it now requires local offices to do an ICHAT criminal background check on all unlicensed providers prior to enrollment. In addition, DHS conducts monthly matches with ICHAT.

## **FOLLOW-UP CONCLUSION**

We concluded that DHS and MDE had partially complied with this recommendation and that a material condition still exists.

## **FOLLOW-UP RESULTS**

Our follow-up disclosed that DHS and MDE developed and implemented an automated interface between Bridges and ICHAT records to identify criminal conviction histories of unlicensed provider applicants during the enrollment process. DHS and MDE required DHS local office staff to compare any returned conviction information from an applicant's ICHAT record to DHS's and MDE's terminable crimes and codes list\* to determine if the identified conviction(s) were considered terminable by DHS and MDE. If an applicant's conviction was included in DHS's and MDE's terminable crimes and codes list (see Finding 5), DHS and MDE required staff to deny the applicant's enrollment as an unlicensed provider and to indicate in the applicant's Bridges record that a valid ICHAT match\* was identified during the enrollment process. When staff indicated that a valid ICHAT match was identified for the applicant, Bridges automatically terminated the unlicensed provider enrollment process.

We compared DHS's and MDE's records of active unlicensed providers with ICHAT conviction records for the period May 1, 2011 through April 30, 2012. Our comparison disclosed that DHS and MDE enrolled 78 unlicensed providers with unsuitable criminal conviction histories recorded in their ICHAT records at the time of enrollment. All 78 unlicensed providers had been convicted of at least one crime that DHS and MDE considered terminable and included convictions for crimes such as aggravated assault, domestic violence, assault with a dangerous weapon, home invasion, and indecent exposure. DHS and MDE authorized these 78 unlicensed providers to care for 374 CDC Program children during the period May 1, 2011 through April 30, 2012. At the time of our review, 38 (49%) of the 78 unlicensed

\* See glossary at end of report for definition.

providers were still actively enrolled unlicensed providers. Upon our notification, MDE terminated the active unlicensed providers and indicated in the Bridges records that a valid ICHAT match was detected to help prevent future reenrollment as an unlicensed provider.

MDE informed us that DHS and MDE did not identify the 78 unlicensed provider applicants' criminal history records at enrollment because DHS and MDE did not use applicants' SSNs when performing the preenrollment ICHAT records check process and/or local office staff incorrectly indicated that the match returned to Bridges from ICHAT for an applicant was not valid. When staff indicated in Bridges that a returned ICHAT match was not a valid match for an applicant, Bridges did not automatically deny and terminate the applicant's enrollment and DHS staff continued with the unlicensed provider enrollment process.

### **FOLLOW-UP RECOMMENDATION**

We recommend that MDE strengthen its ICHAT records check process to ensure that it detects unlicensed provider applicants with unsuitable criminal conviction histories and prevents their enrollment as child care providers.

### **FOLLOW-UP AGENCY RESPONSE**

DHS and MDE agree. DHS and MDE stated that preenrollment match enhancements were made partially through the audit period to automate the process, thereby ensuring that matches were conducted on all provider applicants and created consistency in how these matches were performed.

DHS and MDE indicated that, beginning in January 2013, unlicensed provider enrollment became a centralized function performed by dedicated MDE staff. In addition, DHS and MDE informed us that all ongoing criminal history matches will be monitored by this unit.

### **SUMMARY OF THE JULY 2008 FINDING**

#### **3. Public Sex Offender Registry (PSOR) Checks**

DHS did not include a review of the PSOR in its criminal history check procedures for child care providers to help detect publicly registered sex offenders and prevent them from providing child care services. As a result, DHS did not detect 31 child

care providers who were publicly registered sex offenders and authorized them to provide child care services for CDC Program children. Although DHS criminal history check procedures included a monthly check of ICHAT records for actively enrolled child care providers (see Finding 4), DHS did not conduct checks of the PSOR for child care providers. It is important for DHS to conduct checks of both PSOR and ICHAT records for child care providers because the PSOR contains sex offense convictions that are not always included in ICHAT records.

### **RECOMMENDATION (AS REPORTED IN JULY 2008)**

We recommend that DHS include a review of the PSOR in its criminal history check procedures for unlicensed providers to help detect publicly registered sex offenders and prevent them from providing child care services.

### **AGENCY PLAN TO COMPLY**

DHS indicated in its September 30, 2008 plan to comply that it now requires local offices to do a PSOR background check on all unlicensed providers prior to their enrollment. In addition, DHS conducts monthly matches with the PSOR.

### **FOLLOW-UP CONCLUSION**

We concluded that DHS and MDE had partially complied with this recommendation and that a reportable condition exists.

### **FOLLOW-UP RESULTS**

Our follow-up disclosed that DHS and MDE developed and implemented an automated interface between Bridges and the PSOR that occurs during the unlicensed provider enrollment process to identify applicants that are registered on the PSOR prior to enrollment. In addition, DHS and MDE developed a process for an automated monthly match of all unlicensed provider records to PSOR records to help identify providers that become registered on the PSOR after their enrollment as an unlicensed provider. However, our review found that DHS and MDE did not conduct the automated monthly match during any month of our 12-month review period from May 1, 2011 through April 30, 2012. MDE informed us that the monthly automated match of PSOR records to unlicensed providers did not occur during the 12-month review period because of problems with the electronic transfer of files between Bridges and PSOR records. We reviewed

DHS's Bridges interface processing schedules and determined that the automated monthly match of DHS's and MDE's unlicensed providers to PSOR records ended in March 2011 and resumed in July 2012.

