

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**SOME MASSACHUSETTS GROUP HOMES
FOR CHILDREN IN FOSTER CARE DID
NOT ALWAYS COMPLY WITH STATE
HEALTH AND SAFETY REQUIREMENTS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



Gloria L. Jarmon
Deputy Inspector General
for Audit Services

December 2017
A-01-16-02500

Office of Inspector General

<https://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <https://oig.hhs.gov>

Section 8M of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

Report in Brief

Date: December 2017

Report No. A-01-16-02500

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Review

Congress has expressed concerns about the safety and well-being of children in foster care. These issues were highlighted in a media report that provided several examples of children who died while in foster care. To determine whether health and safety vulnerabilities exist, we are performing reviews of foster care group homes in several States, including Massachusetts. In Massachusetts, the Department of Children and Families is responsible for administering the Title IV-E foster care program.

Our objective was to determine whether Massachusetts' monitoring ensured that foster care group homes complied with State licensing requirements related to the health and safety of children in foster care.

How OIG Did This Review

Of the 101 group home locations in Massachusetts that received foster care Title IV-E funding for calendar year 2015, we selected 30 homes for our review. We selected these group homes on the basis of various factors, including the group homes' location, capacity, age of the children in the homes, and operational status. We conducted unannounced site visits throughout Massachusetts in May 2016.

Some Massachusetts Group Homes for Children in Foster Care Did Not Always Comply With State Health and Safety Requirements

What OIG Found

Although the Department of Early Education and Care (State licensing agency) performed the required onsite monitoring at all 30 of the group homes that we reviewed, this onsite monitoring did not ensure that all 30 homes complied with State licensing requirements related to the health and safety of children in foster care. Specifically, at the time of our onsite visits, with regards to facilities and equipment, we found that 27 group homes did not comply with 1 or more State requirements for living units, 26 group homes did not comply with 1 or more State requirements for buildings and grounds, 20 group homes did not comply with 1 or more State requirements related to bathing and toilet facilities, and 11 group homes did not comply with 1 or more State requirements related to toxic substances. In addition, we found that 15 group homes did not comply with State requirements regarding the care of residents, and 18 group homes did not comply with 1 or more required background records check or fingerprint submission requirements for employees. Because Massachusetts did not ensure that group homes complied with State requirements, the health and safety of the children residing in the group homes were potentially at risk.

What OIG Recommends and State Comments

We recommend that Massachusetts (1) work with the State licensing agency to ensure all instances of noncompliance are corrected, (2) consider adding a requirement in future contracts that the group homes conduct repairs and general upkeep within a specified timeframe, (3) increase the frequency of announced visits and consider including unannounced visits as part of its monitoring system, and (4) work with the State licensing agency to implement adequate monitoring controls to ensure that all group home employees who have the potential for unsupervised contact with children in foster care receive all of the required background record checks within a specific and reasonable timeframe.

In written comments on our draft report, Massachusetts concurred with our first, third, and fourth recommendations, and it said that it will take our second recommendation into consideration for future contracts. In addition, Massachusetts outlined corrective actions and improved collaboration with the State's Department of Early Education and Care to address our findings and recommendations.

TABLE OF CONTENTS

| | |
|---|----|
| INTRODUCTION | 1 |
| Why We Did This Review | 1 |
| Objective | 1 |
| Background | 1 |
| Federal Foster Care Program | 1 |
| State Requirements | 2 |
| The Foster Care Program in Massachusetts | 2 |
| How We Conducted This Review | 3 |
| FINDINGS | 3 |
| Some Group Homes Were Not Always In Compliance With One or More State Facility and Equipment Requirements | 4 |
| State Requirements for Living Units | 4 |
| Some Group Homes Were Not In Compliance With One or More State Requirements for Living Units | 4 |
| State Requirements for Bathing and Toilet Facilities | 6 |
| Some Group Homes Were Not In Compliance With One or More State Requirements for Bathing and Toilet Facilities | 6 |
| State Requirements for Buildings and Grounds | 7 |
| Some Group Homes Were Not In Compliance With One or More State Requirements for Buildings and Grounds | 7 |
| State Requirements for Toxic Substances | 8 |
| Some Group Homes Were Not In Compliance With One or More State Requirements for Toxic Substances | 9 |
| Some Group Homes Were Not In Compliance With a State Care of Residents Requirement | 9 |
| State Requirement for Care of Residents | 9 |
| Some Group Homes Were Not In Compliance With a State Requirement for Care of Residents | 9 |
| Why Group Homes Were Not In Compliance With State Requirements | 10 |
| Some Employees at Group Homes Were Not In Compliance With Background Record Check or Fingerprint Submission Requirements | 10 |
| State Requirements | 10 |

| | |
|--|----|
| Some Employees at Group Homes Were Not In Compliance With Background Record Check or Fingerprint Submission Requirements..... | 12 |
| Employees Hired On or After September 1, 2013 | 12 |
| Employees Hired Prior to September 1, 2013 | 13 |
| Why Some Employees at Group Homes Were Not in Compliance With Background Record Check or Fingerprint Submission Requirements..... | 14 |
| RECOMMENDATIONS | 15 |
| STATE AGENCY COMMENTS | 16 |
| APPENDICES | |
| A: Audit Scope and Methodology | 17 |
| B: Caring Together Group Home Model Descriptions | 19 |
| C: Federal and State Requirements | 21 |
| D: Summary of Findings at Group Homes..... | 27 |
| E: Photographs of Instances of Noncompliance | 29 |
| F: State Agency Comments | 39 |

INTRODUCTION

WHY WE DID THIS REVIEW

The Children's Bureau within the Administration for Children and Families (ACF) awards grants to States to fund the Federal Foster Care Program, which provides safe foster care placements for eligible children and youth who cannot remain in their homes. Congress has expressed concerns about the safety and well-being of children in foster care. These issues were highlighted in a media report¹ that provided several examples of children who died while in foster care. Additionally, in a recent series of audits of State-monitored childcare facilities in various States,² we found that the majority of childcare providers had instances of potentially hazardous conditions and noncompliance with State health and safety requirements, including criminal records check requirements. To determine whether similar vulnerabilities exist in foster care group homes, we are performing reviews in several States, including Massachusetts. In Massachusetts, the Department of Children and Families (State agency) is responsible for administering the Title IV-E foster care program.

OBJECTIVE

Our objective was to determine whether the State agency's monitoring ensured that foster care group homes complied with State requirements related to the health and safety of children in foster care, as required by Title IV-E of the Social Security Act (the Act).

BACKGROUND

Federal Foster Care Program

Title IV-E of the Act established the Federal Foster Care Program, which helps States to provide safe and stable out-of-home care for children who meet certain eligibility requirements until they are safely returned home, placed permanently with adoptive families, or placed in other planned arrangements. At the Federal level, ACF administers the program. The State agency is responsible for administering the program at the State level.

The Act requires a State agency to submit a State plan that designates a State agency that will administer the program for the State (the Act § 471(a)(2)). The State plan also provides for the establishment or designation of a State authority or authorities responsible for establishing and maintaining standards for foster family homes and childcare institutions, including standards

¹ Mother Jones, "The Brief Life and Private Death of Alexandria Hill." Available online at <http://www.motherjones.com/politics/2015/01/privatized-foster-care-mentor>. Accessed on August 9, 2017.

² All 20 audit reports in the OIG series Child Care Providers: Compliance With State Health and Safety Requirements can be viewed at <https://oig.hhs.gov/oas/child-care/text-map.asp>.

related to safety, and requires that the State apply the standards to any foster family home or childcare institution receiving funds under sections IV-E or IV-B of the Act (the Act § 471(a)(10)). The plan must also provide that the State have developed and implemented standards to ensure that children in foster care placements in public or private agencies are provided quality services that protect their health and safety (the Act § 471(a)(22)).

