REPORT OF

THE

STATE AUDITOR

Foster Care Program
Department of Human Services

Performance Audit
June 2002

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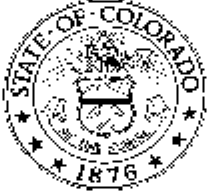

STATE OF COLORADO

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June 25, 2002

Members of the Legislative Audit Committee:

This report contains the results of the performance audit of the foster care program in the Colorado Department of Human Services. The audit was conducted pursuant to Section 2-3-116, C.R.S., which requires the State Auditor to conduct a performance and financial audit of the State's foster care program. The report presents our findings, conclusions, and recommendations, and the responses of the Department of Human Services.

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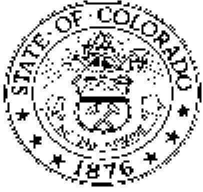

STATE OF COLORADO
OFFICE OF THE STATE AUDITOR **REPORT SUMMARY**

JOANNE HILL, CPA
State Auditor

Foster Care Program
Department of Human Services
Performance Audit, June 2002

Authority, Purpose, and Scope

The audit of the foster care program was conducted under the authority of Section 2-3-116, C.R.S., which requires the State Auditor to conduct a performance and financial audit of the State's foster care program. The audit was conducted in accordance with generally accepted government auditing standards. Audit work was performed from January 2002 to May 2002.

This report contains findings and 23 recommendations for improving the foster care program. We would like to acknowledge the efforts and assistance extended by management and staff from the Colorado Department of Human Services, county departments of human/social services, child welfare advocacy groups, and private child placement agencies (CPAs). The following summary provides highlights of audit comments, recommendations, and responses contained in the report.

Safety of Children in Foster Care

The primary goal of Colorado's foster care program is to ensure the safety, permanency, and well-being of vulnerable children placed in foster homes. Most of these children have been abused and/or neglected by their parents or other caretakers and are placed in foster care to ensure their well-being. During the audit, we evaluated the Department's efforts to protect children in the foster care system. We identified a number of problems with the Department's oversight of children's safety in foster care. Specifically:

- Colorado did not meet the national benchmarks for two of six outcome measures reported to the U.S. Department of Health and Human Services. These two outcome measures include rates of abuse and neglect incidents in foster care and reentry into foster care within 12 months of a prior foster care episode. Although the Department has made some efforts to address abuse/neglect and reentry outcomes, we believe the Department should take a more proactive role in addressing the high rates for these two measures.

- The Department can improve investigations of foster care abuse and neglect incidents. The Department should (1) ensure that CPAs are reporting all critical incidents to department staff in a timely manner, (2) ensure that all investigations conducted on abuse and neglect incidents in foster care are completed within the prescribed time frames, and (3) streamline its process for tracking referrals and investigations.

For further information on this report, contact the Office of the State Auditor at (303) 869-2800.

- The Central Registry of Child Protection is not an effective screening tool in ensuring that prospective foster parents do not have histories of abuse or neglect in Colorado. We identified 43 cases where confirmed abuse or neglect incidents occurring within foster homes were not listed in the Central Registry. We also identified 5 foster care providers listed on the Central Registry in 1999 and 2000 who were still providing foster care for CPAs in State Fiscal Year 2001 and 10 certified providers with confirmed incidents of abuse or neglect who were not listed on the Central Registry during this time period.

- Some foster care providers transfer from one licensing authority to another and either they do not report all previous agencies that certified them to the current agency or the current certifying agencies do not adequately conduct reference checks with the previous agencies.

- Some CPAs in our sample certified family members of directors or owners as foster care providers. We noted potential safety issues with these situations, including the possibility that CPA staff may have biased conclusions on safety issues related to these homes and that the CPA may give preferential treatment to the related party. Currently statutes and regulations do not prohibit counties or CPAs from certifying family members of directors/owners and staff.

- Some CPA owners or directors or their immediate family leased properties to foster care providers. These lease arrangements present various safety concerns, such as CPAs may be less likely to close a foster care home where the property is owned by a staff member because the foster care provider is a tenant who is guaranteed to pay rent. Currently statutes and regulations do not prohibit CPA directors, owners, staff, board members, or their immediate family from leasing properties to foster care providers.

