



Minnesota Department of **Human Services**

December 21, 2004

James Nobles
Legislative Auditor
Office of Legislative Auditor
Centennial Building
658 Cedar Street
St. Paul, MN 55155

Dear Mr. Nobles:

The Department of Human Services (DHS) appreciates the opportunity to respond to your January 2005 report titled “Child Care Reimbursement Rates.” We found portions of the report contained useful analysis of the rate setting process for Minnesota Child Care Assistance Program (CCAP). To the extent that the report makes recommendations in these areas, we welcome the feedback and will look for opportunities to test recommendations and implement them as appropriate.

However, overall the Department is disappointed with the report. The report does not make the necessary connection between the details of the process for setting maximum rates and the impact of the resulting rates on low-income families participating in CCAP, child care providers, and the State budget. As a result, it is not very useful for policy makers who are considering rate-setting alternatives and want to understand the implications of their decisions.

Most importantly, the Department objects to and disagrees with the report’s characterization of some practices in the rate-setting process as inconsistent with state law. As detailed below, we believe the Department complied with the law in implementing regional rates in response to the 2003 legislation requiring a rate freeze. The claim that some rate conversion policies result in maximum rates that exceed the level allowed in state law is unsubstantiated.

The Department’s specific responses to identified “Major Findings” and “Key Recommendations” follow.

Major Findings

- ***The basic methods used by the Department of Human Services to set maximum reimbursement rates for the Child Care Assistance Program are reasonable.***

The Department agrees with this finding. These methods have been developed over six years working closely with a consulting firm. That firm has 20 years experience in providing technical assistance and conducting research and data analyses for state governments, and has worked with other states on setting rates for child care assistance programs.

- ***However, the Department sometimes uses complicated rate conversion procedures that ignore important information about market rates for child care. As a result, some maximum rates exceed the levels we think are allowed under state law.***

We agree that the conversion process used by the Department needs to be reviewed and we have begun such a review, but do not agree that some rates set by the Department exceed those allowed in state law. The process for arriving at 75th percentiles is not specified in the law. Rather, the Department is instructed to calculate the maximum rates based on a survey of market rates. Given the complexity of the market rate data in any given county, and the multiple possible methodologies that could be used to arrive at maximum rates, the conclusion that some rates set by the Department exceed the levels authorized in law is unfounded.

We are generally concerned with the approach the report takes in examining our methodology for converting rates. We understand this to be a compliance audit of the Department's policies for setting maximum rates. As such, we would expect to be measured by: whether we follow the law; whether we consistently implement our own policies; and, how our policies compare with best practices in use across the nation. Instead, the focus of the report is to compare our policies with a conversion methodology created by the report authors. While the methodology may have some merit, it is untested and has not been thoroughly analyzed for unintended consequences. The report presents several cases where the alternative methodology seems to work better than the Department's current methodology, but does not make a case for how the methodology would work if applied system-wide. This makes it difficult to assess the value of the analysis provided in the report, and calls to question the validity of the findings.

- ***We question whether the Department of Human Services complied with state laws in establishing regional and statewide maximum rates for child care centers in 68 counties in July 2003. The Department of Education's prior practice of paying a provider's rate without a maximum clearly violated state statutes.***

The Department set regional rates based on authority provided in administrative rule. We believe the administrative rule is a valid interpretation of state law. Regional rates were established to implement the freeze in maximum rates that was enacted into law in 2003.

At that point, many counties had the “pay provider rate” policy in place for child care centers. Moving to regional rates for those counties allowed us to control costs as anticipated under the legislated rate freeze.

- ***In some parts of the state, an unexpectedly high percentage of licensed family home providers have billed the maximum rate for subsidized care. The reasons for this are unclear, but the department needs to examine whether some providers are inappropriately billing the Child Care Assistance Program.***

We do not believe the report makes a very strong case that providers may be inappropriately billing CCAP, and are thus unsure why the report elevates the importance of this finding. The analysis looks at the tendency of providers to charge at the maximum allowable CCAP rate. We would expect the tendency of licensed family care to be somewhere between the tendency for licensed centers and legal non-licensed care, just as the analysis found. However, we are concerned at any suggestion of impropriety and will investigate this issue. We are also already in the process of developing case management protocols for counties that would address the issue of cross-checking rates before making payments.

- ***There is some evidence that subsidized families in Minnesota use child care centers—the most expensive type of care—more often than unsubsidized families. However the use of centers in Minnesota’s Child Care Assistance Program is much lower than that for subsidized programs in most other states.***

This finding is based on a 1999 study. While this is the best evidence currently available, the study was not designed to isolate families accessing CCAP. In March 2004 the Department initiated a follow up to the 1999 study. The new study includes an over-sampling of low-income families which may provide more reliable comparisons of types of care. This report will be released in the summer of 2005.

While we dispute most of the key findings, we agree with the general direction of most of the report’s recommendations. Specifically:

Key Recommendations:

- ***The Department of Human Services should revise the methods it uses to calculate maximum reimbursement rates, particularly the methods used to convert maximums from one time period to another.***

We agree on the need to review the outcome of some of the converted rates in our current methodology. And, we agree there is likely some merit to the recommendation to use

converted maximums to set upper limits; we are examining how this methodology would work. As stated above, we are concerned the alternative methodology has not been thoroughly analyzed and it is not clear whether it would work well if used system-wide. Initial analysis suggests that it results in “proportionality issues,” e.g., hourly rates that are disproportionately high compared to the daily or weekly rates. While there may be ways to mitigate this concern, it requires more analysis.

- ***The Department of Human Services should seek changes in state laws that would clearly allow the department to implement maximum rates based on geographic areas larger than a single county.***

We believe the Department operated within the authority allowed under rule and law when implementing regional and statewide rates. We will review the statute and rule and determine whether it would be helpful to codify some rule language into statute.

- ***The Department of Human Services should become more familiar with the information reported in rate surveys. Department staff should adequately review the work of the child care resource and referral agencies that collect rate data and the consultant that analyzes the data and calculates maximum rates.***

We agree that the Department should provide closer oversight of the survey conducted by Child Care Resource and Referral agencies, revise and tighten some instructions for data collection and work with contractor to review data in more depth to ensure completeness and consistency. The agency had already taken steps to improve the process between the 2001 and 2004 surveys.

- ***The Department of Human Services should examine whether there is a problem in some counties with providers charging the Child Care Assistance Program a higher rate than they charge the general public.***

As stated above, we do not believe the report has made a very strong case that this problem exists. However, we are concerned at any suggestion of impropriety and will investigate this issue. We are also already in the process of developing case management protocols for counties that would address the issue of cross-checking rates before making payments.

Thank you for the opportunity to review and respond to this report. Child Care Assistance is an important part of Minnesota’s efforts to support working families and support the healthy development of low-income children. While we disagree with many

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of the report's findings and are disappointed it did not provide a clearer roadmap for policymakers, we will seek to use the information in the report to improve our rate setting processes.

Yours sincerely,

/s/ Kevin Goodno

Kevin Goodno
Commissioner