

Office of the Auditor General  
Follow-Up Report on Prior Audit Recommendations

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**Child Care Fund**  
Michigan Department of Health and Human Services

August 2017

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The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

*Article IV, Section 53 of the Michigan Constitution*

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Office of the Auditor General

## Report Summary

### *Follow-Up Report*

### *Child Care Fund (CCF)*

### *Michigan Department of Health and Human Services (MDHHS)*

**Report Number:**  
431-1400-13F

**Released:**  
August 2017

We conducted this follow-up to determine whether MDHHS had taken appropriate corrective measures in response to the three material conditions noted in our June 2016 audit report.

MDHHS dissolved the Child Care Fund Monitoring Unit (CCFMU) in September 2016 and transferred the annual plan and budget, monthly reimbursement, and on-site review responsibilities to the Bureau of Audit, Reimbursement and Quality Assurance (BARQA), whereas programmatic responsibilities remained within the Children's Services Agency (CSA).

Prior Audit Information	Follow-Up Results		
	Conclusion	Finding	Agency Preliminary Response
<p>Finding #1 - Material condition</p> <p>Evaluation of county in-home care (IHC) program performance needed to ensure that CCF funding is providing successful outcomes.</p> <p>MDHHS did not conduct such an evaluation because it believed that the Michigan Supreme Court limited its statutory authority and responsibilities for IHC programming. MDHHS should seek an Attorney General Opinion, and potentially pursue amendatory legislation, to remedy the conflict between its operating practices and statutory requirements.</p> <p>Agency partially agreed.</p>	Did not comply	Material condition still exists. See <a href="#">Finding #1</a> .	Disagrees

<b>Prior Audit Information (Continued)</b>
<p>Finding #2 - Material condition</p> <p>Improved IHC program impact evaluation documentation needed to ensure program efficiency.</p> <p>Agency agreed.</p>
<p>Finding #3 - Material condition</p> <p>Improved annual plan and budget review and approval process needed to ensure compliance with State law and CCF Handbook requirements.</p> <p>Agency agreed.</p>

<b>Follow-Up Results</b>		
<b>Conclusion</b>	<b>Finding</b>	<b>Agency Preliminary Response</b>
Partially complied	Reportable condition exists. See <u>Finding #2</u> .	Disagrees
Complied	Not applicable	Not applicable

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**Doug A. Ringler, CPA, CIA**  
Auditor General

August 3, 2017

Mr. Nick Lyon, Director  
Michigan Department of Health and Human Services  
South Grand Building  
Lansing, Michigan

Dear Mr. Lyon:

I am pleased to provide this follow-up report on the three material conditions (Findings #1 through #3) and four corresponding recommendations reported in the performance audit of the Child Care Fund, Michigan Department of Health and Human Services. That audit report was issued and distributed in June 2016. Additional copies are available on request or at [audgen.michigan.gov](mailto:audgen.michigan.gov).

Your agency provided preliminary responses to the follow-up recommendations included in this report. The *Michigan Compiled Laws* and administrative procedures require an audited agency to develop a plan to comply with the recommendations and submit it within 60 days of the date above 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.

We appreciate the courtesy and cooperation extended to us during our follow-up. If you have any questions, please call me or Laura J. Hirst, CPA, Deputy Auditor General.

Sincerely,

A handwritten signature in dark ink that reads "Doug Ringler". The signature is written in a cursive style with a large, looped 'D' and 'R'.

Doug Ringler  
Auditor General

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## **INTRODUCTION, PURPOSE OF FOLLOW-UP, AND DESCRIPTION**

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### **INTRODUCTION**

This report contains the results of our follow-up of the three material conditions\* (Findings #1 through #3) and four corresponding recommendations reported in our performance audit\* of the Child Care Fund (CCF), Michigan Department of Health and Human Services (MDHHS), issued in June 2016.

Effective September 2016, MDHHS dissolved the Child Care Fund Monitoring Unit (CCFMU). The CCF annual plan and budget\*, monthly reimbursement, and on-site review responsibilities were transferred to the Bureau of Audit, Reimbursement and Quality Assurance (BARQA) with the Children's Services Agency (CSA) retaining all programmatic responsibilities.

### **PURPOSE OF FOLLOW-UP**

To determine whether MDHHS had taken appropriate corrective measures to address our corresponding recommendations.