- A CPA in our sample violated state requirements, but the department staff failed to identify these violations during licensing visits. Some of the violations included excessive use of respite care, conflict-of-interest situations, wage violations, lack of financial resources by certified foster care providers, over capacity issues in foster homes, and inadequate staffing ratios.

- A majority of the counties in our sample do not review family assessments and background checks of foster parents certified by CPAs caring for children in the counties' custody. By reviewing family assessments and background checks, counties can better ensure that children in their custody are safe.

- The Department provides minimal oversight of county processes for recruiting, training, certifying, and monitoring foster care providers.

Financial Activities of Child Placement Agencies

As part of the audit, we evaluated the financial activities of 10 CPAs that provided foster care services in Calendar Year 2001. Overall, we questioned more than $1.1 million in expenditures incurred by six of these CPAs in Calendar Year 2001. Specific questioned costs include:

- More than $355,000 in payments for properties owned by CPA directors, owners, or founders or their immediate family.

- Nearly $370,000 in management fees made by a nonprofit CPA to a related for-profit corporation.

- Nearly $85,000 in payments made by a for-profit CPA to the owner's immediate family.

- About $130,000 in expenditures that appeared to be used for personal purchases.

- More than $80,000 in payments to one foster care provider that were intended for children in the care of two other foster care providers.

- More than $80,000 in questioned payments made to employees and contracted laborers for wages, bonuses, and reimbursements.

We found that the Department provides no oversight of, or accountability over, the financial activities of CPAs. Further, we found that the rate-setting approaches used by the Department and counties to set administrative rates paid to CPAs is flawed. Administrative rates often do not reflect CPAs' cost experiences.

Costs of Care

In an effort to comply with a recent statutory requirement to compare CPA expenditures with county expenditures, the Department is currently modifying two of its automated databases. However, we believe the methodology that the Department plans to use to track and compare these costs will not capture total foster care program costs incurred at the county or department level. Further, we found that the Department and counties do not know how much

of the funds paid to CPAs are passed on to their certified providers. These problems were noted in our 1998 audit report of the Division of Child Welfare Services.

Additionally, we found that the Department is not claiming all federal reimbursements available to the State. We estimate that at least $2.6 million in federal funding available to the State was not captured in Calendar Year 2001.

Redesigning the Foster Care Program

Overall, we found that due to a lack of accountability and oversight of county and CPA foster care activities, Colorado's program does not ensure the safety and well-being of children in the system. We identified three primary problem areas within Colorado's system, including:

- **The Department's oversight.** Management and accountability issues are pervasive. For instance, the Department does not ensure that funds paid to CPAs are actually used to benefit children in the system nor does the Department effectively monitor CPAs' and counties' activities related to ensuring the safety of children in the system.

- **Program requirements.** As a result of the Foster Care Interim Committee, the General Assembly passed two bills (Senate Bills 01-012 and 01-014) during the 2001 Legislative Session that address some of the safety issues related to CPAs. Some of the provisions in these bills included: (1) directing the Department to compare child placement agency expenditures for foster care to county expenditures; (2) requiring annual recertification of foster care homes beginning July 1, 2002, or when TRAILS enhancements are implemented; and (3) requiring county departments of human/social services to remove a foster child from a foster home if the child's safety is immediately and directly threatened. Additionally, the Department implemented emergency regulations in September 2000 in response to issues raised by the Interim Foster Care Committee. Some of the changes included:

  – Allowing county departments of human/social services to review written family assessments and background checks of foster parents prior to placing children in CPA certified foster homes.

  – Requiring that background and Central Registry checks are conducted and reviewed for all individuals 18 years of age or older entering the home with the intent of residing in the home or providing caretaker services prior to placement of a child in the home.

- Standardizing the family assessments completed by counties and CPAs.

- Standardizing the CPA foster parent applications making them the same as county applications.

- Requiring a statement to be included in CPA applications for certification of foster homes that states that "any applicant who knowingly or willfully makes a false statement of any material fact or thing in this application is guilty of perjury in the second degree as defined in Section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly."

In addition to these modifications, more changes in statutes and regulations are needed. For instance, state statutes and regulations could provide provisions that adopt federal spending requirements.

- **The use of CPAs.** While CPAs can serve an important role in the State's foster care program, the quality of care provided by some of these agencies is lacking, and the CPAs are not held accountable for their fiscal actions. Because of the ongoing issues with the use of CPAs for foster care, we believe their use should be challenged.