State Requirements

The Code of Massachusetts Regulations (CMR) sets forth the Standards for the Licensure or Approval of Residential Programs Serving Children and Teen Parents under 606 CMR § 3.00 and identifies the standards and practices necessary to, among other things, meet each resident's need for space, comfort, privacy, and community while protecting residents from fire, health, and accidental hazards. Within this chapter, there are standards related to the physical plant and equipment (606 CMR § 3.08) and care of residents (606 CMR § 3.07). In addition, 606 CMR § 14.00 establishes the standardized procedures for Department of Early Education and Care's (State licensing agency's) licensed programs regarding the review of criminal records and other background information of candidates under consideration for employment or regular volunteer positions.

The Foster Care Program in Massachusetts

In fiscal year 2012, Massachusetts received HHS's approval to implement a child welfare demonstration project.³ Under the terms of the project, the Commonwealth of Massachusetts' Executive Office of Health and Human Services, the State agency, and the Massachusetts Department of Mental Health are integrating congregate care treatment and community-based treatment⁴ under a unified service model. This joint program is titled "Caring Together: Strengthening Children and Families Through Community-Connected Residential Treatment" (Caring Together). The agencies seek to purchase out-of-home treatment services, which integrate with community-based transitional support services to provide individualized, trauma-informed, strength-based services designed to meet the unique needs of each youth and family.

³ Section 1130 of the Act authorizes HHS to approve a number of State demonstration projects involving the waiver of certain provisions of Titles IV-E and IV-B of the Act. Demonstration projects aim to generate innovative and effective child welfare provision models. Massachusetts' demonstration project is authorized through calendar year 2018.

⁴ According to the State agency, "congregate care" is a form of therapeutic out-of-home placement in which youth live in staffed programs; the program is designed to serve multiple youth within the same site. "Community-based" services are services provided to children who still live at home or in a foster home setting to support their continued placement in family settings in an effort to avoid placing the child in a congregate care setting.

The State has various program models for group home foster care, but we reviewed only the two group home models that care for the largest populations of foster care beneficiaries who reside in congregate care group home settings (group homes) (see Appendix B).

During 2016, the State agency had 39 Caring Together contracts in place to provide foster care services at 101 different group home locations. These group homes are licensed by the State licensing agency to ensure that the group homes are adequate to provide care.

HOW WE CONDUCTED THIS REVIEW

We conducted unannounced site visits at 30 group homes under Caring Together contracts to provide care to children in foster care, including Title IV-E eligible foster care, for May 2016. We selected these group homes on the basis of various factors, including the group homes' location, capacity, age of the children in foster care homes, and operational status. In addition, to verify completion of all required background record checks, we reviewed background record check completion dates and fingerprint submission dates for each group home employee who had the potential for unsupervised contact with children in foster care. We informed group home providers and the State agency of any issues we found.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology.

FINDINGS

Although the State licensing agency performed the required onsite monitoring at all 30 of the group homes that we reviewed, this onsite monitoring did not ensure that all 30 homes complied with State licensing requirements related to the health and safety of children in foster care. Specifically, at the time of our onsite visits,⁵ with regards to physical plant and equipment (facilities and equipment), we found that 27 group homes did not comply with 1 or more State requirements for living units, 26 group homes did not comply with 1 or more State requirements for buildings and grounds, 20 group homes did not comply with 1 or more State requirements related to bathing and toilet facilities, and 11 group homes did not comply with 1 or more State requirements related to toxic substances. In addition, we found that 15 group homes did not comply with State requirements regarding the care of residents, and 18 group

⁵ Our onsite visits to the 30 selected group homes were conducted between May 2 and May 26, 2016. Our reported observations of noncompliance were made at the time of the onsite visits.

homes did not comply with 1 or more required background records check or fingerprint submission requirements for employees.

Appendix C contains the Federal and State requirements cited in the report, Appendix D contains a summary of findings by group home, and Appendix E contains photographic examples of noncompliance found at some of the group homes.

SOME GROUP HOMES WERE NOT ALWAYS IN COMPLIANCE WITH ONE OR MORE STATE FACILITY AND EQUIPMENT REQUIREMENTS

State Requirements for Living Units

The State licensing agency requires living units to be safe, clean, and in good repair. Group homes need to show evidence of regular cleaning and maintenance routines and ensure that all rooms are free from hazards. In addition, the group home should repair or discard broken or ripped furniture (Massachusetts 606 CMR § 3.08(7)(a and b)).

Group homes are required to have windows with operable screens in good repair. Bedrooms must have direct outside ventilation and at least one operable window (Massachusetts 606 CMR § 3.08(7)(c and e)).

Group home residents must be provided with an individual bed (not a cot or portable bed) that is clean and comfortable, and each bed must have clean sheets, pillows, pillowcases, and blankets (Massachusetts 606 CMR § 3.08(7)(j)).

Some Group Homes Were Not In Compliance With One or More State Requirements for Living Units

We determined that 27 of the 30 group homes that we inspected were not in compliance with 1 or more State requirements for living units. Specifically, we found the following:

- Group homes (22 of 27) had windows with ripped or missing screens (Massachusetts 606 CMR § 3.08(7)(c)).
- Group homes (20 of 27) did not ensure that all living units were safe, clean, and in good repair (Massachusetts 606 CMR § 3.08(7)(a)). Examples of conditions found at these group homes included:
 - at one group home, we observed a bedroom where bedsheets and blankets were tied together and connected to a metal eye hook bolted into the wall, next to a window that opened (Appendix E, Photographs 1 through 3);

- an electrical cord for a fish tank was a tripping hazard because it was plugged into the wall on the opposite side of the hallway; and
 - broken balusters (spindles) of a second-floor staircase and bannister weakened the protective rail system (Massachusetts 606 CMR § 3.08(7)(a)) (Appendix E, Photographs 6 and 7).
- Group homes (15 of 27) did not always repair ripped upholstery or discard broken furniture (Massachusetts 606 CMR § 3.08(7)(b)(1)). Examples of these conditions included:
 - living areas with couches or chairs that had ripped upholstery,
 - broken chairs, and
 - broken bureaus or bureaus with missing drawers (Appendix E, Photographs 4 and 5).
- Group homes (13 of 27) did not show evidence of regular cleaning and maintenance routines (Massachusetts 606 CMR § 3.08(7)(a)(1)). Our observations included:
 - a plate of food found inside a bedroom bureau,
 - bedrooms with overfilled trash cans,
 - bedrooms with holes in the walls (Appendix E, Photograph 8),
 - knives accessible to residents, and
 - dirty kitchen walls and uncovered trash barrels (Appendix E, Photograph 16).
- Group homes (9 of 27) did not always ensure that beds had clean sheets, pillows, pillowcases, or blankets (Massachusetts 606 CMR §§ 3.08(7)(j)(2) and (3)). Examples included:
 - beds without pillows, sheets, or blankets and
 - foul-smelling bedding and stained sheets and pillows.
- Group homes (7 of 27) did not ensure all beds had clean and comfortable mattresses (Massachusetts 606 CMR § 3.08(7)(j)(1)). For example, we found:

- a moldy mattress (Appendix E, Photographs 9) and
- ripped and torn mattresses (Appendix E, Photograph 10).
- Group homes (5 of 27) had bedrooms that either did not have an operable window or had windows that were bolted shut (Massachusetts 606 CMR § 3.08(7)(e)) (Appendix E, Photographs 11 and 12).
- At one home, we found mattresses that were placed on the floor instead of in a bedframe (Massachusetts 606 CMR § 3.08(7)(j)).

At the time of our site visits, 3 of 30 group homes were in compliance with the State living unit requirements.