### **DESCRIPTION**

The CCF was created by Public Act 87 of 1978 (Sections 400.117a - 400.117f of the *Michigan Compiled Laws*) to establish a juvenile justice funding system that is administered under MDHHS's superintending control. The enabling legislation sought to provide the agency with the authority and responsibility for administering youth services and programs for neglected, abused, and delinquent youth. The CCF was originally designed to improve care for children under the jurisdiction of county juvenile courts with the State reimbursing counties 50% of all eligible CCF activities in approved annual plans and budgets. Eligible CCF activities include both out-of-home care\* (OHC) and in-home care\* (IHC) services. OHC services include placements in county-operated detention facilities, family foster care, private child caring institutions, and independent living arrangements. IHC services include placements in programs with diverse requirements and treatment goals and provide an alternative to OHC services. The CCF is the largest funding source for juvenile court wards throughout the State. The fiscal year 2016 reimbursement to counties was \$167 million.

\* See glossary at end of report for definition.



# **PRIOR AUDIT FINDINGS AND RECOMMENDATIONS; AGENCY PLAN TO COMPLY; AND FOLLOW-UP CONCLUSIONS, RECOMMENDATIONS, AND AGENCY RESPONSES**

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## **FINDING #1**

Audit Finding Classification: Material condition.

Summary of the June 2016 Finding:

MDHHS had not evaluated the performance of county IHC programs to ensure that CCF funding was providing successful outcomes for the neglected, abused, and delinquent youth served. MDHHS had not established benchmarks, performance goals, or desired outcomes\* for IHC programs. Although MDHHS did require counties to report various performance indicators, it did not analyze this information at county and Statewide levels. MDHHS stated that a 1997 Michigan Supreme Court decision (*Oakland County et al. v State of Michigan, Department of Social Services and Department of Management and Budget*, 456 Mich 144; 566 NW2d 616) limited its authority to evaluate the programs.

Section 400.117a of the *Michigan Compiled Laws* requires that the CCF be administered under MDHHS's superintending control. Also, Sections 400.117d(e) and 400.117d(c), respectively, of the *Michigan Compiled Laws* require MDHHS to consider the demonstrated relevancy, quality, effectiveness, and efficiency of the existing and planned county juvenile justice services and the State's need for a reasonable degree of Statewide standardization and control of juvenile justice services when making an allocation of State appropriated funds.

Recommendations Reported in June 2016:

We recommended that MDHHS evaluate the performance of county IHC programs to ensure that CCF funding is providing successful outcomes for the neglected, abused, and delinquent youth served.

We also recommended that MDHHS seek an Attorney General Opinion, and potentially pursue amendatory legislation, regarding the breadth of its authority for IHC program performance, evaluation, oversight, and Statewide standardization of CCF-funded juvenile justice services.

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

MDHHS partially agreed with the finding. MDHHS believed that the Supreme Court decision changed the requirements for reimbursement from a legislatively established allocation to an entitlement of 50% reimbursement for all eligible costs, regardless of the State allocated amount. Therefore, MDHHS believed that the evaluation of programs must be based on reimbursement eligibility requirements found in the CCF Administrative Rules and the CCF Handbook.

\* See glossary at end of report for definition.

MDHHS had consulted with the Department of Attorney General but had not yet received a response.

## **FOLLOW-UP CONCLUSION**

Did not comply. A material condition still exists.

Our follow-up noted that MDHHS still has not evaluated the performance of county IHC programs to ensure that CCF funding is providing successful outcomes for the neglected, abused, and delinquent youth served. MDHHS did not establish benchmarks, performance goals, or desired outcomes for IHC programs. MDHHS maintained its assertion that it did not have the authority to evaluate the programs.

Also, MDHHS did not seek a formal Attorney General Opinion as recommended, nor would it share with us documentation of any informal guidance it received. Further, MDHHS had not pursued amendatory legislation during our fieldwork to clarify the breadth of its authority for IHC program performance, evaluation, oversight, and Statewide standardization of CCF-funded juvenile justice services.

Lastly, we first informed MDHHS (formerly the Department of Human Services) of this issue in January 2014 and since then MDHHS has asserted that the *Oakland County vs. State of Michigan* case is relevant to our finding.