A summary of the recommendations and the Department's responses can be found in the Recommendation Locator on the following page. Our complete audit findings and recommendations and the responses of the Department of Human Services can be found in the body of the audit report.

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
1	22	Develop and implement a plan to lower abuse and neglect incidents and foster care reentry rates.	Department of Human Services	Agree	July 1, 2003
2	27	Ensure that all child placement agencies (CPAs) properly report critical incidents.	Department of Human Services	Agree	January 1, 2003
3	28	Ensure that county departments conduct Stage I investigations and submit reports to the Department in a timely manner.	Department of Human Services	Agree	September 1, 2002
4	29	Ensure that the Department conducts Stage II investigations in a timely manner.	Department of Human Services	Agree	August 1, 2002
5	32	Improve how information related to abuse and neglect referrals and investigations is tracked.	Department of Human Services	Agree	Fiscal Year 2005
6	34	Identify foster care providers with founded Stage I investigations who are not listed on the Central Registry and determine if these individuals should be placed on the Registry.	Department of Human Services	Agree	October 1, 2002
7	36	Evaluate how the Central Registry should be used when certifying foster care providers.	Department of Human Services	Agree	January 1, 2003
8	39	Ensure that prospective foster parents are properly screened before being certified.	Department of Human Services	Agree	September 1, 2002

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
9	41	Propose statutory changes that prohibit family members of CPAs and county departments from being certified as foster care providers of the related agency.	Department of Human Services	Agree	July 1, 2003
10	42	Propose changes in state statute and/or department regulations that prohibit CPA owners, directors, staff, and board members as well as their family members from leasing properties to foster parents.	Department of Human Services	Agree	July 1, 2003
11	46	Ensure that CPAs are complying with program requirements related to quality-of-care issues.	Department of Human Services	Agree	January 1, 2003
12	48	Ensure that county departments review family assessments and background checks on foster care providers certified by CPAs where they placed children.	Department of Human Services	Agree	July 1, 2003
13	50	Ensure that county departments are properly monitored.	Department of Human Services	Partially Agree	July 1, 2003
14	53	Work to achieve a greater degree of accountability related to Medicaid-reimbursable case management services provided by CPAs.	Department of Human Services	Agree	June 30, 2003
15	68	Ensure that all CPAs are meeting state and federal requirements related to how public foster care funds can be spent.	Department of Human Services	Partially Agree	December 31, 2003

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
16	74	Ensure that counties pay CPAs a reasonable level of compensation based upon individual cost experiences.	Department of Human Services	Partially Agree	July 1, 2003
17	79	Ensure that cost comparisons made between county foster care programs and CPA programs include comparable activities.	Department of Human Services	Partially Agree	July 1, 2003
18	82	Compare county and CPA payments to their certified foster care providers on an annual basis.	Department of Human Services	Partially Agree	July 1, 2003
19	84	Ensure that the Department submits reimbursement claims that include all federal Title IV-E funds available to the State.	Department of Human Services	Agree	January 1, 2003
20	85	Ensure that counties' placement and data entry processes result in the Department's accessing all federal Title IV-E funds available to the State.	Department of Human Services	Partially Agree	January 1, 2003
21	90	Establish specific outcome measures for the foster care program.	Department of Human Services	Partially Agree	Ongoing
22	93	Propose changes in state statutes and department regulations to address gaps in requirements related to safety and financial issues.	Department of Human Services	Agree	July 1, 2004
23	95	Work with the General Assembly to identify and implement alternatives for restructuring Colorado's foster care program.	Department of Human Services	Partially Agree	January 1, 2003

Overview of Colorado's Foster Care Program

Colorado's foster care program provides temporary and long-term care for children who are placed outside of their homes for protection or who are in conflict with their families or communities. Federal, state, and local governments are involved in foster care in Colorado. The Department of Human Services oversees the foster care program; the 64 Colorado counties administer the individual programs; and the Administration for Children and Families in the U.S. Department of Health and Human Services provides funds for reimbursement of costs for certain eligible children and goals for program outcomes. For purposes of this audit, "foster care" includes family foster care, specialized group care, kinship care, and receiving homes.