An Example of a Group Home With Bedrooms That Did Not Have an Operable Window

One group home did not have an operable window for each of the bedrooms located in the center part of each floor. We requested information and documentation about whether the State agency gave approval for this group home's floor plan, or documentation about why these bedrooms did not meet the licensing criteria. The State agency did not provide documentation to support any waiver of the criteria that require one operable window in each bedroom. According to the State licensing agency, the regulation is outdated and needs to be changed, and the group home had received all required permits related to building and occupancy. The State licensing agency did not indicate that it had approved this arrangement of bedrooms or whether it waived the licensing criteria for this group home. (See Appendix E, Photographs 11 and 12.)

State Requirements for Bathing and Toilet Facilities

Group homes must ensure that (1) bathing and toilet facilities are maintained and are in good repair and in clean condition, (2) all tubs and showers are equipped with a nonslip surface or mat, and (3) resident toiletries have a space to be stored (Massachusetts 606 CMR §§ 3.08(8)(a), (g), and (j)). (See Appendix C for the full citation of the requirements.)

Some Group Homes Were Not In Compliance With One or More State Requirements for Bathing and Toilet Facilities

We found that 20 of the 30 group homes we inspected did not always ensure that bathing and toilet facilities were in good repair or in clean condition. Examples include the following:

- Group homes (18 of 20) had bathrooms that were not clean or in good repair (Massachusetts 606 CMR § 3.08(8)(a)). Examples included:

- a group home with water damage and mold in a bathroom near the toilet and a shower that leaked through and stained a first-floor ceiling, and group homes with dirty toilets, bathroom floors, walls, and shower curtains (Appendix E, Photographs 13 through 15) and
- rusty bathroom stall walls and a bathroom stall door that did not fit properly, preventing users from having full privacy (Appendix E, Photographs 17 and 18).
- Group homes (12 of 20) had showers or bathtubs that did not have a nonslip surface or mat (Massachusetts 606 CMR § 3.08(8)(g)).
- A group home (1 of 20) did not provide a place for toiletries (Massachusetts 606 CMR § 3.08(8)(j)).

At the time of our site visits, 10 of 30 group homes were in compliance with the State bathing and toilet requirements.

State Requirements for Buildings and Grounds

Group home facilities and their grounds must be maintained in a sanitary, comfortable, and safe condition (Massachusetts 606 CMR §§ 3.08(5), (a), (c), (d), (d)(2), (e), (k), and (l)). (See Appendix C for the full citation of the requirements.)

Some Group Homes Were Not In Compliance With One or More State Requirements for Buildings and Grounds

We determined that 26 of the 30 group homes did not always comply with 1 or more State requirements for buildings and grounds. Specifically, we found the following:

- Group homes (20 of 26) did not ensure that buildings and grounds were maintained in a sanitary, comfortable, and safe condition; 4 of these homes did not ensure that they were free from insect infestation (Massachusetts 606 CMR §§ 3.08(5) and (5)(a)). Examples included:
 - discarded wood with exposed nails in a recreational area (Appendix E, Photograph 19),
 - shattered glass from broken windows on facility grounds, and
 - a fly infestation in a stairwell.

- Group homes (9 of 26) had first-aid kits with expired contents (Massachusetts 606 CMR § 3.08(5)(k)).
- Group homes (6 of 26) did not always ensure outdoor equipment was in good repair or that outdoor recreational areas were fenced in as appropriate for the age and needs of the population served (Massachusetts 606 CMR §§ 3.08(5)(d) and (d)(2)). Examples included:
 - a broken playground slide with sharp edges at the base of the slide,
 - broken picnic table seats, and
 - no fencing around an outdoor playground area near an access road.
- Group homes (6 of 26) had ladders and other tools that were not locked in a storage area and were accessible to children in foster care (Massachusetts 606 CMR § 3.08(5)(e)).
- Group homes (3 of 26) did not ensure that exits were free from obstructions (Massachusetts 606 CMR § 3.08(5)(c)). For example, at one group home, an exit to the backyard was obstructed by wet and dry mops, a vacuum, and a mop bucket filled with smaller cleaning supplies.
- A group home (1 of 26) did not childproof recreation and common areas for the younger children it served (Massachusetts 606 CMR § 3.08(5)(l)). Examples included:
 - electrical outlets in common areas that did not have protective covers and
 - porch stairs without a barrier to prevent young children from a potential fall (Appendix E, Photograph 20).

At the time of our site visits, 4 of 30 group homes were in compliance with the State buildings and grounds requirements.

State Requirements for Toxic Substances

Group homes must store poisonous cleaning substances or other toxic substances in an area where they are not accessible to residents (Massachusetts 606 CMR § 3.08(3)(a)). (See Appendix C for full citation of the requirements.)

Some Group Homes Were Not In Compliance With One or More State Requirements for Toxic Substances

We determined that 11 of the 30 group homes that we reviewed did not always ensure that cleaning chemicals or other toxic substances were not accessible to children in foster care (Massachusetts 606 CMR § 3.08(3)(a)). Examples included:

- Group homes (7 of 11) had gallons of floor stripper, dishwasher detergent, or toilet bowl cleaners accessible to children (Appendix E, Photograph 22).
- Group homes (4 of 11) had Clorox, Lysol, or other spray cleaners that were accessible to children in foster care in bathrooms and kitchens.
- Group homes (3 of 11) had air fresheners in residents' bedrooms, including an aerosol can of Febreze air freshener on a bedroom bureau. The air freshener had a cautionary label that read: "Use Only As Directed. Intentional misuse by deliberately concentrating and inhaling the contents can be harmful or fatal" (Appendix E, Photograph 21).

At the time of our site visits, 19 of 30 group homes were in compliance with the State toxic substances requirements.

SOME GROUP HOMES WERE NOT IN COMPLIANCE WITH A STATE CARE OF RESIDENTS REQUIREMENT

State Requirement for Care of Residents

Group homes must store, prepare, and serve all food in a manner as to be clean, wholesome, free from spoilage, and safe for human consumption (Massachusetts 606 CMR § 3.07(6)(i)).

Some Group Homes Were Not In Compliance With a State Requirement for Care of Residents

We determined that 15 of the 30 group homes that we reviewed had 1 or more instances of noncompliance with a care of residents requirement (Massachusetts 606 CMR § 3.07(6)(i)). Specifically, these 15 group homes improperly stored food and condiments that were expired, rotting, or unlabeled and in unclean pantries, refrigerators, freezers, or in other unclean storage areas. For example, we observed:

- leftover food not properly wrapped or labeled in refrigerators (Appendix E, Photograph 23),
- a large box of rotten bananas on a countertop in the kitchen (Appendix E, Photograph 24), and

- an opened gallon-size container of barbecue sauce stored under a kitchen sink near a leaking pipe (Appendix E, Photograph 25).

At the time of our site visits, 15 of 30 group homes were in compliance with the State care of residents requirements.

WHY GROUP HOMES WERE NOT IN COMPLIANCE WITH STATE REQUIREMENTS

These instances of noncompliance with requirements for facility and equipment and the care of residents occurred because the State agency's Caring Together contracts did not require that:

- group homes conduct repairs and general upkeep within a specified timeframe and
- the State agency conduct comprehensive health and safety inspections of the group homes during the 2-year licensing period.

In addition, the State licensing agency was required to conduct announced health and safety inspections at the group homes only once every 2 years for licensure renewal (Massachusetts 606 CMR § 3.03(2)), and the State agency was not required to conduct inspections focused on the physical conditions of the facility. Also, neither agency was required to conduct unannounced inspections.

Because the State agency did not ensure that group homes complied with facility and equipment safety requirements and care of residents requirements, the health and safety of the children residing in the group homes were potentially at risk.

