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State of Wisconsin
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Honorable Kathleen Vinehout
Co-Chair, Joint Legislative Audit Committee
104 South, State Capitol
Madison, WI 53702

Honorable Peter Barca
Co-Chair, Joint Legislative Audit Committee
107 North, State Capitol
Madison, WI 53702

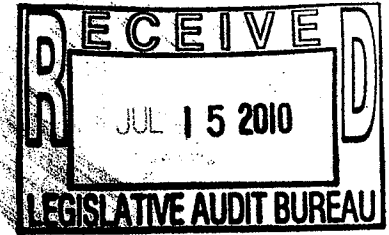
Dear Senator Vinehout and Representative Barca:

Thank you for the opportunity to update you on the progress that the Department of Children and Families (DCF) has made in our efforts to improve child care regulation and quality in the State of Wisconsin.

Governor Doyle and I believe that every child in Wisconsin should have access to high quality child care – and at the root of quality care must be an assurance that children are safe and that taxpayer dollars are used wisely.

When the Department of Children and Families began in July 2008, I directed my staff to retool and refocus our child care programs – including child care regulation and licensing and the Wisconsin Shares program. In less than two years, we have effectively rebuilt the foundation and structure of the State's early care and education programs; effectively rooted out fraud in the Wisconsin Shares program; and are beginning to implement YoungStar, our State's quality rating and improvement system. Our accomplishments include the following:

- ◆ Coordination and collaboration between child care regulation and the child care subsidy programs. These programs, once separated and isolated in separate agencies, now work closely together to ensure that our eyes and ears on the ground are monitoring for suspicious behavior in the Wisconsin Shares program.
- ◆ With the Legislature, created new laws to keep children safe and strengthen the integrity of the Wisconsin Shares program. The changes we have made include:
 - New protections for children from child care providers with a criminal past;



- Increased the frequency of background checks on child care providers. The Department of Justice background checks, which had been conducted once every four years, are now conducted four times per year and further automated matches against criminal activity are performed monthly.
- Authority to suspend Shares payments when we reasonably suspect the provider of fraud.
- A requirement that 60% of children in child care at a specific day care not be the children of the staff.
- Changes that improve collection of overpayments to providers, including requirements regarding the retention of attendance records.
- ◆ Developed alliances to help us fight fraud. In Milwaukee, Racine, and Kenosha Counties, the Department worked with local law enforcement to create Child Care Anti-Fraud Task Forces. The task forces include representatives from District Attorneys' Offices, FBI, Police Departments, U.S. Attorney's Office, and Sheriff's Departments. We are sharing information and resources to pursue payment suspensions, revocations of child care licenses and criminal prosecutions.
- ◆ Moved the certification function to the Bureau of Early Care Regulation where staff will monitor, provide training and develop policy for child care certification.
- ◆ Taken over early care and education operations in Milwaukee County, where more than 90% of red flagged providers operate, and historically, authorizations have been granted with little scrutiny or oversight. We will soon introduce a new process to improve the accuracy of authorizations up front from the moment the parent applies for Shares.
- ◆ Saved more than \$45 million this fiscal year alone in the Wisconsin Shares program, without cutting eligibility levels or creating a waiting list. We anticipate that our actions will result in a minimum of \$60 million in savings next fiscal year.

We have made significant progress, but we also recognize that we continue to have much work to do. In the Legislative Audit Bureau's (LAB) December 2009 report, "*An Evaluation: Child Care Regulation*," the LAB proposed five recommendations to enhance our regulatory efforts. I am pleased to report that DCF has made great improvements to child care regulation in Wisconsin. The remainder of this letter outlines the significant progress the Department has made related to improving child care regulation in Wisconsin.

Recommendation 1: Improve the Timeliness of Regulator Visits and Redirect Regulatory Staff Resources to Higher-Risk Facilities.

The Department of Children and Families has taken actions in both certification and licensing to ensure that child care facilities are visited and monitored as required and that priority is given to higher-risk facilities and facilities with no access visits.

Under my direction, we created and implemented an internal performance management system called KidStat. With this system, I can personally monitor progress on the completion of overdue regulatory visits and ensure their completion. In addition, my staff designed new reports, reviewed on a bi-weekly basis, to show overdue visits prioritized by which visit is most overdue. Managers also receive and review a report showing monitoring visits that will become overdue within the next 30 days, allowing them to work with their licensors to schedule visits. Since the release of the LAB audit and as of this writing, the number of overdue licensing visits has decreased from over 600 to less than 25. The Department expects to be current with all monitoring visits by July 31, 2010. There are approximately 40 facilities statewide that cannot currently be monitored due to temporary closures – for reasons such as illness, no enrollments, vacations, and pending subsidy suspensions – and the Department continues to track these facilities closely and take appropriate actions on the license as appropriate.