We compared the records of active unlicensed providers for the period May 1, 2011 through April 30, 2012 with PSOR records to determine if DHS and MDE enrolled individuals with PSOR records as unlicensed providers or continued provider eligibility for individuals who became registered on the PSOR after their enrollment as an unlicensed provider. Our comparison did not identify any active unlicensed providers that were registered on the PSOR prior to the date DHS and MDE enrolled the individual as an unlicensed provider.

However, our comparison disclosed that DHS and MDE did not identify and terminate an active unlicensed provider listed in the PSOR and convicted of third degree criminal sexual conduct with a person 13 to 15 years of age who was active at the time of our review. We determined that this unlicensed provider became listed on the PSOR after the date of initial enrollment as an unlicensed provider and during the period when DHS and MDE did not conduct the automated monthly PSOR matches of unlicensed providers. This 1 unlicensed provider remained actively eligible for 6 months after the individual's conviction of the listed sex offense and PSOR registration and continued to receive payments for CDC Program child care services. We also identified this individual's criminal conviction history during our comparisons of unlicensed provider records to ICHAT records (see Finding 4) and OTIS records (see Finding 9). Our review of those records disclosed that, although DHS and MDE continued the provider's eligibility and paid for CDC Program child care services after the provider's conviction of the listed sex offense and PSOR registration, the provider was actually incarcerated\* and could not have provided the child care services for which the provider received payments. Upon our notification, MDE immediately terminated eligibility for this provider, stopped payments to the provider for child care services, and flagged the provider's record to prevent future reenrollment as an unlicensed provider.

### **FOLLOW-UP RECOMMENDATION**

We recommend that MDE consistently conduct a monthly PSOR match of unlicensed child care providers.

\* See glossary at end of report for definition.

## **FOLLOW-UP AGENCY RESPONSE**

DHS and MDE agree. DHS and MDE indicated that, beginning in January 2013, unlicensed provider enrollment became a centralized function performed by dedicated MDE staff. In addition, DHS and MDE indicated that all ongoing criminal history matches will be monitored by this unit.

## **SUMMARY OF THE JULY 2008 FINDING**

### **4. Monthly Criminal History Checks**

DHS did not consistently perform monthly ICHAT records checks to identify active child care providers with unsuitable criminal convictions. Also, DHS had not implemented controls to help ensure that its monthly ICHAT records check process worked effectively to detect active child care providers with DHS-defined terminable convictions recorded in their ICHAT record. Further, DHS did not include inactive child care providers in its monthly ICHAT records check process. As a result, DHS did not identify active child care providers with unsuitable criminal convictions in a timely manner and allowed them continued child care provider eligibility. Further, DHS did not identify inactive child care providers with terminable criminal convictions and take the appropriate measures to help prevent future reenrollment as a child care provider. DHS used its monthly ICHAT records checks as the first criminal records check of newly enrolled unlicensed providers and relied on the checks to detect unsuitable criminal convictions that applicants did not self-report (see Finding 2).

## **RECOMMENDATIONS (AS REPORTED IN JULY 2008)**

We recommend that DHS consistently perform monthly ICHAT records checks to identify active child care providers with unsuitable criminal convictions.

We also recommend that DHS implement controls to help ensure that its monthly ICHAT records check process works effectively to detect active child care providers with DHS-defined terminable convictions recorded in their ICHAT record.

We further recommend that DHS include inactive child care providers in its monthly ICHAT records check process.

## **AGENCY PLAN TO COMPLY**

DHS indicated in its September 30, 2008 plan to comply that it conducts monthly matches with ICHAT. Also, DHS indicated in its plan to comply that a work order was submitted on August 25, 2008 to include inactive providers in a monthly match. The monthly match will include providers who had been inactive since January 1, 2008.

## **FOLLOW-UP CONCLUSION**

We concluded that DHS and MDE had complied with the first and third recommendations and had partially complied with the second recommendation. We determined that a material condition still exists.

## **FOLLOW-UP RESULTS**

Regarding our first recommendation, we determined that DHS and MDE implemented a monthly automated match process that consistently conducted monthly ICHAT criminal history records checks during our 12-month review period from May 1, 2011 through April 30, 2012.

Regarding our second recommendation, we determined that DHS and MDE did not ensure that their monthly ICHAT records check process was effective in detecting active unlicensed providers with terminable convictions recorded within their ICHAT records. We compared all active unlicensed providers and family and group home providers for the period May 1, 2011 through April 30, 2012 with ICHAT records. Our comparison disclosed 111 unlicensed providers with DHS- and MDE-defined terminable convictions recorded in their ICHAT records that DHS and MDE did not detect and terminate as a result of their monthly automated ICHAT records check process for the period May 1, 2011 through April 30, 2012. In comparison, during the same period, MDE informed us that DHS and MDE identified and terminated 112 active unlicensed providers with terminable convictions. We determined that 75 of the 111 unlicensed providers had convictions of terminable crimes that occurred prior to DHS and MDE enrolling them as unlicensed providers (see Finding 2). However, DHS and MDE did not detect these individuals' convictions during either the enrollment ICHAT records check process or the monthly ICHAT match processes that occurred subsequent to DHS and MDE enrolling the providers. At the time of our review, 15 of the 36 unlicensed providers convicted of a terminable crime after their enrollment were still actively enrolled unlicensed

providers. Upon our notification, MDE terminated child care provider eligibility for these 15 active providers and flagged the records of all 36 providers to prevent future reenrollment.

MDE informed us that DHS and MDE did not detect the terminable convictions of the 111 unlicensed providers during the monthly automated match process because DHS and MDE did not process all match data received from MSP due to file inconsistencies that existed in the data received by Bridges from MSP.

Regarding our third recommendation, we determined that DHS and MDE included inactive child care providers in their monthly ICHAT records check process for the period May 1, 2011 through April 30, 2012. Our review of DHS and MDE provider termination records determined that DHS and MDE identified 104 inactive unlicensed providers with terminable convictions within their ICHAT records during the period May 1, 2011 through April 30, 2012. MDE informed us that DHS and MDE flagged the records of these providers to help prevent their future enrollment as unlicensed providers.