SOME EMPLOYEES AT GROUP HOMES WERE NOT IN COMPLIANCE WITH BACKGROUND RECORD CHECK OR FINGERPRINT SUBMISSION REQUIREMENTS

State Requirements

Massachusetts regulations at 606 CMR § 14.00 establish standardized procedures for the State licensing agency's licensed, approved, or funded programs regarding the review of criminal records and other background information of candidates under consideration for employment or regular volunteer positions (606 CMR § 14.01). The regulations require that all employees or other persons regularly providing childcare or support services with potential for unsupervised contact with children in any program of a facility licensed or funded by the State licensing agency must undergo a background record check. A background record check shall consist of, at a minimum, a Massachusetts Criminal Offender Record Information (CORI) check, a Department of Children and Families (DCF) background record check, a Sex Offender Registry Information (SORI) check, and a fingerprint-based check of State and national criminal history databases (606 CMR § 14.02). These regulations also establish that the hiring authority may

allow a candidate to begin conditional employment and have unsupervised contact with children, if the candidate's SORI check has been approved by the State licensing agency and the candidate's CORI and DCF background record checks have been approved by the hiring authority (606 CMR § 14.11(4)).

The regulations outline the timing and frequency of the various required checks. The checks must be conducted at the time and frequency outlined below:

- CORI and DCF background record check investigations must be conducted when an offer of employment or a volunteer or intern position is made, and background record check approval is the final step in the hiring process. CORI and DCF background record checks investigations must be conducted at least every 3 years for those employees who have maintained continuous employment with the same employer unless the employer determines a greater frequency. CORI and DCF background record checks investigations must be conducted each time a candidate is hired by a new employer (606 CMR § 14.08(7)(a)).
- SORI checks must be conducted prior to employment or licensure and on a periodic basis thereafter for, among others, prospective and current family childcare employees, interns, and regular volunteers who have the potential for unsupervised contact with children (606 CMR § 14.08(7)(b)).
- Fingerprint-based checks of State and national criminal history databases must be conducted every 3 years (606 CMR § 14.08(7)(c)).

The regulations cited above, in part, implement Massachusetts Session Law Acts (2013), chapter 77 (Massachusetts law), which require that all employees and prospective employees of programs licensed, funded, or approved by the State licensing agency and who have the potential for unsupervised contact with children undergo SORI checks and State and national fingerprint-based criminal records checks. The law also laid out a timeframe by which employees or prospective employees must submit their fingerprints for the fingerprint-based criminal record checks. Under the provisions of the law:

Employees in any program that is licensed, funded or approved by the State licensing agency who have the potential for unsupervised contact with children, including those providing transportation services on behalf of any early education and care department licensed, funded or approved program hired to begin employment prior to September 1, 2013 shall submit fingerprints for state and national criminal history checks not later than September 1, 2016.

All department licensed, funded, or approved programs and all providers of transportation services on behalf of any department-licensed, funded, or approved

program, whose employees are subject to a State and national criminal history check under this chapter, shall require such employees hired on or after September 1, 2013, without the results of State and national fingerprint-based criminal history checks to submit fingerprints for State and national criminal history checks within a reasonable period of time.

After conferring with officials from the State agency and the State licensing agency, we determined that a reasonable amount of time for an employee to submit fingerprints would be 60 days from the date of the fingerprint notification letter that the State licensing agency sends out to instruct the employee to schedule the fingerprinting appointment.

Some Employees at Group Homes Were Not In Compliance With Background Record Check or Fingerprint Submission Requirements

We determined that 18 of the 30 group homes that we reviewed (60 percent) had 1 or more employees who were not in compliance with State requirements regarding background checks or fingerprint submission. Specifically, we found that 155⁶ of 1,445 group home employees did not have 1 or more of the required background record checks (CORI check, DCS check, and SORI checks) prior to employment or any time thereafter or had not submitted fingerprints for the State and national criminal history checks within the required or a reasonable timeframe, as applicable.

The 155 group home employees who had not received 1 or more of the required background record checks or had not submitted fingerprints as required included (1) employees who were hired on or after September 1, 2013, and (2) employees who were hired before September 1, 2013. Because the requirements for these two groups differ, we reviewed them separately.

Employees Hired On or After September 1, 2013

Employees who were hired on or after September 1, 2013, were required to have a CORI check, a DCF check, and a SORI check prior to employment and as required thereafter.⁷ They were also required to have submitted fingerprints for State and national criminal history checks within a reasonable period of time, which is not defined in the Massachusetts law, but which State officials suggested should be 60 days from the date of the fingerprint notification letter. We are using the 60-day timeframe from the date of the letter as our measure of reasonableness.

⁶ The 155 individuals were employed by the group homes at the time of our site visits.

⁷ CORI and DCF checks must be conducted at least every 3 years, and SORI checks are required on a periodic basis (606 CMR § 14.08).

We found that 106 employees⁸ who were hired after September 1, 2013, had not received 1 or more of the checks required prior to employment (and periodically thereafter) or had not submitted fingerprints for the criminal history checks within 60 days of the fingerprint notification letter. As of March 24, 2017, the State agency did not provide evidence to support that these individuals had obtained the proper record checks prior to employment or submitted fingerprints for the criminal history checks within 60 days from the fingerprint notification letter. Specifically,

- 99 employees had not submitted fingerprints for the fingerprint-based criminal history checks within 60 days;
- 5 employees did not receive CORI, DCF, and SORI checks prior to employment or at any time thereafter, and had not submitted fingerprints for the fingerprint-based criminal history record checks within 60 days;
- 1 employee did not receive a SORI check prior to employment or any time thereafter and had not submitted fingerprints for the fingerprint-based criminal history checks within 60 days; and
- 1 employee did not receive a DCF or SORI check prior to employment or at any time thereafter and had not submitted fingerprints for the fingerprint-based criminal history checks within 60 days.

Employees Hired Prior to September 1, 2013

Employees who were hired prior to September 1, 2013, were required to have a CORI check and a DCF check prior to employment and at least every 3 years thereafter. As of September 3, 2013, when the Massachusetts law was enacted, these employees were also required to undergo a SORI check. According to guidance issued by the State licensing agency, SORI checks were to be conducted at the same time as CORI and DCF checks.⁹ Because CORI and DCF checks are required at least every 3 years, every employee hired prior to September 1, 2013, should have received a SORI check by September 1, 2016, at the very latest. Further, the Massachusetts law required that the employees submit fingerprints for State and national criminal history checks by September 1, 2016.

⁸ Of the 106 employees hired after September 1, 2013, 85 were sent fingerprint notification letters between May 30, 2014, and January 25, 2017. These employees should have submitted their fingerprints within 60 days of the date of the letter to meet the reasonableness standard. For example, individuals receiving fingerprint notification letters dated January 25, 2017, should have submitted fingerprints by March 24, 2017. The State licensing agency did not provide the date of the notification letters for 21 employees.

⁹ Department of Early Education and Care, "Background Record Checks are Changing – What You Need to Know," issued August 28, 2013, and revised September 18, 2013.

We found 49 employees hired before September 1, 2013, had not received 1 of more of the checks required prior to employment (and periodically thereafter) or had not submitted fingerprints for the criminal history background checks by September 1, 2016. As of March 24, 2017, the State agency could not provide documentation to support that these individuals had received the proper checks prior to employment (or periodically thereafter) or submitted fingerprints for the criminal history checks by September 1, 2016. Specifically:

- 42 employees had not submitted fingerprints for the fingerprint-based criminal record checks by September 1, 2016;
- 3 employees did not receive a SORI check prior to September 1, 2016, and did not submit fingerprints for the fingerprint-based criminal record checks by September 1, 2016;
- 3 employees did not receive CORI and DCF checks prior to employment (or at any time thereafter), did not receive a SORI check by September 1, 2016, and did not submit fingerprints for the fingerprint-based criminal record checks by September 1, 2016; and
- 1 employee did not receive DCF and SORI checks prior to employment (or at any time thereafter) and did not submit fingerprints for the fingerprint-based criminal record checks by September 1, 2016.