Colorado Department of Human Services

The Department is responsible for overseeing foster care in Colorado. As such, it promulgates regulations, provides training, licenses child placement agencies, provides technical assistance to counties, monitors outcomes, and prepares statewide reports. Three divisions within the Department are primarily involved in the foster care program:

- **The Division of Child Welfare Services** provides funding and state staff to oversee programs intended to protect children from harm and assist families in caring for and protecting their children. In Fiscal Year 2002 the General Assembly appropriated about $334.3 million and 42 FTE to Child Welfare Services. This appropriation included $278.2 million distributed to county departments of human/social services for child welfare activities (including foster care), $53.9 for other child welfare programs (i.e., independent living, expedited permanency planning, Promoting Safe and Stable Families, core services, and the Central Registry), and $2.2 million for administration.

- **The Administrative Review Division** monitors county departments' child welfare activities and facilitates communication between the State and counties. The General Assembly appropriated about $2.2 million and 31 FTE to the Division in Fiscal Year 2002. According to Administrative Review Division staff, 24 FTE are assigned to review children in out-of-home placements.

- **The Division of Child Care** is responsible for inspecting, licensing, and monitoring child placement agencies that provide foster care services as well as other child care services in the State. In Calendar Year 2001, 61 child placement agencies received payments for foster care services and were licensed by the Division of Child Care. The General Assembly appropriated about $77.1 million and 60.5 FTE to the Division in Fiscal Year 2002. Of this amount, $65 million was allocated to the Child Care Assistance Program, $6.4 million for child care grants to county departments and the pilot program for Community Consolidated Child Care Services, and $5.7 million for administration. Further, as part of the Division of Child Care's appropriation, 8 FTE, including 6 monitors, were assigned to the Division's 24-Hour Monitoring Unit. The Unit was created by the General Assembly in late 1999 and is responsible for monitoring and investigating problems at 24-hour facilities licensed by the Department (i.e., child placement agencies, specialized group homes, residential child care facilities, and residential treatment centers).

Colorado Counties

The 64 Colorado counties are responsible for the day-to-day administration of foster care. When a child is initially removed from his or her home, the courts often give temporary custody of the child to the department of human/social services located in the county where the child resides. The county department is responsible for finding and placing the child in the most appropriate and least restrictive setting, which is often a family foster home. County departments can place children in foster homes certified by the county or by private child placement agencies (CPAs). Child placement agencies recruit and certify their own foster families.

U.S. Department of Health and Human Services

The Administration for Children and Families in the U.S. Department of Health and Human Services also establishes regulations for foster care through Titles IV-B and IV-E of the federal Social Security Act and through the federal Adoption and Safe Families Act. Federal funding for foster care is provided through Titles IV-E and IV-B and the Title XX Social Services Block Grant.

Title IV-E of the Social Security Act provides funds for states to assist with the costs of foster care maintenance for eligible children; administrative costs to manage the program; and training for staff, foster parents, and private agency staff. The Title IV-E program is an open-ended entitlement program. Federal financial participation in state expenditures

for foster care maintenance is provided at the Medicaid match rate for medical assistance payments, which varies among states from 50 percent to 77 percent, dependent on the state's average income level. Colorado's match rate is 50 percent. Monthly payments to families and institutions made on behalf of foster children also vary from state to state. Federal financial participation is made at a 50 percent match rate for state administrative expenditures and at a 75 percent rate for state training expenditures.

In State Fiscal Year 2001 Colorado received nearly $24 million in federal funding from various sources (e.g., Title IV-E program, Title XX Social Services Block Grant, and Title IV-B program) for out-of-home placements. Out-of-home placements include foster care, residential child care facilities, and residential treatment centers. As discussed earlier, foster care homes, the focus of this report, include family foster care, specialized group care, kinship care, and receiving homes, and typically provide the least restrictive level of care. The Department cannot provide information on the amount of federal funding that is directly related to foster care, as defined in our audit. The Department only tracks this information in the aggregate for all out-of-home placements.

The Administration for Children and Families collects data from states to determine outcomes, as discussed in Chapter 1.

Foster Care Placements

In State Fiscal Year 2000 the monthly average number of children served in the foster care program was about 5,600. (More recent data, i.e., State Fiscal Year 2001, are not available due to problems with the Department's new automated child welfare management system, TRAILS.)