### **FOLLOW-UP RECOMMENDATION**

We recommend that MDE ensure that its monthly ICHAT records check process works effectively to detect active unlicensed providers with MDE-defined terminable convictions recorded in their ICHAT records.

### **FOLLOW-UP AGENCY RESPONSE**

DHS and MDE agree. DHS and MDE stated that a discrepancy in the match file format exchanged between MSP and DHS led to a number of records that were not processed. DHS and MDE indicated that the file format has been resolved and an exception report is created in Bridges to ensure that timely notification is provided to program staff if monthly match issues occur in the future.

### **SUMMARY OF THE JULY 2008 FINDING**

#### **5. Terminable Crimes and Codes List**

DHS had not implemented effective controls to help ensure that its terminable crimes and codes list was complete and included the crime description and conviction coding information necessary to identify unsuitable child care providers

that could potentially pose harm to a child and prevent them from providing child care services. As a result, DHS enrolled and allowed continued child care provider eligibility of 641 unsuitable individuals convicted of serious and/or dangerous crimes. DHS authorized these unsuitable child care providers to care for 1,755 CDC Program children. DHS used its terminable crimes and codes list for its monthly automated ICHAT records checks (see Finding 4). Also, DHS local office staff used the terminable crimes and codes list to determine if criminal convictions self-reported by unlicensed provider applicants are terminable and, therefore, DHS should not enroll the applicants as child care providers (see Findings 2 and 6). In general, when an individual is convicted of a crime, both a description of the crime and a corresponding numeric code for the crime are recorded in the person's criminal history record. The descriptions and numeric codes can come from several sources and, over time, are changed and amended. Therefore, in order for DHS's terminable crimes and codes list to be most effective, DHS would need to reconcile and amend its list to applicable crimes and codes resources on a consistent basis.

#### **RECOMMENDATION (AS REPORTED IN JULY 2008)**

We recommend that DHS implement effective controls to help ensure that its terminable crimes and codes list is complete and includes the crime description and conviction coding information necessary to identify unsuitable child care providers that could potentially pose harm to a child and prevent them from providing child care services.

#### **AGENCY PLAN TO COMPLY**

DHS indicated in its September 30, 2008 plan to comply that DHS reviewed the PACC list in February 2007 and expanded its terminable crimes and codes list. In addition, DHS arranged to automatically receive updated PACC lists in order to maintain its terminable crimes and codes list and make immediate updates.

#### **FOLLOW-UP CONCLUSION**

We concluded that DHS and MDE had partially complied with this recommendation and that a material condition still exists.

## **FOLLOW-UP RESULTS**

During the period May 1, 2011 through April 30, 2012, DHS and MDE conducted reviews of the terminable crimes and codes list in August 2011 and February 2012 to determine if the codes directly related to the health and safety of children. These reviews included a review of the July 2011 PACC E-Warrant Manual and a review of the crimes that BCAL used to determine the suitability of licensed child care providers with criminal convictions. As of June 2012, the terminable crimes and codes list contained 600 terminable crime descriptions and related codes.

Our follow-up disclosed that, although DHS and MDE conducted two reviews of the terminable crimes and codes list during the period May 1, 2011 through April 30, 2012, DHS and MDE did not ensure that the list was complete. We compared the 600 terminable crimes and codes contained in DHS's and MDE's list to the NCIC codes, the PACC E-Warrant Manual codes, the *Michigan Compiled Laws*, and codes identified in our July 2008 report as not included in the terminable crimes and codes list. We also compared the list to BCAL's list of terminable convictions for licensed or registered child care providers and the terminable crimes and codes list reviewed during our July 2008 audit. We determined that DHS and MDE did not include 736 crimes and codes in the terminable crimes and codes list that:

- Were similar in nature and description to the crimes that DHS and MDE currently included in the terminable crimes and codes list.
- Were similar to crimes described in child protection laws and the Sex Offenders Registration Act (SOR).
- Were indicative of dangerous behavior not in the best interest of children.
- Were crimes for weapons related crimes.
- Were crimes that indicated a fraud risk.
- Were crimes related to serious and dangerous felony offenses.
- Were crimes contained in updated versions of the PACC E-Warrant Manuals since July 2008.

- Were crimes DHS and MDE previously included in the terminable crimes and codes list but no longer included as of July 2008.
- Were crimes BCAL considered terminable offenses for licensed child care providers.

Of these 736 crimes and codes not included in the terminable crimes and codes list, 544 (74%) crimes and codes continued to be excluded since our July 2008 report. For example, some of the crimes and codes that DHS and MDE did not include in the list included accosting children for immoral purposes second offense, prostitution, controlled substance - maintaining a drug house, assault with intent to commit a felony, embezzlement, human trafficking, and terrorism. The completeness of the terminable crimes and codes list is of critical importance with regard to DHS's and MDE's automated monthly ICHAT match process. During the automated monthly ICHAT match process, only the exact numeric coding from the terminable crimes and codes list is compared to ICHAT records to identify unlicensed providers with terminable convictions; therefore, the evaluation of a crime's description is not a part of the monthly process. As a result, DHS's and MDE's monthly ICHAT records check will not identify active unlicensed providers with convictions of any crime that DHS and MDE exclude from the list.

We matched the 736 crimes and codes that DHS and MDE did not include in the terminable crimes and codes list to the ICHAT records for CDC Program child care providers who received payment for providing child care during the period May 1, 2011 through April 30, 2012. We identified 44 unlicensed providers with convictions of crimes included in the 736 crimes and codes. As of August 31, 2012, 26 of the 44 providers remained eligible to provide child care services to CDC Program children. DHS and MDE had previously closed the remaining 18 providers because of inactivity, because of DHS's and MDE's inability to locate the provider, or because the provider had a valid Central Registry record.