Why Some Employees at Group Homes Were Not In Compliance With Background Record Check or Fingerprint Submission Requirements

The State agency relied on the State licensing agency to ensure all group home employees had completed CORI, DCF, and SORI checks and submitted fingerprints for the fingerprint-based background history checks within the required timeframes.

Employees hired on or after September 1, 2013, were required to submit fingerprints within a reasonable time period, which we determined was 60 days from the date of the fingerprint notification letter. Employees hired before September 1, 2013, were required to submit fingerprints by September 1, 2016.

For employees hired after September 1, 2013, the regulations did not mandate a timeline for fingerprinting. As a result, there existed no time requirements for completion of fingerprinting apart from instructions sent to the group home in a fingerprint notification letter stating that the group home must ensure the applicant schedule a fingerprinting appointment within 21 days of receipt of the letter. The notification letter also informed the group home that it was

within its discretion whether to allow an applicant to have unsupervised contact with children in the program, pending the results of the fingerprint-based check.¹⁰

According to the State licensing agency, fingerprinting was not available as of September 1, 2013, because the fingerprinting sites were not yet created. Because of technical difficulties, individuals were not able to submit fingerprints until May 2014. Group homes were prohibited from sending staff to be fingerprinted prior to receipt of a fingerprinting notification letter from the State licensing agency. The State licensing agency explained that it staggered the mailing of fingerprinting notification letters to avoid overwhelming vendor facilities that were responsible for receiving and fingerprinting individuals. Because of deficiencies with the State licensing agency's information technology system, the State licensing agency was not equipped to manage the task of tracking and notifying individuals to be fingerprinted when the Massachusetts law was passed in September 2013. Because these deficiencies existed, the State licensing agency did not always meet the timeline set out in the Massachusetts law, potentially placing the children in these homes at risk.

RECOMMENDATIONS

We recommend that the State agency:

- work with the State licensing agency to ensure all instances of noncompliance are corrected,
- consider adding a requirement in future contracts that the group homes conduct repairs and general upkeep within a specified timeframe,
- increase the frequency of announced visits and consider including unannounced visits as part of its monitoring system, and
- work with the State licensing agency to implement adequate monitoring controls to ensure that all group home employees who have the potential for unsupervised contact with children receive all of the required background record checks within a specific and reasonable timeframe.

¹⁰ A group home may allow a candidate to have unsupervised contact with children as a "conditional" employee if the CORI, SORI, and DCF checks have been approved (606 CMR § 14.11(4)).

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred with our first, third, and fourth recommendations, and it said that it will take our second recommendation into consideration for future contracts. In addition, the State agency outlined corrective actions and improved collaboration with the State licensing agency to address our findings and recommendations. For example, the State agency said that the State licensing agency was implementing enhancements in its information technology system to help ensure that it would conduct all of the required background checks. The State agency's comments are included in their entirety as Appendix F.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We conducted health and safety site inspections and requested current employee listings from May 2 through 26, 2016, at 30 Massachusetts group homes that provided services to Title IV-E eligible children in foster care.

We selected 30 of 101 group homes (model 1:3 and 1:4) that provided services designed for the range of ages and the intensity of needs required for the majority of Title IV-E eligible children in foster care in group home placements during our audit period. We selected these group homes on the basis of various factors, including the group homes' location, capacity, age of the children in foster care homes, and operational status. (See Appendix B for descriptions of the Caring Together group home models.) Our site visits were conducted throughout Massachusetts.

We did not assess the State agency's overall internal control structure. Rather, we limited our review of internal controls to those applicable to our audit objective.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance;
- interviewed State agency officials;
- developed a health and safety checklist as a guide for conducting site visits;
- obtained a list of all group homes and the number of Title IV-E eligible children at each group home in Massachusetts;
- coordinated with State agency staff to conduct unannounced inspections at 30 different group homes;
- reviewed State licensing agency requirements;
- met with group home program directors to discuss the purpose of our audit;
- obtained a list of current employees and date of hire for employees who worked within the specific program we inspected;

- discussed any health and safety concerns with the group home officials after the site inspections were conducted;
- requested and reviewed completion dates obtained from the State agency and State licensing agency to ensure that background record checks were conducted for the group home employees;
- contacted State agency officials with immediate health and safety concerns when applicable; and
- discussed preliminary findings and conducted an exit conference at the State agency with State officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: CARING TOGETHER GROUP HOME MODEL DESCRIPTIONS¹¹

Group homes provide an array of out-of-home residential treatment services supporting youths and their families when the youth cannot function safely at home or in a family setting. Group home services provide flexible individualized treatment, rehabilitation, and support/supervision services that vary in intensity based upon individual youth and family needs. There are currently four group home service models, and each model is designed for a certain range of ages and intensity of needs.

Intensive group home 1:3. Youth appropriate for intensive group home 1:3 services are typically not able to safely manage independent community access and require a high level of supervision, behavioral support, and structure to develop self-regulation skills to reduce the frequency and intensity of behaviors that place themselves or others at risk of harm. Intensive group home 1:3 residential sites must be located in a community or a residential school setting, although intensive group home 1:3 residents will attend public school. Staff-to-client ratio must be 1:3 during times when youth are at a residential site and awake. Overnight staff must be awake; however, the ratio may decrease to 1:6. There must be a minimum of two awake staff on overnight shifts, regardless of the number of youth at the residential site.

Group home 1:4. Youth appropriate for group home 1:4 services exhibit behaviors that place themselves or others at risk of harm. They require supervision and behavioral support to develop self-regulation skills to reduce the frequency and intensity of challenging behaviors. They require less intensive levels of supervision and support than those in intensive group home 1:3s. In addition, these youth are able to function independently within the community for limited periods of time and utilize community-based clinical services. Group home 1:4 services must be provided in a community-based setting. Staff-to-client ratio must be 1:4 during times when youth are at a residential site and awake. Overnight staff must be awake; however, the ratio may decrease to 1:8. There must be a minimum of two awake staff on overnight shifts regardless of the number of youth at the residential site.

Pre-independent living. Youth appropriate for pre-independent living services are 16 years old or older, able to independently manage community access, and willing to participate in programming designed to build independent living skills and support their transition to young adulthood. These youth typically exhibit self-control, are enrolled in school or a GED program or have completed the above, and are working or involved in vocational training. These youth cannot be served in a family setting because of supervision or clinical needs. Pre-independent services must be provided in a community-based setting. The staff to client ratio must be 1:5 during times when youth are at a residential site and awake. Overnight staff must be awake;

¹¹ Caring Together: Strengthening Children and Families Through Community-Connected Residential Treatment, Request For Response # 04-8210-3080-01, First Restatement Appendix G, Specifications for Group Home with Follow Along/Stepping Out Services, October 29, 2012

however, the ratio may decrease to 1:10. There must be a minimum of one awake staff on the overnight shift regardless of the number of youth at the residential site.

Independent living. Youth appropriate for independent living services are 17-and-a-half years old or older, able to live on their own with support, able to independently manage community access, have attained a sufficient level of independent living skills to enable them to live without onsite staffing, require and are able to utilize staff support to strengthen these independent living skills, exhibit a strong level of self-regulation, are enrolled in school or a GED program, or have completed the above and are working or involved in vocational training. These youth cannot be served in a family setting because of clinical needs. Independent living services may be provided at either scattered or centralized (e.g., apartment) sites within the community. Staff do not provide onsite supervision. Staff provide outreach to youth and check in with them on a regular basis. Staff must be available for face-to-face crisis intervention 24 hours a day, 7 days a week. Staff schedules must be designed so staff are available to support the youth's needs.

