MEMORANDUM

HOUSE FISCAL AGENCY

DATE: August 11, 2008

TO: Interested Parties

FROM: Mitchell E. Bean, Director

RE: House Fiscal Agency (HFA) Summary of the
Child Development and Care Program Performance Audit

The following information was compiled by Kevin Koorstra, HFA Fiscal Analyst, and Bob Schneider, HFA Senior Fiscal Analyst, after a review of the findings of the recent Auditor General's report on the Child Development and Care Program in the Department of Human Services.

General Background—Day Care Program

The Department of Human Services (DHS) administers the Child Development and Care (CDC) Program, which provides state support for low-income and other qualifying families needing child care for dependent children. In order to receive state support through this program, the parent or guardian of the child/children must have a qualifying need—which can include actual employment, approved education and/or training activities, or an approved treatment program for a physical, mental or emotional condition—for the child care.

Child care can be provided through either licensed child care centers and homes, or through unlicensed relative providers and day care aides. The providers bill the state for their services through an automated system.

State payments for day care vary depending upon the type of provider, the family's income, and the family's county of residence. For fiscal year (FY) 2007-08, DHS has an appropriation of about $390 million for these payments.

Summary of Auditor General Findings

The Office of the Auditor General (OAG) reviewed the CDC Program from October 5, 2003, through March 4, 2006, and concluded that "DHS's efforts were not effective to help ensure proper use of CDC Program Resources."

During the audit period, there were 144,179 cases involving 272,364 children that received care from 116,585 providers. Total payments made for the period were $1,115,110,789.

Using a sample of 58 parents and their 100 providers, the OAG estimates that $232 million, or 20.8%, of payments during the audit period were improper and potentially fraudulent. If caseload trends continue and the percentage of improper payments stays constant, $80 million would be improperly spent in FY 2007-08 and $75 million would be improperly spent in FY 2008-09. *(Note: The OAG noted that the improper payments reported are most likely commingled, so the gross amount noted will add up to more than its overall estimate of $232 million.)*

Identified Problems

The OAG audit disclosed seven material conditions and five reportable conditions which negatively impact DHS's ability to ensure the proper use of CDC funding. In general, the audit suggests that DHS does not consistently record or require enough documentation from the parents and the providers to properly monitor their authorizations and payments, and that DHS relies too heavily on self regulating and self compliance.

The House Fiscal Agency has categorized the audit findings into the following three key areas where DHS could significantly reduce the risk of improper and potentially fraudulent payments.

1. **DHS did not document and update the need for day care accurately or on a timely basis**

DHS policy requires staff to record and maintain verification of the parent's need for assistance. However, the audit noted the following for its 58 sample cases:

- 33% did not have a documented need for day care in their case file.
- 7% did not sign their application.
- 10% reported to DHS that their level of need changed or was eliminated, but they were still authorized for the same level of child care assistance.
- 64% did not have the parents' daily work schedule in their case file; this is not required in DHS policy. Without a daily log of hours worked, DHS is unable to match the hours worked by the parents to the hours their children are in day care.

DHS's current policy requires eligibility re-determination every 12 months. Any change in need or eligibility during the 12-month period is self-reported by the parents. Current legislation requires:

- An eligibility review every six months (House-passed HB 6214).
- That parents submit proof of work, education, or other qualifying activity every three months (House-passed HB 6215).

The OAG estimates that the lack of proper documentation and review led to $223 million in improper and potentially fraudulent payments during the audit period (see *Note* on page 2). The OAG recommends that DHS provide payments only to parents who have the proper documentation in their case file, and suggests that obtaining a daily work schedule from parents and requiring more frequent verifications of their need would help reduce risk.

The OAG also recommends that DHS use Unemployment Insurance Agency (UIA) wage data to verify the parent is employed. Using this method, the OAG identified 8,118 parents who received $44 million in child care assistance during the audit period, but had zero wages reported by employers. Looking specifically at eight of these cases, the OAG determined that the questionable parent employment and unsupported provider billings existed for five cases. DHS has reported that the Office of Inspector General has utilized a reverse wage match system with UIA reports and day care payment history. DHS utilizes this system in 36 counties and intends to expand statewide as soon as resources become available.