MDE informed us that DHS and MDE did not include many of the 736 crimes and codes in the list because including them would make the list unmanageable and they needed to consider how to make the list useable by DHS local staff. In addition, MDE informed us that it believes many of the crimes were not relevant to child health and safety or did not warrant a level of severity for the denial of child care provider eligibility or the crime code was replaced in the PACC E-Warrant

Manual as a result of an amendment to the penal code. MDE also informed us that CDC Program policy instructs DHS local office staff to contact CDC policy staff during the enrollment process for direction when a crime code is identified that is not listed on the terminable crimes and codes list and it is believed the crime could impact the health and safety of a child. We question the effectiveness of the compensating control to rely on communication from the DHS local office staff in the event that a match is received during the enrollment process on a crime code that is not listed on the terminable crimes and codes list. CDC policy staff informed us that they rarely receive inquiries of this type from DHS local office staff. Further, MDE informed us that DHS and MDE did not include all crimes from the SOR in the terminable crimes and codes because they relied on their PSOR checks at enrollment and the monthly automated checks of PSOR. We question the effectiveness of the compensating control to not include all crimes from the SOR. Our review disclosed that DHS and MDE did not conduct monthly checks of the PSOR for active unlicensed providers during our review period (see Finding 3).

### **FOLLOW-UP RECOMMENDATION**

We recommend that MDE ensure that the terminable crimes and codes list is complete and includes the crime description and conviction coding information necessary to identify unsuitable unlicensed providers that could potentially pose harm to a child and prevent them from providing child care services.

### **FOLLOW-UP AGENCY RESPONSE**

DHS and MDE disagree that they did not ensure that the list was complete. DHS and MDE stated that the terminable crimes and codes list is reviewed on a quarterly basis and updates are made as appropriate. DHS and MDE indicated that their review of the list includes an assessment as to whether each charge impacts the health and safety of children or compromises program integrity as well as an assessment of how frequently DHS and MDE have seen the crime returned during the match process. DHS and MDE also indicated that historical changes remain on the list until they are no longer deemed a risk factor.

DHS and MDE also stated that policy instructed DHS local office staff to contact CDC policy staff during the enrollment process for direction when a crime code is identified that is not listed on the terminable crimes and codes list and it is believed that the crime could impact the health and safety of the child.

DHS and MDE further stated that, beginning in January 2013, unlicensed provider enrollment became a centralized function performed by dedicated staff at MDE. DHS and MDE indicated that, because the staff are dedicated to provider enrollment, they will have a better understanding of the process and what other types of crimes should be considered as part of the enrollment process. DHS and MDE indicated that ongoing PACC lists and criminal history matches will be monitored by the MDE unit.

## **OFFICE OF THE AUDITOR GENERAL EPILOGUE**

The Office of the Auditor General disagrees that DHS and MDE ensured that the terminable crimes and codes list was complete and included the crime description and conviction coding information necessary to effectively identify unsuitable child care providers. As indicated in our report on pages 22 and 23, DHS and MDE did not include 736 crimes and codes in the terminable crimes and codes list during the period of our follow-up that were similar to crimes that DHS and MDE already included in the list, similar to crimes described in child protection laws and the SOR, crimes indicating dangerous behavior, crimes contained in updated versions of the PACC, crimes that DHS and MDE previously included in the terminable crimes and codes list, and crimes that BCAL considered terminable offenses for licensed child care providers. Also, as indicated in our report on page 24, CDC policy staff informed us that they rarely received inquiries from DHS local office staff for direction on questionable crime codes not listed on the terminable crimes and codes list.

## **SUMMARY OF THE JULY 2008 FINDING**

### **6. Distribution of the Terminable Crimes and Codes List**

DHS controls were not effective in ensuring that updated terminable crimes and codes lists were distributed to DHS local offices in a timely manner and contained complete information. As a result, DHS could not ensure that it detected child care provider applicants with terminable criminal convictions and prevented them from providing child care services. DHS did not distribute the updated terminable crimes and codes list to its local offices in a timely manner when it added new terminable crimes and codes in October 2005. In addition, DHS did not distribute a complete list of the terminable crimes and codes to local offices.

## **RECOMMENDATION (AS REPORTED IN JULY 2008)**

We recommend that DHS strengthen its controls to help ensure that updated terminable crimes and codes lists are distributed to DHS local offices in a timely manner and contain complete information.

## **AGENCY PLAN TO COMPLY**

DHS indicated in its September 30, 2008 plan to comply that it implemented a Web-based directory in August 2007 that allows the CDC Program to immediately update the crimes and codes list information available to local office staff.

## **FOLLOW-UP CONCLUSION**

We concluded that DHS and MDE had complied with this recommendation.

## **FOLLOW-UP RESULTS**

Our follow-up disclosed that DHS and MDE posted the terminable crimes and codes list for unlicensed providers on the DHS Intranet. As a result, the list was available to all DHS local office staff and MDE's CDC Program staff. We also determined that MDE and DHS completed a review and updated the terminable crimes and codes list in August 2011 and distributed the updated list to DHS and MDE staff, via the DHS Intranet, on September 13, 2011. Our review of the September 13, 2011 list determined that DHS and MDE included all of the crimes and codes that DHS and MDE had defined as terminable for unlicensed providers as of that date. Further, we determined that the list that DHS and MDE posted to the DHS Intranet for use by staff during the unlicensed provider enrollment process was consistent with the list that DHS and MDE used for the automated monthly ICHAT records checks of unlicensed providers (see Finding 4).