While the statistics for foster care alone are not available, the Department provided us with data showing that 13,045 children were served in out-of-home placement settings in Colorado in Federal Fiscal Year 2000. Of these children, about 5,500 (42 percent) were discharged from the child welfare system. The median length of stay for these children was 12 months. (More recent data are not available due to problems with TRAILS.) The amount of time children remain in the system varies based upon the circumstances of the children and their families. One factor that may affect the amount of time the child is in the system is the type of permanency goal developed for the child. According to state statutes and department regulations, county departments of human/social services must prepare a permanency plan for each child in out-of-home placement and submit the plan to the court prior to the permanency hearing scheduled for the child. The plan includes the permanency goal(s) developed for the child, which may include one or more of the following:

- Reunification with the child's parent(s) or guardian.
- Permanent placement with a relative through adoption, guardianship, or permanent custody.
- Adoption (non-relative).
- Legal guardianship/permanent custody (non-relative).
- Other planned permanent living arrangements, such as long-term foster care and emancipation.

As the table below shows, the median length of stay varied based upon the type of permanency goal established and achieved for the children.

Length of Stay for Children By Permanency Goal Achieved in Federal Fiscal Year 2000

Permanency Goal	Number of Children Discharged from Out-of-Home Placements [1]	Median Months to Discharge from Out-of-Home Placements
Reunification/relative placement	3,923	2.1
Adoption	173	21.6
Guardianship	73	8.6
Other [2]	887	6.8
Missing discharge reason [3]	420	25.1
Missing date of latest removal or date error [4]	36	NA

Source: Statewide Assessment for Colorado (April 2002) prepared by the Department of Human Services.

[1] The number of children discharged includes children in out-of-home placements (i.e., family foster homes, group homes, residential treatment centers, residential child care facilities, etc.).

[2] The "other" category includes long-term foster care, emancipation, permanency goals not yet established, and missing goal information.

[3] This category includes cases where the reason for discharge (e.g., reunification, adoption) was not available.

[4] According to the Department, dates necessary for calculation of length of time in care for these children are chronologically incorrect. As a result, the median months to discharge from out-of-home placements could not be determined.

Funding for Colorado's Program

The General Assembly appropriates funding for foster care through the Child Welfare Block Grant. Section 26-5-103.5, C.R.S., established the Child Welfare Allocation Committee to consist of "eight members, four of whom shall be appointed by a statewide association of counties and four of whom shall be appointed by the state department." The Committee determines how funding should be distributed among the counties. The Committee created an allocation formula that is based upon certain factors, such as child welfare and out-of-home placement caseloads and costs. State statutes give counties flexibility in spending their child welfare funds.

Although data are not available on the total funding and expenditures for foster care, information is available on payments for the maintenance of the children and payments from the counties to the CPAs. As the following table shows, expenditures for foster care maintenance payments and child placement agencies increased 10 percent from State Fiscal Year 1997 to State Fiscal Year 2000, while the average number of foster care children served each month decreased by 2 percent. Foster care administrative costs at the county and department levels are not available because they are not tracked. Additionally, State Fiscal Year 2000 data on expenditures and number of children are the most recent data available due to problems with the TRAILS.

Monthly Average Number of Children and Annual Foster Care Maintenance and Child Placement Agency Expenditures State Fiscal Years 1997 to 2000		
State Fiscal Year	**Average Number of Children Served Monthly**	**Annual Foster Care Maintenance and CPA Costs**
1997	5,722	$54,444,298
1998	5,895	$54,740,056
1999	6,199	$56,668,759
2000	5,609	$60,075,738
Percent Change From 1997 to 2000	**2.0% decrease**	**10.3% increase**

Source: Office of the State Auditor's analysis of out-of-home placement expenditure data provided by the Department of Human Services.
Note: Figures on the average number of children served monthly and the annual foster care maintenance and CPA costs include placements in family foster care, specialized group care, kinship care, and receiving homes.

Most children in foster care are eligible for funding under the state/county program and Medicaid. However, specific eligibility criteria exist for the federal Title IV-E program. To be eligible for the Title IV-E program, a child must meet both of the following conditions:

- The child must be placed in foster care either by a court order or through a voluntary placement agreement. For court-ordered placements, there must be judicial determinations that "removal from the home is in the child's best interests" and that "reasonable efforts to prevent the child's removal from the home have been made." For voluntary placements, there must be a judicial determination within 180 days of the child's placement in foster care that "continuation in out-of-home placement is in the child's best interest."

- The child must be determined eligible for Aid to Families with Dependent Children (AFDC) in accordance with the July 16, 1996, regulations.