We do not agree with MDHHS's assertion because the case centers on the State's obligation to finance (or reimburse) a county's CCF actual necessary costs as opposed to a county's budgeted (or estimated) costs. The case did not render a decision that reduced or eliminated MDHHS's evaluation and oversight of IHC program performance and evaluation. The Supreme Court decided that the State would violate the Headlee Amendment if the State capped CCF reimbursements to annual approved budgets (estimates as opposed to actual expenditures) or reduced the State-financed portion of foster care services provided by the counties as long as the county met the conditions of reimbursement.

The Supreme Court made clear in the case that a county is not entitled to reimbursement of every expenditure it makes from its child care fund; instead, a county must qualify for reimbursement. Counties are entitled to reimbursement from the State if they satisfy the conditions for reimbursement prescribed in statute. These conditions include submitting an annual plan and budget for MDHHS's approval per Section 400.117c of the *Michigan Compiled Laws*. The Appeals Court also reiterated this assertion that reimbursement is conditional in *Ottawa County et al. v Family Independence Agency*, 265 Mich App 496; 695 NW2d 562. Through authorization controls, the authority to approve plans and budgets, and the power of superintending control, MDHHS effectively has the authority over IHC programming through its determination whether expenditures will be considered and included in calculating the 50% reimbursement mandate.

It is also our contention that the term "allocation" used in Section 400.117d of the *Michigan Compiled Laws* does not mean an appropriation or a set amount of financing. We believe the term "allocation" was intended to mean a distribution of CCF monies to the counties. Therefore, in our judgment, MDHHS would need to evaluate the performance of county planned and existing IHC programs, including outcomes, in order to have the appropriate information and knowledge to make such a consideration required by Section 400.117d when distributing State IHC program reimbursements to a county.

**FOLLOW-UP  
RECOMMENDATIONS**

We again recommend that MDHHS evaluate the performance of county IHC programs to ensure that CCF funding is providing successful outcomes for the neglected, abused, and delinquent youth served.

We also again recommend that MDHHS seek an Attorney General Opinion, and potentially pursue amendatory legislation, regarding the breadth of its authority for IHC program performance, evaluation, oversight, and Statewide standardization of CCF-funded juvenile justice services.

**FOLLOW-UP  
AGENCY  
RESPONSE**

MDHHS provided us with the following response:

*MDHHS disagrees.*

*MDHHS still contends that the responsibility of reviewing county programs is limited to ensuring that the IHC programs and their associated costs are eligible and allowable under state laws, regulations, and departmental policy. MDHHS's initial key process for ensuring that such IHC program costs are eligible and allowable is the review and approval of the county's Annual Plan and Budget request itself. MDHHS acknowledges that Section 400.117a(2) of the Michigan Compiled Laws gives "superintending control" to the Department over the counties' use of some child care funds, but MDHHS still strongly believes this statutory provision does not give MDHHS an ability to dictate, manage or second-guess IHC services chosen by the county. In addition, pursuant to Section 400.117a(4)a of the Michigan Compiled Laws, the counties are responsible for at least 50% of their costs for IHC and other services, and thus have a stake in the quality of those services. MDHHS sought an informal Attorney General Opinion following the 2016 CCF Performance Audit which supports the Department's position.*

*In addition, MDHHS wants to again emphasize that the 1997 Michigan Supreme Court decision (Oakland County et al. v State of Michigan, Department of Social Services and Department of Management and Budget, 456 Mich 144; 566 N.W.2d 616) lifted the statewide limitation on CCF reimbursement. This case law eliminated any demonstration of impact, quality, effectiveness, or efficiency as a factor in reimbursement and requires the Department to provide counties with 50% reimbursement for all*

*eligible CCF costs. MDHHS has engaged the Department's Attorney General liaison and relevant stakeholders, including the legislature, regarding amendment to CCF statutes. MDHHS has commenced activity to amend Section 400.117d of the Michigan Compiled Laws specifically.*

**FINDING #2**

Audit Finding Classification: Material condition.

Summary of the June 2016 Finding:

MDHHS did not document its review of any of the 76 IHC program impact evaluations for fiscal years 2010, 2011, and 2012 that we reviewed from 6 counties. Also, in over 60% of these evaluations, MDHHS did not ensure that counties explained how they determined estimated cost reduction figures.

In addition, none of the 2014 IHC program evaluations from 15 counties reviewed included an evaluation of the impact of IHC services on OHC placements.