## **SUMMARY OF THE JULY 2008 FINDING**

### **7. Suitability of Adult Household Members of Unlicensed Providers and Family and Group Child Care Home Providers**

DHS had not implemented controls to help ensure that it obtained criminal history background information for adult household members that unlicensed providers, who care for children in their own homes, reported were living in their homes or updated criminal history background information for adult household members that family and group child care home providers reported were living in their homes.

Also, DHS had not implemented controls to help ensure that it periodically evaluated the Central Registry status of adult household members that unlicensed providers who care for children in their own homes reported were living in their homes. Further, DHS could have utilized internal and publicly available information to help identify unreported adult household members of unlicensed providers who care for children in their own homes. DHS policy did not require criminal history checks (ICHAT, PSOR, and/or OTIS) for adult household members that unlicensed providers who cared for children in their own homes reported were living with them. DHS policy did not require periodic checks of the Central Registry for adult household members that unlicensed providers, who care for children in their own homes, reported were living with them. DHS policy did not require DHS staff to perform any verification procedures using DHS internal and/or publicly available information to help identify unreported adult household members of unlicensed providers who care for children in their own homes. As a result, DHS increased the risk of potential harm to children receiving child care services from providers providing child care in their homes.

#### **RECOMMENDATIONS (AS REPORTED IN JULY 2008)**

We recommend that DHS implement controls to help ensure that it obtains criminal history background information for adult household members that unlicensed providers, who care for children in their own homes, report are living in their homes and updated criminal history background information for adult household members that family and group child care home providers report are living in their homes.

We also recommend that DHS implement controls to help ensure that it periodically evaluates the Central Registry status of adult household members that unlicensed providers, who care for children in their own homes, report are living in their homes.

We further recommend that DHS utilize internal and publicly available information to help identify unreported adult household members of unlicensed providers who care for children in their own homes.

## **AGENCY PLAN TO COMPLY**

DHS indicated the following in its September 30, 2008 plan to comply:

- Regarding our first recommendation, DHS now requires local offices to conduct a criminal background check prior to enrollment for all reported adult household members living with an unlicensed provider who cares for children in their own home. Effective April 2007, criminal background checks include the Central Registry, ICHAT, OTIS, PSOR, the National Sex Offender Public Registry (NSOPR), and the Federal Inmate Locator (FIL) (added August 2008).
- Regarding our second recommendation, DHS does not have adequate resources for implementation. DHS would have to develop a system to retain adult household member information in order to conduct periodic data matches.
- Regarding our third recommendation, DHS does not have adequate resources for implementation. Unlicensed providers are required to self-report any changes in their household composition within 10 days. Background checks are conducted when this notification is received. However, there are more than 40,000 unlicensed providers who turn over at a rate of 2,000 to 3,000 per month. Implementation would require an enormous effort and there are no available resources to perform this function.

## **FOLLOW-UP CONCLUSION**

We concluded that DHS, MDE, and BCAL had partially complied with the first recommendation, DHS and MDE had partially complied with the second recommendation, and DHS and MDE did not comply with the third recommendation. We determined that material conditions still exist for the first and second recommendations and that a reportable condition exists for the third recommendation.

## **FOLLOW-UP RESULTS**

Regarding our first recommendation, DHS and MDE developed and implemented processes to conduct criminal background checks for the adult household

members of unlicensed providers and family and group home providers both at the provider's enrollment or initial licensure and after enrollment or initial licensure.

DHS and MDE conducted checks of PSOR, ICHAT, and OTIS records for adult household members at the provider's enrollment and whenever an unlicensed provider reported an adult household member was added to the provider's household. In addition, DHS and MDE conducted monthly checks of ICHAT and OTIS records of adult household members of unlicensed providers. However, our review disclosed that DHS and MDE did not conduct monthly checks of PSOR for the adult household members of unlicensed providers during any months of our 12-month review period (see Finding 3). MDE informed us that the monthly automated match of PSOR records to unlicensed providers did not occur during the 12-month review period from May 1, 2011 through April 30, 2012 because of problems with the electronic transfer of files between Bridges and PSOR records.

BCAL conducted ICHAT records checks on reported adult household members living in the homes of family and group home registrants\* and licensees\* at the time of the provider's registration/licensure. BCAL also conducted a PSOR clearance using the provider's address to identify any individuals listed on the PSOR and residing at the provider's address. Further, BCAL conducted monthly ICHAT records checks for reported adult household members living in the homes of family and group home registrants and licensees to identify active providers with adult household members with terminable criminal convictions that occurred after the providers' initial registration/licensure.

We compared the records of adult household members reported as living in the homes of unlicensed providers and family and group child care home providers for the period May 1, 2011 through April 30, 2012 with PSOR, ICHAT, and OTIS records. Our comparison identified 64 adult household members with criminal conviction histories recorded in their ICHAT and/or PSOR records that DHS, MDE, and BCAL consider to be unsuitable; however, DHS, MDE, and BCAL did not detect these individuals' convictions during their criminal history background check procedures. We found convictions for crimes such as criminal sexual conduct, contributing to the delinquency of children, armed robbery, domestic violence, assault with a dangerous weapon, and breaking and entering.

\* See glossary at end of report for definition.

At the time of our follow-up, 31 of the unlicensed providers and family and group child care home providers with an adult household member with unsuitable criminal conviction histories were still actively enrolled providers. Upon our notification, MDE terminated the 24 active unlicensed providers and BCAL began administrative review procedures\* to evaluate the good moral character and suitability of the 7 family and group child care home providers.