The State is not eligible for Title IV-E reimbursements for foster care maintenance payments for children placed with for-profit child placement agencies. In Calendar Year

2000 more than 50 percent of the children served in foster care were eligible for the Title IV-E program.

Foster Care Interim Committee

Following a series of articles published in a Denver newspaper in May 2000, the Executive Committee of the Legislative Council created the Foster Care Interim Committee on June 1, 2000. This Committee was established to thoroughly examine the foster care system in Colorado and to develop any legislative or regulatory changes necessary to improve the system. It received testimony addressing child safety, the structure of the foster care system in the State, and the oversight and monitoring of child placement agencies. Committee members also discussed the authority of the Department of Human Services and the respective roles of county departments of human/social services.

The Committee recommended nine bills for consideration in the 2001 Legislative Session. Many of the provisions in these nine bills were eventually incorporated into two bills (Senate Bills 01-012 and 01-014), which were passed by the General Assembly. Among other provisions, these two bills:

- Prescribe the minimum hours of training required for foster parents.
- Direct the Department to compare child placement agency expenditures for foster care with county expenditures.
- Require annual recertification of foster care homes beginning July 1, 2002, or when TRAILS enhancements are implemented.
- Authorize the Department to require a county department to remove a foster child if the child's safety is immediately and directly threatened.
- Require the Office of the State Auditor to conduct an audit of the state foster care program by August 1, 2002.

Protecting the Safety of Children in Foster Care

Chapter 1

Background

The primary goal of Colorado's foster care program is to ensure the safety, permanency, and well-being of the vulnerable children placed in foster homes. Most of these children have been abused and/or neglected by their parents or other caretakers and are placed in foster care to ensure their well-being. Colorado, like other states, is required to submit a statewide plan and report safety-related outcomes of foster care to the U.S. Department of Health and Human Services. According to federal requirements, "states, not counties, are ultimately responsible and held accountable for compliance with state plan requirements."

Controls over the safety of foster children that the audit focused on include: (1) certifying foster care providers; (2) monitoring providers and foster children; and (3) enforcing state regulations. As discussed in the Overview section, Colorado foster care providers are certified either by counties or by private child placement agencies (CPAs). Colorado Department of Human Services regulations require that prospective foster care providers meet certain guidelines in order to provide foster care. For example, applicants must be at least 21 years old. They are subject to criminal background checks against the Colorado Bureau of Investigation database and are also screened for past child abuse or neglect through the Central Registry of Child Protection. The Department also conducts comparison searches of all applicants on the State Judicial Department's Integrated Colorado Online Network (ICON) system. ICON contains data on dispositions of court proceedings. Further, counties and CPAs are required to conduct family assessments on prospective foster parents. Family assessments determine the character and suitability of the applicant(s), the appropriateness of the home, and child care practices. Additionally, prospective foster parents must have sufficient financial resources to "assure that the home where the care is provided is maintained in safe repair and in conformity with standards and that the requirements of these [Family Foster Care] regulations can be fulfilled."

Department regulations require counties and CPAs each to monitor the family foster homes they have certified. The Division of Child Care monitors the CPAs through periodic inspections by its licensing specialists and through intensive reviews by its 24-Hour Monitoring Unit. Monitoring also includes investigations of problems or complaints. As discussed in more detail later, both counties and the Department conduct investigations of problems and complaints. Since counties generally have legal custody of foster care children, they are also required to ensure the safety of the children through monthly face-to-face meetings with the children, whether children are in a county- or CPA-certified foster home.

Counties, CPAs, and the State can take enforcement actions when problems occur. For instance, counties and CPAs can suspend or revoke the certification of a family foster care home or issue a probationary certificate. Further, the Department can cite violations to a CPA through reports of inspection and increased monitoring of the CPA. If these efforts are unsuccessful and the CPA continues to violate licensing regulations, the Department can impose financial sanctions against the CPA and/or take negative licensing action against the CPA. Negative licensing may include revoking or suspending the license or placing the CPA on probationary status. Since the establishment of the 24-Hour Monitoring Unit in late 1999, the Department has taken disciplinary actions against eight CPAs. Four of these eight were in our sample of 10 CPAs. The Department took negative licensing action against three and imposed a $5,000 fine on one. Before the 24-Hour Monitoring Unit was created, the Department had taken disciplinary action against only one CPA.