2. DHS uses estimates and a graduated tier schedule rather than actual need when authorizing service

To determine the hours a parent is authorized for day care subsidies, the OAG indicates that DHS develops a "best estimate" of the hours of qualified need for day care for a two-week pay period, and then adds ten hours for travel time. However, to determine the maximum number of hours a parent's provider can bill for services, this "best estimate" of need was rounded up to 30, 50, 75, or 100 hours for every two weeks using a graduated tier schedule.

The OAG also noted that DHS's "best estimate" does not take into account whether the children are school-aged—which would reduce the need for day care while the child is in school. As a result, the OAG found 59% of the 58 sampled cases had excess authorization above the level needed by the parent, and estimates that $63 million was improperly paid during the audit period. (see *Note* on page 2)

The audit notes that the DHS Office of Inspector General recommended discontinuing use of the graduated tier schedule to set provider authorization levels in March 2005, indicating the change could reduce CDC costs by $26 million annually. While DHS agreed with the recommendation to implement more controls in the authorization of service, there is currently no agency plan or legislation that would address the tier schedule. DHS's response in the audit stated that "even though DHS may authorize a higher number of hours needed by the client, this does not eliminate the provider's responsibility to only bill for hours that the child was actually in his or her care."

3. DHS did not identify providers who bill for services they do not provide

The OAG audit found that DHS controls did not identify payments to providers for "services not provided; services not supported by time and attendance records; and/or services not in correlation with parent's work schedules, the child's school schedule, or the provider's schedule." The OAG estimates that during the audit period, this lack of oversight led to $147 million in improper and potentially fraudulent payments. (see *Note* on page 2)

The OAG requested daily child care attendance records of the 100 providers that provided services during the audit period to the 58 sample cases. In response, 25% of providers provided complete records, 28% provided partial records, and 47% did not respond to the request. OAG analysis of the records of 53 providers that did respond found that:

- 28 providers (53%) received improper and, in some cases, potentially fraudulent child care payments for services not actually provided per the attendance records.
- 12 providers (23%) received payments "that did not correspond to the parent's work schedule and/or the child's school schedule."

Further, 40% of all of the providers billed DHS at or above the maximum authorization of hours for at least 50% of all children and all pay periods billed during the audit period. Twelve percent of the providers billed DHS at or above the maximum authorization for every child during every pay period of the audit. The OAG considered this practice to be an indicator that a provider is likely billing improperly and states, "[a]ctual childcare hours provided would likely vary because of changes in the parent's work schedule, changes in the child's school schedule, and sickness or unavailability of the provider."

DHS does not require providers to submit daily time and attendance records. Currently, providers authorized for fewer than 30 children are required to report either total daily hours of child care using the internet billing system, or total hours of child care for the entire pay period over the telephone. Starting January 1, 2009, HB 6218 would require that time and attendance records for hours that children spent at day care be submitted every two weeks by parents, day care aides, and relative care providers. House Bill 6218 has passed the House and is currently referred to the Senate Committee of Family and Human Services.

Other Findings

The OAG audit also reported that 19% of the 37 relative care providers in the sample did not have the proper documentation to meet the relationship criteria. Relative care providers make up to a 32% higher rate than day care aides, so DHS may have made $7 million in improper payments during the audit period by paying day care aides at the relative care provider rate.

Because day care aides have to provide child care in the parent's home while relative care providers provide childcare at their homes, a person cannot simultaneously provide service as a day care aide and a relative care provider. The audit revealed DHS paid 5,061 day care aides $16 million "when the day care aides also billed for childcare services under another, potentially conflicting, child care service type during the same pay period." A judgmentally-selected sample of 26 of those day care aides had all received improper and potentially fraudulent payments.

Questions concerning the information in this HFA summary can be directed to Kevin Koorstra, HFA Fiscal Analyst, or Bob Schneider, HFA Senior Fiscal Analyst.