MDE informed us that DHS and MDE did not identify the criminal conviction history of adult household members of unlicensed providers during their criminal background check procedures primarily for two reasons. In some instances, DHS local office staff inappropriately indicated in the Bridges provider record that a valid match returned for a household member of an unlicensed provider applicant was invalid. As a result, DHS's and MDE's unlicensed provider application process did not deny and automatically close the unlicensed provider applicant, and DHS and MDE allowed the applicant to enroll as an unlicensed provider. Secondly, MDE informed us that format inconsistencies existed between MSP's, DHS's, and MDE's electronic records used for the ICHAT criminal history background check procedure for adult household members. As a result of these file inconsistencies, MDE informed us that DHS and MDE did not always process all match data received from MSP for adult household members.

Regarding our second recommendation, DHS and MDE developed and implemented an automated daily Central Registry perpetrator records check for all adult household members of active unlicensed providers. MDE informed us that DHS and MDE identified and terminated a total of 58 unlicensed providers with adult household members listed on the Central Registry during the 12-month period from May 1, 2011 through April 30, 2012 as a result of their automated daily processes.

While it is commendable that DHS and MDE identified and terminated 58 unlicensed providers, our follow-up disclosed that, although DHS and MDE conducted the daily Central Registry checks, they did not consistently identify and terminate all unlicensed providers with adult household members listed in the Central Registry as substantiated perpetrators of child abuse and/or neglect. We compared the records of unlicensed providers' adult household members for the period May 1, 2011 through April 30, 2012 with DHS's Central Registry perpetrator records. Our comparison identified 31 adult household members of unlicensed

providers who were substantiated perpetrators of child abuse and/or neglect and not detected by DHS and MDE during their daily checks of the Central Registry during the 12-month period from May 1, 2011 through April 30, 2012. MDE informed us that DHS and MDE did not identify the Central Registry perpetrator status of some individuals because of ongoing technological changes that prevented staff from seeing the matches.

Regarding our third recommendation, DHS and MDE informed us that they had not implemented corrective action to utilize either internal or publicly available information to help identify unreported adult household members living with unlicensed providers because of the amount of resources needed to implement the corrective action. During our follow-up, we noted that DHS and MDE staff had the ability to run an address inquiry function using Bridges information to help identify potentially unreported household members associated with an unlicensed provider; however, DHS and MDE do not require staff to perform address inquiries using Bridges information. In addition, DHS and MDE informed us that they do not require staff to utilize other verification procedures using publicly available information to help identify unreported adult household members of unlicensed providers because DHS and MDE rely on the information provided by unlicensed provider applicants and active providers regarding the adults living in the homes of the providers.

### **FOLLOW-UP RECOMMENDATIONS**

We recommend that MDE and BCAL implement controls to ensure that their criminal background and Central Registry check processes effectively identify and terminate unlicensed providers and family and group home providers with adult household members that have criminal convictions of terminable crimes or were substantiated as perpetrators of child abuse and/or neglect.

We also again recommend that MDE utilize internal and publicly available information to help identify unreported adult household members of unlicensed providers who care for children in their own homes.

## **FOLLOW-UP AGENCY RESPONSE**

DHS and MDE agree with the first recommendation. DHS and MDE stated that preenrollment match enhancements were made partially through the audit period to automate the process, thereby ensuring that matches were conducted on all provider applicants and created consistency in how these matches were performed. DHS and MDE indicated that, beginning in January 2013, unlicensed provider enrollment became a centralized function performed by dedicated MDE staff. In addition, DHS and MDE informed us that ongoing technological changes are being analyzed to ensure appropriate solutions are put in place.

DHS and MDE disagree with the second recommendation. DHS and MDE stated that background clearances are conducted on all self-reported adult household members of the provider. DHS and MDE also stated that, if any information varies from a prior application submitted by the provider, follow-up is conducted with the provider to ascertain whether the household member is still in the home or has moved out and when. DHS and MDE indicated that additional data sources have been explored; however, issues related to reliability and accuracy of information remains an ongoing barrier to requiring their utilization.

## **SUMMARY OF THE JULY 2008 FINDING**

### **8. Criminal History Checks for Child Care Center Licensees, Licensee Designees, and Program Directors**

DHS had not implemented effective controls to help ensure that it periodically obtained updated criminal histories of child care center licensees, licensee designees\*, and program directors\* during the two-year period between licensure and renewal. As a result, DHS could not ensure that these individuals maintained the suitability and good moral character required by DHS to provide child care services. DHS's BCAL Child Care Licensing Division policy required criminal history checks for each child care licensee, licensee designee, and program director at the time of initial application and renewal. However, DHS's policy did not address identifying possible criminal convictions of these individuals that may occur during the intervening two-year period between initial application and renewal. Although DHS conducted monthly ICHAT criminal history checks for

\* See glossary at end of report for definition.

other child care providers, DHS did not include child care center licensees, licensee designees, and program directors in the monthly checks.

### **RECOMMENDATION (AS REPORTED IN JULY 2008)**

We again recommend DHS implement effective controls to help ensure that it periodically obtains updated criminal histories of child care center licensees, licensee designees, and program directors during the two-year period between licensure and renewal.

### **AGENCY PLAN TO COMPLY**

DHS indicated in its September 30, 2008 plan to comply that a comprehensive process was currently in place to conduct criminal history background checks on prospective and licensed child care providers. Effective January 1, 2006, child care providers applying for a new license or renewing a current license were required to submit their fingerprints for an MSP criminal history check and an FBI criminal records check. Amendment to Act 116, P.A. 1973\*, also required a child care center to perform an ICHAT on all new and current employees. In mid-2007, BCAL developed the capacity to periodically conduct an MSP criminal history check on all licensed child care providers and adult household members. Effective January 1, 2008, legislation made it possible for BCAL to receive notification from MSP of all new arrests, arraignments, and convictions for licensees previously fingerprinted. Additional legislation, effective in June 2008, required child care licensees to notify parents within 24 hours that a high-risk investigation was being conducted by BCAL.