The Department has made several policy and organizational changes to ensure that the Department is prioritizing higher-risk facilities. In March, we opened our Quality Improvement Unit in the Southeastern Regional Licensing Office. This unit consists of six licensors, each of whom has a caseload of 50 cases, as compared to 100 cases per licensor in the rest of the Bureau. This unit will have a total caseload of 300 providers and these facilities will receive more intense monitoring and oversight. The Department considered eleven factors in assigning providers to the Quality Improvement Unit, including 20 or more violations at a single visit in the past two years, recent enforcement actions, and fraud concerns.

The Bureau of Early Care and Regulation has revisited and strengthened its prioritization of visits and its Minimum-Moderate-Maximum-Probationary plans to ensure that higher need facilities receive more frequent monitoring visits. Specifically, this policy designates that the priorities for licensing specialists performing monitoring activities are as follows, with the highest priority listed first:

- investigations of high risk complaints and serious incidents/accidents;
- facilities identified as overdue for a visit;
- on-time visits to facilities assigned to the Maximum Monitoring Plan;
- on-time visits to facilities assigned to the Moderate Monitoring Plan;
- on-time visits to facilities in the Probationary License Plan;
- on-time visits to facilities in the Minimum Monitoring Plan;

- investigations of complaints/incidents/accidents that have not been deemed high risk;
- unlicensed facilities; and
- facilities with pending applications.

Providers in the Minimum category will receive one visit per year; providers in the Moderate category, two visits per year; in the Maximum category, three visits per year; and for probationary licensees, two visits per probationary period.

To be assigned to the respective plans, DCF considers the following criteria:

- *Moderate*: Provider has received a warning letter or has an identified concern such as those related to attendance records or capacity issues which do not rise to the level of suspicion of fraud.
- *Maximum*: Provider has an enforcement action, 20+ violations during a recent licensing visit, or a concern directly related to its utilization of the Wisconsin Shares subsidy program.

Recommendation 2: Improve the Quality of Program Management Information by Establishing a Severity Index for Violations, Documenting Unsuccessful Attempted Regulatory Visits to Licensed Facilities, and Ensuring that County and Tribal Agencies Document Their Regulator Actions as Required by Contract.

DCF worked to improve quality of data collected in the course of regulatory activity by state licensors and county certifiers and is in the process of building a new information technology system, which will address several of the Department's concerns.

The Department has drafted and tested an initial version of a Severity Index which delineates variations between low, medium and high risk violations. The Department is using the currently identified list of 17 "serious" violations which have the potential to cause harm or place children at risk. The Department created observation-based criteria to distinguish the severity of the serious violations. The tool has been tested in licensing visits and reviewed with provider groups for input. Currently, the Department is starting to pilot the Severity Index Tool in the Northern Region of the state. Based on that pilot and feedback from external stakeholders, the Department will update the Severity Index Tool.

When that process is completed, DCF will integrate use of the tool into standard monitoring procedures. During each visit, a licensor will take the checklist of potentially serious violations to evaluate and report levels of risk. High risk serious violations will result in enforcement actions up to and including revocation.

DCF is also working to design a new licensing information system to allow us to more accurately gauge the status of overdue visits. For instance, programs that are currently

not serving children (but hope to in future) appear in DCF reports as overdue visits even when the licensor has attempted a monitoring visit. Similarly, programs that have received visits for complaints appear in reports as though they have not been visited, despite what could have been intense monitoring, because the visit is not captured until the investigation is complete. In anticipation of creating the new information system, DCF has implemented a mechanism to capture "No access" visits – during which a licensor appears and no adults or children are present – uniformly in the current database, such that we can more easily quantify those visits.

In addition, we have strengthened county contractual language to place a stronger focus on completion of certification visits and ensure that certifiers are capturing all violations. We have instituted monthly early care and education meetings with counties to review child care practices and policies, and on multiple occasions, we have stressed the importance of documenting all observed violations. By August 2010, DCF will hire five regional staff, whose sole responsibilities will be to support and monitor county efforts to implement child care certification and subsidy policy. These regional staff will give the Department the capacity to work closely with counties to understand how they are currently conducting and documenting certification visits – and then assist them in improving on current practice.

Recommendation 3: Improve Sanctioning Efforts to Address the Most Serious or Persistent Violations of Child Care Rules and to Target Facilities That Have Been Most Frequently Sanctioned.

The Department is closely monitoring providers with the highest number of violations to confirm that those providers are receiving orders, forfeitures, revocations and denials as appropriate. On a bi-weekly basis, managers review a report highlighting the providers with the greatest number of violations during their most recent monitoring visit and document the enforcement actions currently underway with those providers.