APPENDIX C: FEDERAL AND STATE REQUIREMENTS

FEDERAL REQUIREMENTS

Title IV-E of the Social Security Act

Section 471(a) (42 U.S.C. 671) states:

In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which . . . (10)(a) provides for the establishment or designation of a State authority or authorities that shall be responsible for establishing and maintaining standards for foster family homes and childcare institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for the institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and which shall permit use of the reasonable and prudent parenting standard.

STATE REQUIREMENTS

Massachusetts 606 CMR § 3.07 Care of Residents

The group home must store, prepare, and serve all food in a manner as to be clean, wholesome, free from spoilage, and safe for human consumption (Massachusetts 606 CMR § 3.07(6)(i)).

Massachusetts 606 CMR § 3.08 Physical Plant

The group home must store poisonous cleaning substances or other toxic substances in areas where they are not accessible to residents (Massachusetts 606 CMR § 3.08(3)(a)).

The facility and its grounds must be maintained in a sanitary, comfortable, and safe condition (Massachusetts 606 CMR § 3.08(5)).

The facility and grounds must be maintained free from rodent or insect infestation by qualified persons (Massachusetts 606 CMR § 3.08(5)(a)).

All exits, exit accesses, and exit discharge areas must be maintained continuously free from all obstructions or impediments to immediate use (Massachusetts 606 CMR § 3.08(5)(c)).

Outdoor recreation areas and equipment must be safe. Equipment must be maintained in good repair, of safe design without sharp protrusions, and must be securely anchored to the ground (Massachusetts 606 CMR § 3.08(5)(d)).

The outside recreation area must be fenced, if appropriate, for the age and needs of the population served (Massachusetts 606 CMR § 3.08(5)(d)(2)).

Equipment must be stored in a locked area (Massachusetts 606 CMR § 3.08(5)(e)).

The group home must maintain standard first-aid kits that are accessible to each major activity area of the program. These kits must be checked and restocked regularly (Massachusetts 606 CMR § 3.08(5)(k)).

The group homes must assure that all areas accessible to infants, toddlers, and young children must be child-proofed appropriately. Electrical outlets must be covered (Massachusetts 606 CMR § 3.08(5)(l)).

Living units must be safe, clean, and in good repair (Massachusetts 606 CMR § 3.08(7)(a)).

There must be evidence of regular cleaning and maintenance routines in all areas of the facility (Massachusetts 606 CMR § 3.08(7)(a)(1)).

Broken furniture and ripped upholstery must be repaired or discarded (Massachusetts 606 CMR § 3.08(7)(b)(1)).

All windows must have operable screens in good repair (Massachusetts 606 CMR § 3.08(7)(c)).

The group homes must provide bedrooms which have (1) direct outside ventilation and (2) at least one operable window (Massachusetts 606 CMR § 3.08(7)(e)(1) & (2)).

The group homes must provide each resident with his or her own bed, which must be of sufficient size to accommodate the resident comfortably. No cots or portable beds may be used (Massachusetts 606 CMR § 3.08(7)(j)).

Each bed must have a clean, comfortable, non-toxic, and fire retardant mattress (Massachusetts 606 CMR § 3.08(7)(j)(1)).

Sheets, pillows, pillow cases, and blankets must be provided for each bed (Massachusetts 606 CMR § 3.08(7)(j)(2)).

Bathing and toilet facilities must be maintained in good repair and in clean condition (Massachusetts 606 CMR § 3.08(8)(a)).

All tubs and showers must be equipped with a nonslip surface or mat (Massachusetts 606 CMR § 3.08(8)(g)).

The group homes must provide a place for toiletries (Massachusetts 606 CMR § 3.08(8)(j)).

Massachusetts 606 CMR § 14.01: Purpose

The purpose of 606 CMR § 14.00 is to establish standardized procedures for Department of Early Education and Care (EEC) licensed, approved, or funded programs regarding the review of criminal records and other background information of candidates under consideration for employment or regular volunteer positions. The Department of Criminal Justice Information Services has authorized EEC and some EEC licensed, approved, or funded programs to receive criminal record information regarding present or prospective employees in any program funded or operated by such agencies. DCF (formerly the Department of Social Services) has entered into an Interagency Service Agreement with the Department of Early Education and Care regarding the sharing of information resulting from investigations of allegations of abuse or neglect of a child, pursuant to M.G.L. c. 119, §§ 51A and 51B. In addition, the Massachusetts General Court has required EEC to conduct SORI checks and fingerprint-based checks of state and national criminal history databases for present or prospective employees or other persons providing childcare or support services with the potential for unsupervised contact with children in any program or facility licensed, approved, or funded by EEC. These regulations shall supersede any and all current EEC regulations that specify the age of an individual upon whom a CORI, or any other type of background record check, is to be performed.

Massachusetts 606 CMR § 14.02: Policy

To ensure that employees or other persons regularly providing childcare or support services with potential for unsupervised contact with children in any program or facility licensed or funded by EEC are appropriate for serving in their positions, a Background Record Check (BRC) shall be performed on all candidates for positions in such programs or facilities, as provided in 606 CMR § 14.00. A BRC shall consist of, at a minimum, a Massachusetts CORI check, a DCF background record check, a SORI check, and a fingerprint-based check of state and national criminal history databases. Further, a BRC shall be performed periodically, but no less often than every 3 years, on all persons in such positions. It is the policy of EEC that convictions of certain crimes, and certain other conduct, pose an unacceptable risk to the children served by EEC and its licensed or funded programs. Minimum standards for review of background information are set forth in 606 CMR § 14.00. Stricter standards may be set by EEC licensed or funded programs. While effective immediately, EEC shall implement the provisions of 606 CMR § 14.00 in phases. EEC shall issue implementation procedures with timetables for such implementation.

Massachusetts 606 CMR § 14.08: CORI and DSS Background Record Check Investigations

- (1) All candidates must complete the appropriate BRC request form.
- (2) After the hiring authority makes a preliminary decision to hire or accept the services of an individual, the completed BRC request form or electronic equivalent must be forwarded to the EEC CORI Unit.
- (3) EEC shall check the names of all persons listed below against the Sex Offender Registry database, prior to employment or licensure and on a periodic basis, to determine whether the candidate is classified as a Level 2 or Level 3 Sex Offender:
 - (a) prospective and current family childcare educators, their household members, and persons regularly on the premises;
 - (b) prospective and current family childcare assistants;
 - (c) prospective and current licensees;
 - (d) prospective and current EEC-approved reviewers;
 - (e) prospective and current employees, interns, and regular volunteers who have the potential for unsupervised contact with children;
 - (f) individuals who provide transportation services for EEC licensed or funded programs;
 - (g) applicants to be adoptive or foster parents and their household members; and
 - (h) prospective and current caregivers funded by the State agency.
- (4) All CORI and DCF BRC investigations that result in a finding of “no record” must be transmitted back to the hiring authority. Following EEC’s review and approval of the candidate’s SORI check results, EEC must notify the hiring authority to direct the candidate to submit to a fingerprint-based check of the State and national criminal history databases.
- (5) All CORI and DCF BRC investigations that show findings of criminal records or that the candidate has been found to be the person responsible for abuse or neglect of a child in a supported DCF 51B report must be promptly forwarded to the hiring authority for review consistent with 606 CMR § 14.00 and EEC’s policy.

(6) All fingerprint-based check findings shall be transmitted to EEC for review and approval. EEC shall then notify the hiring authority whether an individual has been approved for employment or for an intern or volunteer position.