### **FOLLOW-UP CONCLUSION**

We concluded that DHS's BCAL had complied with this recommendation.

### **FOLLOW-UP RESULTS**

Effective January 1, 2008, Act 218, P.A. 2007\*, required criminal history checks prior to or at renewal of licensure or registration of child care centers and family and group child care homes. Accordingly, BCAL amended its policy and required child care providers, including registrants, licensees, licensee designees, and program directors, applying for a new license or registration or renewing a current license or registration to submit their fingerprints to MSP for a criminal records

\* See glossary at end of report for definition.

check and an FBI criminal records check. In addition to the fingerprint criminal history check at licensure/registration or renewal, BCAL implemented a RAPBACK\* process to receive immediate notification from MSP of arrests, arraignments, and convictions for the fingerprinted licensed or registered individuals. BCAL further implemented a monthly criminal history records check to identify registrants, licensees, licensee designees, and program directors convicted of a BCAL-defined terminable crime after their initial licensure/registration or renewal.

### **SUMMARY OF THE JULY 2008 FINDING**

#### **9. Offender Tracking Information System (OTIS) Checks**

DHS did not conduct checks of DOC's OTIS records prior to enrolling unlicensed providers to help detect unsuitable individuals and prevent them from providing child care services. As a result, DHS enrolled as child care providers, incarcerated individuals, individuals convicted of terminable crimes, and parolees and probationers with DOC supervision conditions\* that restricted contact with children. OTIS is publicly available through the Internet and includes incarceration and parole information about offenders who are, or were, in a Michigan prison, on parole, or on probation under the supervision of DOC.

### **RECOMMENDATION (AS REPORTED IN JULY 2008)**

We recommend that DHS conduct checks of DOC's OTIS records prior to enrolling unlicensed providers to help detect unsuitable individuals and prevent them from providing child care services.

### **AGENCY PLAN TO COMPLY**

DHS indicated in its September 30, 2008 plan to comply that DHS now requires local offices to conduct an OTIS criminal background check prior to enrollment for all reported adult household members living with an unlicensed provider who cares for children in their own home.

### **FOLLOW-UP CONCLUSION**

We concluded that DHS and MDE had complied with this recommendation.

\* See glossary at end of report for definition.

## **FOLLOW-UP RESULTS**

Our follow-up disclosed that DHS and MDE developed and implemented an automated interface between Bridges and OTIS. We determined that DHS and MDE staff used the automated interface during the enrollment process for unlicensed providers to help identify applicants who were incarcerated or had DOC parole supervision conditions that restricted contact with children.

We also determined that DHS and MDE developed an automated monthly match of unlicensed provider records to OTIS records to help identify unlicensed providers that become incarcerated after their enrollment and to help DHS and MDE identify criminal convictions that they may not identify through the other automated matches.

## Glossary of Acronyms and Terms

Act 116, P.A. 1973	An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of the State and adoption facilitators; and to provide penalties.
Act 218, P.A. 2007	An act to amend Act 116, P.A. 1973, by amending section 5 (Section 722.115 of the <i>Michigan Compiled Laws</i> ), as amended by Act 580, P.A. 2006, and by adding subsections 5h, 5i, 5j, and 5k.
active	A child care provider that is either currently authorized by DHS and MDE to care for CDC Program children or eligible to be authorized by DHS and MDE to care for CDC Program children.
administrative review procedures	Procedures followed by BCAL staff to evaluate the good moral character and suitability of applicants, licensees, licensee designees, program directors, or adult household members with criminal convictions.
adult household member	A person, 18 years of age or older, who resides in the home with an unlicensed provider or a family or group child care home provider.
agency plan to comply	The response required by Section 18.1462 of the <i>Michigan Compiled Laws</i> and the State of Michigan Financial Management Guide (Part VII, Chapter 4, Section 100). The audited agency is required to develop a plan to comply with Office of the Auditor General audit recommendations and submit the plan within 60 days after release of the audit

report to the Office of Internal Audit Services, State Budget Office. Within 30 days of receipt, the Office of Internal Audit Services is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

authorize When DHS and MDE approve CDC Program payment for child care services to an eligible provider for a CDC Program eligible child.

BCAL Bureau of Children and Adult Licensing.

Bridges Integrated Automated Eligibility Determination System (Bridges) An automated, integrated service delivery system for Michigan's cash assistance, medical assistance, food assistance, and child care assistance programs.

Central Registry The system maintained and used by DHS to keep a record of all reports filed with DHS pursuant to the Child Protection Law (Sections 722.621 - 722.638 of the *Michigan Compiled Laws*) in which a preponderance of relevant and accurate evidence of child abuse or neglect is found to exist.

child abuse Harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare or by a teacher, a teacher's aide, or a member of the clergy that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment (per Section 722.622(f) of the *Michigan Compiled Laws*).

child care center A facility other than a private residence licensed by BCAL to care for one or more children for periods of less than 24 hours a day.

child care provider A person or agency enrolled, licensed, or registered by DHS to provide child care services.