With the new licensing data system, DCF will be able to directly tie enforcement actions/sanctions to specific citations, which will allow us to better analyze and monitor the direct connection between citations and sanctions.

As noted earlier, we developed a high-risk unit, the Quality Improvement Unit in Southeast Wisconsin, which will have licensors assigned to child care facilities where chronic or serious rule compliance have been concerns. This would include providers who have the most serious violations and repeated concerns. Licensors will have significantly fewer providers to monitor to allow time for intense supervision, oversight and direction for these centers.

Recommendation 4: Improve the Timeliness of the Background Check Process, Ensure that all Necessary Background Checks are Completed, and Address Facility Operators' Need for Information Concerning Findings of Child Abuse or Neglect in Order to Complete Employee Background Checks.

The Department agreed with the Legislative Audit Bureau's finding that background check laws and processes in place for licensees, household members, and employees were not adequate. In October 2009, the Department had developed procedures to perform automated monthly data matches between Consolidated Court Automation Programs (CCAP), the Sex Offender Registry, and eWISACWIS and DCF's systems that contain data on certified and licensed child care providers to ensure that crimes and child abuse were being detected immediately. The Department subsequently worked with the Legislature to pass Act 76, which greatly strengthened background check requirements for providers and household members, both in frequency and in the number of crimes for which providers could be barred from licensure.

In February 2010, the Department began to implement Act 76. The Department worked closely with the Department of Justice to design an electronic format by which thousands of background checks could be conducted in an automated fashion. The Department's new centralized background check unit –launched in March 2010 – placed both providers and household members on schedules to ensure that the requirements of quarterly checks for licensees and annual checks for household members and employees are met. On a continuous basis, the Department uploads the names and identifying information for individuals for whom a background check is scheduled. DOJ then runs background checks, the results of which are uploaded to the Department's background check system.

This collaborative effort with DOJ has allowed DCF to easily identify and target for follow up those background checks with matches against barred or suspect offenses. The background check unit reviews each case and those that require further follow up – acquiring police reports or court records, for instance – are tagged in the system for licensors to follow up. Since the implementation of Act 76, the Department has conducted 9,663 DOJ background checks of providers and household members.

The Department has also taken action to ensure that counties are pursuing cases in which individuals with criminal histories are providing care or residing on premises with child care providers. In the state's background check system, all matches between CCAP, the Sex Offender Registry, and eWISACWIS and certified providers are uploaded directly to the counties and tribes. DCF then monitors and reviews the actions taken on those cases centrally and follows up with counties and tribes that do not document steps taken to address concerns. DCF also issued guidance and offered assistance to counties and tribes as they implemented the requirements of Act 76.

The Department is also taking action to ensure that operators of child care facilities are conducting necessary background checks and disclosing required information related to

criminal convictions. Regulators closely review personnel files during regular licensing visits. During every visit, regulators review personnel files and monitor for criminal convictions identified in our Severity Index as potentially serious violations, but we believe that additional safeguards are needed to monitor employees in regulated facilities. In the absence of a centralized Child Care Employee Registry, DCF has worked with DOJ to develop a report of all individuals who have had a background check conducted by a child care facility in the past 36 months, sorted by provider location. DCF's ultimate intention is to use this capability to allow licensors to pull reports before monitoring visits to verify all potential employees who have had a timely background check and have been properly screened by the provider to ensure the safety of children in regulated settings. When we have this capability, if, during the visit, the licensor identifies anyone working at the center that does not appear on the report or has a concerning conviction, the licensor would take immediate action.

Finally, DCF is continuing to work with the Department of Health Services and the Department of Justice to integrate child abuse and neglect findings into the standard child care background check process.

Recommendation 5: Strengthen Fraud Prevention and Detection Efforts Related to Wisconsin Shares, especially in Milwaukee County.

The Department of Children and Families has continued to take aggressive action to detect and identify fraud in the Wisconsin Shares program, and our efforts have achieved significant results. Since September 2009, the Department has suspended payments to 179 providers. Criminal charges have been filed in seven cases in Milwaukee County as a result of the efforts of the Joint Anti-Fraud Task Force, led by DCF and the Milwaukee County District Attorney's office, and several more have been filed by the Racine County District Attorney. The Department has stopped payments to providers who had been defrauding the Shares program and deterred some of the flagrant abuse that has plagued Wisconsin Shares.

There are significant quantitative reasons to believe that the Department's actions have had an impact on the Wisconsin Shares program. As of late May 2010, there were 3,585 children authorized for Wisconsin Shares at suspended providers at the time of the provider's suspensions. When a provider is suspended from Shares, the children remain eligible for subsidies at other licensed or certified locations as long as their parents remain in eligible work activities. Those parents simply need to report the change in circumstances and the new location the child will be attending. Yet, the Department has found that of the 3,585 children, 1,386 children have never been reported at a new child care provider after the original provider was suspended.