(7) The frequency of background record checks shall be as follows:

(a) CORI and DCF background record check investigations shall be conducted when an offer of employment or volunteer or intern position is made and BRC approval is the final step in the hiring process. CORI and DCF background record check investigations shall be conducted at least every three years for those employees who have maintained continuous employment with the same employer unless the employer determines a greater frequency. CORI and DCF background record check investigations must be conducted each time a candidate is hired by a new employer.

(b) SORI checks shall be conducted prior to employment or licensure and on a periodic basis for all individuals listed in 606 CMR § 14.08(3).

(c) Fingerprint-based checks of State and national criminal history databases shall be conducted every 3 years. Individuals who fall within the following exceptions must be fingerprinted prior to new or continued employment:

1. candidates who have resided outside of Massachusetts;
2. candidates who have disclosed to the hiring authority that new criminal charges have been filed against him or her; and
3. candidates who have a break of 1 year or more from working in An EEC-licensed, approved and/or funded program.

(8) All hiring authorities must develop procedures that ensure that EEC can audit compliance with 606 CMR § 14.00.

Massachusetts 606 CMR § 14.11: Findings From Fingerprint-Based Checks

(4) The hiring authority may allow a candidate to begin conditional employment and have unsupervised contact with children, if the candidate's SORI Check has been approved by EEC and the candidate's CORI and DCF background record checks have been approved by the hiring authority. Conditional employment of a candidate may occur if the fingerprint-based check of the State and national criminal databases is pending.

Massachusetts Session Law Acts (2013), Chapter 77, An Act Relative To Background Checks

Massachusetts Session Law Acts (2013), chapter 77, §§ 10-13, applying to Massachusetts General Laws, chapter 15D, § 7:

All individuals who are currently licensed, certified or approved by the Department of Early education and Care, all household members, age 15 or older, or persons, age 15 or older, regularly on the premises of family child care licensees, as well as all in-home non-relative department funded caregivers, shall comply with the requirements of this act upon renewal of licensure, certification, approval or funding, but not later than September 1, 2016.

Subsections (a) and (b) of section 7 of chapter 15D of the General Laws, as amended by section 2, shall also apply to prospective employees in any Department of Early Education and Care licensed, funded or approved program who have the potential for unsupervised contact with children, including those providing transportation services on behalf of any department-licensed, funded or approved program, hired to begin employment on or after September 1, 2013.

Employees in any Department of Early Education and Care licensed, funded or approved programs who have the potential for unsupervised contact with children, including those providing transportation services on behalf of any Early Education and Care department licensed, funded or approved program hired to begin employment prior to September 1, 2013 shall submit fingerprints for state and national criminal history checks not later than September 1, 2016.

APPENDIX D: SUMMARY OF FINDINGS¹² AT GROUP HOMES

| Group Home Number | # of Care of Residents Requirements Not In Compliance ¹³ | # of Facility and Equipment Requirements Not In Compliance ¹⁴ | # of Employees Missing One or More Required Background Record Checks ¹⁵ |
|-------------------|---|--|--|
| 1 | 0 | 1 | 2 |
| 2 | 0 | 6 | 1 |
| 3 | 1 | 6 | 0 |
| 4 | 0 | 4 | 0 |
| 5 | 0 | 7 | 4 |
| 6 | 1 | 10 | 23 |
| 7 | 0 | 5 | 0 |
| 8 | 0 | 0 | 4 |
| 9 | 1 | 4 | 0 |
| 10 | 1 | 9 | 51 |
| 11 | 0 | 2 | 12 |
| 12 | 0 | 5 | 0 |
| 13 | 1 | 7 | 0 |
| 14 | 1 | 5 | 0 |
| 15 | 1 | 14 | 1 |
| 16 | 0 | 2 | 6 |
| 17 | 0 | 6 | 0 |
| 18 | 0 | 7 | 2 |
| 19 | 0 | 4 | 0 |
| 20 | 1 | 9 | 5 |
| 21 | 1 | 4 | 26 |
| 22 | 1 | 10 | 0 |

¹² A “finding” is defined as a State licensing requirement that was not in compliance at the time of our visit. There may be one or more instances of noncompliance for each finding. For example, under the Facility and Equipment requirements, 606 CMR § 3.08(a) requires that toxic chemicals be kept out of reach of the residents. If we found toxic chemicals located in three areas of the group home, we counted this as one finding as it violated one section of criteria.

¹³ 606 CMR § 3.07(6)(i).

¹⁴ 606 CMR § 3.08 (including subsections (3), (5), (7), and (8)).

¹⁵ 606 CMR § 14.08.

Some Massachusetts Group Homes for Children in Foster Care Did Not Always Comply With State Health and Safety Requirements (A-01-16-02500)

| Group Home Number | # of Care of Residents Requirements Not In Compliance | # of Facility and Equipment Requirements Not In Compliance | # of Employees Missing One or More Required Background Record Checks |
|--------------------------|--|---|---|
| 23 | 1 | 1 | 1 |
| 24 | 1 | 10 | 1 |
| 25 | 0 | 10 | 11 |
| 26 | 0 | 6 | 2 |
| 27 | 1 | 4 | 0 |
| 28 | 1 | 9 | 2 |
| 29 | 0 | 9 | 1 |
| 30 | 1 | 8 | 0 |

APPENDIX E: PHOTOGRAPHS OF INSTANCES OF NONCOMPLIANCE



Photograph 1: Open second-story window without a screen. Also in photo is a blanket that was tied in a knot onto an electrical conduit beneath the window.



Photograph 2: Second-story bedroom window where the blankets were tied together and to the electrical conduit.



Photograph 3: Bedding knotted together and tied to an electrical conduit located beneath an open second-story window without a screen.



Photographs 4 and 5: Resident bureaus with broken and missing drawers.



Photographs 6 and 7: Staircase with a broken handrail and broken balusters, which weakened the banister/railing system.



Photograph 8: A hole in a bedroom wall exposing the wall's frame.



Photograph 9: Resident bed with moldy mattress.



Photograph 10: Resident bed with ripped mattress and a dirty pillow.



Photographs 11 and 12: The left and right sides of a resident's bedroom that did not have an operable window.



Photograph 13: Dirty toilet, stained flooring, and full trash can in resident's bathroom.



Photograph 14 and 15: Water-damaged bathroom floor, dirty shower mat, a shower with mildew within the tile crevices, and a moldy shower curtain.



Photograph 16: Dirty kitchen wall and uncovered trash barrels.



Photographs 17 and 18: Rusty bathroom stall walls and a bathroom stall door that did not fit properly, preventing user from having full privacy.



Photograph 19: Discarded wood with protruding nails in a recreational area.



Photograph 20: Looking down the fourth-floor staircase of outdoor porch, which did not have a barrier to protect younger children from a potential falling hazard.



Photograph 21: An aerosol can of Febreze air freshener on a bedroom bureau with a cautionary label that states, "Use Only as Directed. Intentional misuse by deliberately concentrating and inhaling the contents can be harmful or fatal."



Photograph 22: Dangerous chemicals (floor stripper) accessible to residents in basement.



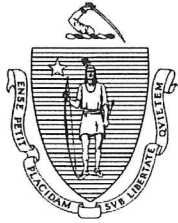
Photograph 23: Improperly stored and labeled food in a refrigerator.



Photograph 24: A box of rotting bananas found on a kitchen counter.



Photograph 25: An opened container of barbecue sauce found beneath the kitchen sink next to a steel pot collecting water from a leaking pipe.