Recommendation Reported in June 2016:

We recommended that the MDHHS document its review of county IHC program impact evaluations and related cost reductions and obtain sufficient impact evaluation information from the counties.

**AGENCY PLAN TO COMPLY**

MDHHS implemented a Child Care Fund Management System that enhances the entire budget review process and increases the levels of validation/documentation during the approval process. Impact evaluation information must be filled out during the annual plan and budget process for all continuing programs to ensure that it can be reviewed.

**FOLLOW-UP CONCLUSION**

Partially complied. A reportable condition\* exists.

During our follow-up, we reviewed 76 fiscal year 2016 IHC program impact evaluations from 15 selected counties. We noted that all IHC program descriptions included an evaluation of the impact of IHC services on OHC and that MDHHS documented its assurance that the counties submitted the required data. However, MDHHS did not require the counties to explain how cost reduction figures were calculated for any of the 76 IHC program impact evaluations because it believes that it does not have the authority to evaluate the performance of county IHC programs (see Finding #1). We are unable to appropriately assess the sufficiency of county-provided impact evaluation information until the conditions noted in Finding #1 are resolved.

**FOLLOW-UP RECOMMENDATION**

We again recommend that MDHHS obtain sufficient impact evaluation information from the counties.

\* See glossary at end of report for definition.

**FOLLOW-UP  
AGENCY  
RESPONSE**

MDHHS provided us with the following response:

*MDHHS disagrees.*

*As noted in the "Follow-up Conclusion" section above, MDHHS ensured that all IHC program descriptions included a self-evaluation of the impact of IHC services on OHC and that MDHHS documented its assurance that the counties submitted the required data. MDHHS also believes that the impact evaluation information submitted by the counties was sufficient. However, similar to finding #1, MDHHS also believes that the 1997 Michigan Supreme Court decision (Oakland County et al. v State of Michigan, Department of Social Services and Department of Management and Budget, 456 Mich 144; 566 N.W.2d 616) lifted the statewide limitation on CCF reimbursement and eliminated any demonstration of impact, quality, effectiveness, or efficiency as a factor in reimbursement and requires the Department to provide counties with 50% reimbursement for all eligible CCF costs. As such, impact evaluation information is really not relevant to MDHHS in the CCF reimbursement process.*

*MDHHS recognizes that the 1997 Michigan Supreme Court decision is in conflict with Section 400.117d of the Michigan Compiled Laws and is pursuing amendatory legislation.*

## **FINDING #3**

Audit Finding Classification: Material condition.

Summary of the June 2016 Finding:

MDHHS inappropriately approved annual plans and budgets with missing required information, incomplete descriptions of services the counties planned to provide, and activities that were ineligible for reimbursement.

Recommendation Reported in June 2016:

We recommended that MDHHS improve its county CCF annual plan and budget review and approval process to help ensure that CCF funding is provided for only planned activities that comply with State law and CCF Handbook requirements.

## **AGENCY PLAN TO COMPLY**

MDHHS has implemented the following corrective actions:

- CCF annual plans, budgets, and monthly reimbursement requests have been implemented into the Michigan Statewide Automated Child Welfare Information System (MiSACWIS).
- MDHHS has increased the level of review of the annual plan and budget completed by the analysts and the supervisor for final approval. Check lists have been developed and must be completed as the analyst and supervisor are approving the annual plans and budgets.
- MDHHS has developed an enhanced review protocol of the entire county reimbursement request. Analysts have been trained in the approval process and a supervisor approval must be completed before the monthly reimbursement is completed.

MDHHS also reviewed annual plan and budget forms and changes have been implemented in MiSACWIS. A job aid was created and published in February 2016 for local offices and a check list was developed and implemented.

## **FOLLOW-UP CONCLUSION**

Complied.

During our follow-up, we reviewed 15 fiscal year 2017 county annual plans and budgets. Within these 15 annual plans and budgets, we reviewed 15 OHC budgets and 88 IHC program budgets. Our follow-up noted:

- a. Complied. We determined that all 15 annual plans and budgets included a description of the OHC services that the counties planned to provide.
- b. Complied. We determined that all 56 IHC program budgets with contracted services appropriately described those services.