Fraud in the Wisconsin Shares program has been disproportionately concentrated in Milwaukee County. In recent years, Milwaukee County and the balance of the state have had comparable Shares enrollment, but since September 28, 2009, the enrollment in the

Wisconsin Shares program has decreased by 2,981 in Milwaukee County and 488 in the balance of State. During that same period of time, bi-weekly billings per child has decreased by 5.1% per child in Milwaukee County as compared to 1.1% in the balance of State. This data suggests to DCF that our direct enforcement actions and the resulting deterrent effect have significantly improved the integrity of the Wisconsin Shares program, as providers are thinking twice before billing for children not receiving care. It is also important to note, however, that some of our most formidable initiatives to eliminate fraud in this program have not yet been implemented.

On January 1, 2010, the Department assumed responsibility for child care operations in Milwaukee County, and for the past six months, we have been working to analyze and redesign the process for approving child care authorizations. In our review of historical operating procedures, we found that Milwaukee County had never asked applicants key information that could have identified suspect behavior. Moreover, we found that workers authorizing child care never systematically reviewed information about providers – like whether the provider already had 300 authorizations in a facility licensed to serve 100 children – when granting additional authorizations. The implementation of a more effective up-front authorization process in Milwaukee County will allow the Department to prevent fraud before it happens.

In late summer, the Department will introduce a new process for creating child care authorizations in Milwaukee County. For the first time, child care authorization workers will look for common elements of fraud – including parents employed at child care centers where their children attend, self-employed parents, and parents working second and third shift jobs – with greater scrutiny *before* the authorization is granted. The Department does not intend to unnecessarily slow the authorization process for honest working families in need of child care, but we will use an “error prone matrix” to identify those cases that will require further research and/or documentation. We also believe that the redesigned process will lead to more accurate authorization determinations in terms of the number of hours and the differentiation between enrollment-based and attendance-based authorizations. Today, in Milwaukee County, close to 80% of authorizations are enrollment-based (in which the provider is paid no matter how long the child shows up), compared to 45% in the balance of state, and in Milwaukee County, the average enrollment-based authorization is for 34.86 hours per week, whereas in the balance of state, it is 30.99. If the numbers in Milwaukee County become more aligned with those in the balance of state, as we would expect them to, the Shares program will realize millions of dollars of additional savings.

In late fall, the Department will launch the pilot for its automated attendance system. This system will automatically log entry and exit times and link those times to payments in the Wisconsin Shares program. Request for Proposal (RFP) responses have been received by the Department and are currently being evaluated, with the expectation that DCF will select a vendor in mid-July. We believe that this biometric attendance system, when operational, will save the state additional millions of dollars in improper payments.

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Upon implementation of an automated attendance system, the State of Oklahoma realized an almost immediate 10% savings in child care subsidy payments.

As we pursue these initiatives, the Department will continue to investigate hotline tips, referrals from licensors and certifiers, and quantitative anomalies that suggest the possibility of fraud. We will review attendance records and establish overpayments, review source documentation on employment, interview parents and staff, and pursue any leads vigorously as we continue to work to clean up this crucial program.

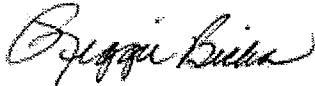
Next Steps

As outlined in this letter, the Department of Children and Families has continued to make great progress in improving the oversight of child care in the State of Wisconsin, but there is much work yet to be done. In the months to come, DCF will introduce a new process for creating child care authorizations in Milwaukee County and pilot an Automated Attendance Tracking System. DCF will test a second version of the Severity Index Tool and incorporate the tool into licensing visits statewide. The Department will roll out a new information system, which will allow us to better monitor and analyze performance in child care licensing. We will expand our background check efforts to help licensors identify cases in which employees have not had a valid Department of Justice check. We will conduct visits before they are due, and we will focus our attention on those facilities with the highest needs.

Establishing a quality rating system in Wisconsin is the next critical step in supporting child care in the state. We would argue that until every dollar spent in the Wisconsin Shares program is somehow linked to the quality of care provided, the program will never live up to its full potential, nor will the children it serves. Last week, the Joint Committee on Finance approved the implementation of YoungStar, Wisconsin's quality rating and improvement system. With the implementation of YoungStar, we will be able to improve the overall quality of child care; create a clear, understandable tool for parents to choose quality child care; create incentives for providers to improve services; and help prevent fraud in the Wisconsin Shares system.

I appreciate your leadership of the Joint Legislative Audit Committee and the LAB's continued efforts to improve the lives Wisconsin's children and families.

Sincerely,



Reggie Bicha
Secretary