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

APPENDIX F: STATE AGENCY COMMENTS

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Children and Families
600 Washington Street, 6th Floor
Boston, MA 02111
Tel.: 617-748-2000 Fax: 617-261-7435
www.mass.gov/dcf

MARYLOU SUDDERS
Secretary

LINDA S. SPEARS
Commissioner

October 18, 2017

Report Number: A-01-16-02500

David Lamir
Regional Inspector General for Audit Services
Office of Audit Services, Region I
JFK Federal Building
15 New Sudbury Street, Room 2425
Boston, MA 02203

Dear Mr. Lamir,

On behalf of the Department of Children and Families (DCF) and the Department of Early Education and Care (EEC), we thank you and your team for your patience and professionalism throughout your review of the health and safety requirements in residential programs serving foster children in the Commonwealth. Both DCF and EEC have reviewed your recommendations and will continue to collaborate to ensure the regulatory non-compliances observed during this audit are appropriately addressed with the residential providers and sites in a timely manner.

In addition, both DCF and EEC would like to clarify a few issues related to the monitoring of residential programs serving children in foster care. Under the laws and regulations of the Commonwealth, DCF is the lead agency responsible for administering the Title IV-E Foster Care Program, which is a major source of federal funding for foster children in the care and custody of DCF, including foster children temporarily placed in residential programs. As part of the federal funding requirements, the Commonwealth is required to establish and maintain health and safety standards for child care institutions serving children in the state's custody. As noted throughout this audit report, and set forth in DCF's approved Title IV-E State Plan, the health and safety standards for child care institutions are promulgated by EEC and are set forth at 606 CMR 3.00: the Standards for the Licensure or Approval of Residential Programs Serving Children and Teen Parents.

Under the General Laws of the Commonwealth, EEC is the state agency responsible for promulgating licensing standards for residential programs and ensuring compliance with these regulations. Although EEC is the state agency responsible for licensing residential group care programs and monitoring compliance with the aforementioned regulations, DCF also has a responsibility to children in its custody and where they are placed. As such, DCF submits the following response and action steps in striving to ensure that children in state custody are placed in safe programs.

To increase better coordination and collaboration between DCF and EEC, both agencies are fully committed to continuing the established bi-monthly meetings, as detailed in our joint response to the OIG recommendations below. These meetings are designed to facilitate regular communications on all issues related to residential programs, including, but not limited to, the health and safety of foster care children.

Sincerely,



Linda S. Spears
Commissioner

cc: Marylou Sudders, Secretary, Executive Office of Health and Human Services
James Peyser, Secretary, Executive Office of Education
Thomas L. Weber, Commissioner, Department of Early Education and Care
Andrew Todd Rome, General Counsel, Department of Children and Families
Felicia Sullivan, General Counsel, Department of Early Education and Care

The following responses to the OIG recommendations have been jointly prepared by both DCF and EEC.

OIG recommends that the State agency:

1. Work with the State licensing agency to ensure all instances of noncompliance are corrected:

Both DCF and EEC concur with the OIG's recommendation. These programs are licensed by EEC and have contracts with DCF to provide residential services to children through a competitive procurement process.

EEC immediately reviewed the instances of non-compliance found by the OIG's findings and promptly followed up with programs. A substantial number of the regulatory non-compliances have been addressed and EEC will continue to follow up on any remaining issues it determines are non-compliances within its regulations.

DCF has a responsibility to ensure the health and safety of foster children placed in care, including residential programs. It is through this contractual relationship that DCF Social Workers conduct regular monthly visits to children in placement. In addition to these child visits, the Department employs specific workers, known as Caring Together Network Specialists (CTCS workers) who also conduct regular visits, both announced and unannounced, to ensure compliance with the programmatic requirements of the contracts, as well as to observe the living conditions for the foster youth residing in these programs. All concerns related to the living conditions are expected to be communicated to both the management of the residential programs, as well as to EEC. Should DCF staff identify any health and safety concerns at any EEC licensed residential facility, staff must immediately report concerns related to health and safety to EEC, and DCF will take appropriate action in accordance with the residential program's contract. These actions can include, but are not limited to, removal of children, implementing a freeze on the placement of additional foster children, or revoking the contract.

To ensure coordination of both licensing and contracting responsibilities, DCF and EEC will continue to utilize the agencies' Memorandum of Understanding that allows for the sharing of any allegations of abuse or neglect that occur in EEC licensed programs, which includes residential programs serving children in foster care.

2. Consider adding a requirement in future contracts that the group homes conduct repairs and general upkeep within a specified timeframe.

DCF will take OIG's recommendation into consideration for future contracts. In addition to requiring the program to maintain their licensure with EEC, DCF will look to include specific language related to timely regulatory compliance as both a pre-condition for eligibility, as well as an on-going requirement to maintain its contract with DCF. Since EEC is responsible for overseeing regulatory compliance that may impact a program's licensure, DCF will collaborate with EEC and the providers to determine appropriate timeframes for making minor repairs, major repairs, and repairs necessary to address immediate health and safety concerns.

3. Increase the frequency of announced visits and consider including unannounced visits as part of its monitoring system

Both DCF and EEC concur with this recommendation. Presently, EEC completes a licensing visit to residential group homes once every two years. EEC implemented its differential licensing system on September 27, 2017, which allows the state licensing agency to maximize its resources and increase its ability to visit all programs subject to licensure on at least an annual basis. As part of this new licensing protocol, EEC anticipates it will conduct at least one unannounced licensing visit on an annual basis at each EEC licensed program to review health and safety risk factors, and will visit programs with serious non-compliances on a more frequent basis.

At the same time that EEC is conducting their licensing and monitoring visits to the programs, DCF will continue to follow its existing procedures for monitoring DCF Congregate Care programs, which include:

- Regular announced programmatic monitoring;
- Unannounced visits to the programs;
- Complete at a minimum annual clinical and quality improvement reviews;
- Review of treatment planning; and
- Support to ensure providers are meeting the contract standards.

In addition, DCF and EEC will continue to hold bi-monthly meetings at a central office level in which the two agencies can discuss progress and/or concerns of a particular program or of a systemic matter that the two agencies can collaborate in order to resolve.

4. Work with the State licensing agency to implement adequate monitoring controls to ensure that all group home employees who have the potential for unsupervised contact with children receive all of the required background record checks within a specific and reasonable timeframe.

The background record checks are a necessary review for the safety of children. Consequently, both DCF and EEC concur with this recommendation. In response to OIG's report, EEC has contacted and has been providing technical assistance to the two programs with the highest number of background record check (BRC) deficiencies. EEC has been actively working with the remaining programs to ensure they are versed on EEC's BRC requirements, and will confirm specific dates by which all outstanding BRC deficiencies constituting regulatory non-compliances identified by OIG must be addressed. EEC will continue to monitor compliance and provide technical assistance on the background record check process to programs as needed to ensure that all individuals who have contact with children are appropriately screened.

EEC is also implementing enhancements to its BRC information technology (IT) system that EEC anticipates will greatly improve its ability to ensure that all employees in EEC licensed programs complete all of the required background checks (CORI, SORI, fingerprinting and DCF history). Specifically, the new IT system is expected to have internal and external portals that will allow for processing of and direct access to BRC information through one streamlined system. The

system will be applicant (employee) based, which is anticipated to improve EEC's ability to remotely monitor hiring decisions, will provide reports and information directly to licensors that will be accessible while onsite, and will permit reminders to be sent to programs and employees about crucial BRC deadlines (such as date for renewal of BRC and fingerprinting deadlines). It is anticipated that the new IT system will be implemented in early calendar year 2018.

The Commonwealth is committed to safeguarding the health, safety and welfare of children in its care. DCF will continue to monitor the residential placements where foster children are placed and will work collaboratively with both EEC and the programs to ensure that all non-compliance matters, including background record checks, are resolved in a timely manner.