Child Development and Care (CDC) Program	A program that provides payment for child care services for qualifying families when the parent, legal guardian, or substitute parent is unavailable to provide child care because of employment, education, and/or a physical, mental, or emotional condition for which treatment is being received.
conviction	The judgment of a jury or judge that a person is guilty of a crime as charged.
DHS	Department of Human Services.
DOC	Department of Corrections.
effectiveness	Success in achieving mission and goals.
Electronic Warrant Manual (E-Warrant Manual)	The electronic version of the PACC Warrant Manual.
enrolled	In reference to child care providers, unlicensed providers who provide child care to only eligible CDC Program children, not the general public.
family child care home	A private home registered by BCAL to care for up to six children for periods of less than 24 hours a day. A family child care home may be called a family day-care home.
FBI	Federal Bureau of Investigation.
FIL	Federal Inmate Locator.
flag	When DHS and MDE enter coding into a child care provider's Bridges record to help prevent future reactivation because DHS and MDE have revoked the provider's license or registration or have determined that the individual has an unsuitable background (also, see "terminate" and "inactive").

goal	An intended outcome of a program or an entity to accomplish its mission.
group child care home	A private home licensed by BCAL to care for up to 12 children for periods of less than 24 hours a day. A group child care home may be called a group day-care home.
inactive	A child care provider that is not actively authorized by DHS and MDE to care for CDC Program children but has not been closed by DHS and MDE for licensing or registration violations or an unsuitable background (also, see "terminate" and "flag").
incarcerated	For the purposes of this report, lodged in State prison.
Internet Criminal History Access Tool (ICHAT)	A tool that allows the search of public records contained in the Michigan Criminal History Record maintained by the Criminal Justice Information Center of the Michigan Department of State Police. All felonies and serious misdemeanors that are punishable by over 93 days are required to be reported to the State repository by law enforcement agencies, prosecutors, and courts in all 83 counties.
intranet	An internal network that makes use of Internet technology.
Law Enforcement Information Network (LEIN)	A network that provides authorized agencies access to multiple Michigan Department of State Police databases containing criminal and law enforcement information.
licensed or registered	In reference to child care providers, licensed child care centers, registered family child care homes, or licensed group child care homes that are regulated by BCAL and may provide child care services to CDC Program children as well as the general public.

licensee	A person, partnership, firm, corporation, association, nongovernmental organization, or local or State government child care organization that has been issued a license to operate a child care organization by BCAL.
licensee designee	A person within the child care organization, such as the program director or administrator, who is designated by the person legally responsible for the child care organization to sign the child care organization application and other appropriate licensing forms and documents.
match	When DHS's and MDE's automated records check identifies a child care provider whose identification information per Bridges records coincides with identification information contained in an ICHAT, an OTIS, a PSOR, or a Central Registry record.
material condition	A reportable condition that could impair the ability of management to operate a program in an effective and efficient manner and/or could adversely affect the judgment of an interested person concerning the effectiveness and efficiency of the program.
MDE	Michigan Department of Education.
MSP	Michigan Department of State Police.
National Crime Information Center (NCIC)	The federal government's central database for tracking crime-related information, including wanted persons, missing persons, certain firearms, stolen property, and criminal histories.
neglect	Harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the

following: (i) Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care, or (ii) Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or any other person responsible for the child's health or welfare to intervene to eliminate the risk when that person is able to do so and has, or should have, knowledge of the risk (per Section 722.622(j) of the *Michigan Compiled Laws*).

NSOPR	National Sex Offender Public Registry.
Offender Tracking Information System (OTIS)	An on-line searchable database of electronic offender data from DOC.
PACC	Prosecuting Attorneys Coordinating Council.
parent/substitute parent	The child's parent, stepparent, foster parent, legal guardian, or applicant/client who lives in the home and is unavailable to care for the child due to a valid need reason.
performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve public accountability and to facilitate decision making by parties responsible for overseeing or initiating corrective action.
perpetrator	A person registered on the Central Registry who committed child abuse or neglect.
program director	An adult responsible for developing, implementing, and directly supervising the total program for children attending child care centers.
provider	See "child care provider."

provider applicant	Individual applying to be licensed, registered, or enrolled by DHS and MDE to provide child care services to children.
Public Sex Offender Registry (PSOR)	A public registry developed and maintained by the Michigan Department of State Police in accordance with the SOR (Sections 28.721 - 28.736) of the <i>Michigan Compiled Laws</i> . The SOR provides guidelines on the type of offender information available to the public. The PSOR is intended to provide the people of Michigan with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger.
RAPBACK	An automatic criminal history clearance run on individuals who are required to submit a fingerprint clearance.
registrant	A person who has been issued a certificate of registration to operate a family child care home by BCAL.
reportable condition	A matter that, in the auditor's judgment, is less severe than a material condition and falls within any of the following categories: an opportunity for improvement within the context of the audit objectives; a deficiency in internal control that is significant within the context of the audit objectives; all instances of fraud; illegal acts unless they are inconsequential within the context of the audit objectives; significant violations of provisions of contracts or grant agreements; and significant abuse that has occurred or is likely to have occurred.
SOR	Sex Offenders Registration Act.
SSN	social security number.
suitability	The fitness and appropriateness of a person to carry out the duties, responsibilities, and services that are conducive to the welfare of children in care.

supervision conditions	Special requirements for a parolee or a probationer determined by the Parole Board or the court and based on the offender's background and crime.
terminable convictions	Convictions of crimes specified in DHS's and MDE's terminable crimes and codes list.
terminable crimes and codes list	The list of crime descriptions and associated conviction codes that defines the criminal convictions that DHS and MDE consider severe enough to deny or revoke child care provider eligibility.
terminate	When DHS and MDE inactivate a child care provider because of licensing or registration violations or detection of an unsuitable background (also, see "flag" and "inactive").
unlicensed	In reference to child care providers, an adult who is 18 years or older, enrolled by a local DHS office or CDC staff to provide care for up to four children at a time or up to six children, if all children live at the same address or if all children are siblings.
unsuitable	Lacking the propensity to serve the public in the child care area in a fair, honest, and open manner (good moral character) or being unfit or inappropriate to carry out the duties, responsibilities, and services conducive to the welfare of children in care, as determined by criminal convictions not specified in the good moral character administrative rules, child protective services history, personal references, and medical condition.