- c. Complied. Of the 15 sampled county annual plans and budgets, 8 contained planned expenditures for a county-operated facility. We determined that all 8 applicable county annual plans and budgets appropriately included required information in the facility description.
- d. Complied. We determined that all 88 IHC program budgets included sufficient information for planned per-unit limited activities. Although IHC program budgets still had planned activities that exceeded the \$500 per-unit cap without any reference to the number of planned units, it was well documented in MDHHS discussions with counties that the applicable costs are approved only up to the \$500 per-unit cap.
- e. Complied. We determined that all 88 IHC program budgets contained only eligible planned activities.



## FOLLOW-UP METHODOLOGY, PERIOD, AND AGENCY RESPONSES

### **METHODOLOGY**

During our follow-up, we:

- Interviewed BARQA and CSA staff and reviewed MDHHS's corrective action plan to determine the status of compliance with the recommendations related to the material conditions.
- Selected 15 of the State's 83 counties for review. Our selection was a mixture of judgmental choice and random sampling based on the dollar value of CCF reimbursement. We selected the 1 county that received the most (38%) in CCF reimbursement. We stratified the reimbursements for the remaining 82 counties and randomly selected 6 of 10 counties that received the next highest 38% of CCF reimbursement. For the remaining 72 counties that received 24% of CCF reimbursement, we randomly selected 8. For the 15 selected counties, we reviewed all 15 fiscal year 2017 annual plans and budgets and all 88 corresponding IHC programs.
- Assessed MDHHS's efforts to evaluate the performance of county IHC programs or provide sufficient evidence through an Attorney General Opinion and/or amendatory legislation to demonstrate that such an evaluation is not within MDHHS's administrative responsibility.
- Evaluated MDHHS's efforts to document its review of county IHC program impact evaluations and related cost reductions and obtain sufficient impact evaluation information from the counties by:
  - Reviewing the fiscal year 2017 county annual plan and budget template.
  - Verifying that the 76 applicable IHC program budgets within the 15 selected counties included an evaluation of the impact of IHC services on OHC placements and that MDHHS documented its review of impact evaluations and estimated cost reduction estimates.
- Evaluated MDHHS's efforts to improve its county annual plan and budget review and approval process by:
  - Reviewing MDHHS's annual plan and budget review tools.
  - Verifying that OHC activities were appropriately described within the 1 judgmental and 14 randomly sampled county annual plans and budgets.

- Verifying that contracted services were fully described in the 56 applicable IHC program budgets within the 15 sampled counties.
- Verifying that county-operated facility descriptions were sufficient for the 8 applicable counties within the 15 sampled counties.
- Verifying that the 88 IHC program budgets within the 15 sampled counties contained sufficient information for planned per-unit limited activities and included only eligible activities.

**PERIOD**

Our follow-up generally covered October 1, 2016 through April 30, 2017.

**AGENCY RESPONSES**

Our follow-up report contains 3 recommendations. MDHHS's preliminary response indicates that it disagrees with the recommendations.

The agency preliminary response that follows each recommendation in our report was taken from the agency's written comments and oral discussion at the end of our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and the State of Michigan Financial Management Guide (Part VII, Chapter 4, Section 100) require an audited agency to develop a plan to comply with the recommendations and submit it 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.

## GLOSSARY OF ABBREVIATIONS AND TERMS

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<b>agency plan to comply</b>	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.
<b>annual plan and budget</b>	A service spending plan submitted yearly by each county to request CCF funding for programs serving neglected, abused, and delinquent youth.
<b>BARQA</b>	Bureau of Audit, Reimbursement and Quality Assurance.
<b>CCF</b>	Child Care Fund.
<b>CSA</b>	Children's Services Agency.
<b>in-home care (IHC)</b>	Services that are determined by MDHHS to be alternatives to OHC or to provide an early return home for children placed out of the home.
<b>material condition</b>	A matter that, in the auditor's judgment, is more severe than a reportable condition and 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.
<b>MDHHS</b>	Michigan Department of Health and Human Services.
<b>MiSACWIS</b>	Michigan Statewide Automated Child Welfare Information System.
<b>outcome</b>	An actual impact of a program or an entity.
<b>out-of-home care (OHC)</b>	Services for children placed out of the home in county-operated detention facilities, family foster care homes, or other private child caring institutions.

**performance audit**

An audit that provides findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria. Performance audits provide objective analysis to assist management and those charged with governance and oversight in using the information to improve program performance and operations, reduce costs, facilitate decision-making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability.

**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.









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