Improve Outcomes

We reviewed outcomes for out-of-home placements that the Department reported to the U.S. Department of Health and Human Services in April 2002. The U.S. Department of Health and Human Services developed "national standards" or benchmarks for six outcome measures to "establish a structure for assessing State performance under the CFS [Child and Family Services] review process." The U.S. Department of Health and Human Services plans to collect and use the benchmark data to encourage states to measure and improve their services to foster care children. We found that although Colorado exceeded national benchmarks for four of six reported outcomes, the State did not meet the benchmarks in two areas: abuse and neglect occurring in foster care homes and child reentry into foster care. Abuse and neglect consists of incidents such as physical or sexual abuse, lack of supervision, deprivation of necessities, educational neglect, and failure to protect. Foster care reentries occur when children who leave the foster care system return within one year.

As the table on the next page shows, abuse and neglect incidents for children in foster care in Colorado have increased over the last three years, from 0.30 percent in Federal Fiscal Year 1998 to 0.73 percent in Federal Fiscal Year 2000, the most recent time period the data are available. The national benchmark for this outcome measure is 0.57 percent which means that of "all children in foster care in the state during the period under review, 0.57 percent or fewer were the subject of substantiated or indicated maltreatment by a foster parent or facility staff member." In other words, to meet the benchmark, fewer than 6 out of 1,000 foster care children should have been abused.

Additionally, foster care reentry rates have been significantly higher than the national benchmark for the last three years, ranging between 18 and 20 percent during this time. The national benchmark for this outcome is 8.6 percent, which means that of "all children who entered foster care during the year under review, 8.6 percent or fewer reentered foster care within 12 months of a prior foster care episode." In other words, out of 1,000 foster care children, no more than 86 should reenter foster care within one year of leaving the system.

Colorado's Outcome Measures for Abuse and Neglect Incidents and Reentry Rates in Foster Care Federal Fiscal Years 1998 Through 2000

Outcome Measure	FFY 1998	FFY 1999	FFY 2000	National Benchmark
Abuse and Neglect Incidents in Foster Care	0.30%	0.46%	0.73%	0.57%
Reentry Rates in Foster Care	18.3%	20.0%	19.3%	8.6%

Source: Office of the State Auditor's analysis of foster care outcome data provided by the Department of Human Services.

The Department currently collects some information on abuse and neglect incidents in foster care. Specifically, the Department maintains data reported by county child protection services units on the abuse and neglect referrals (e.g., complaints) they receive each month. However, due to the way this information is reported, we were unable to determine the number of investigated referrals that occurred while a child was in foster care for each county. According to interviews with county representatives, the counties only track abuse and neglect referrals in the aggregate and do not categorize the data by foster care or non-foster care. In addition, the Department has collected information on foster care reentry rates for the 10 largest counties in the State. Through our analysis of the information, we found that reentry rates vary among the 10 largest counties, ranging from

11 to 28 percent in Federal Fiscal Year 2000. The data also indicate that reentry rates from some counties have significantly increased in recent years. For instance, the rate for one county increased from 17 percent in Federal Fiscal Year 1998 to 28 percent in Federal Fiscal Year 2000.

The Department has made efforts to address abuse and neglect and reentry outcomes. Specifically, the Department conducted a study on foster care reentry rates in October 200l, that analyzed foster care reentry statistics. However, this study did not specifically identify how the Department will address these high rates. The Department also provided training sessions related to abuse and neglect issues. Additionally, the Department plans to work with two committees established for other child welfare issues to further evaluate foster care reentry rates. Further, the Department convened the Child Family Services Review Stakeholders Committee in June 2001 to review the state child and family services programs and ensure compliance with the state plan requirements in federal Titles IV-B and IV-E of the Social Security Act. One of the issues examined by this committee was the factors contributing to Colorado's high foster care reentry rates.

We believe the Department should take a more proactive role in addressing the high rates for these two measures. Department staff should evaluate outcomes for each county to identify which counties have higher and lower rates. The Department should also determine which practices at the counties with the highest and the lowest rates are affecting the outcomes. For instance, large percentages of abuse and neglect referrals at a particular county could indicate inadequate screening or training of foster parents. Further, a high rate of reentry could indicate that a county and/or court system acted too quickly in returning the child to the home or that the supports and services in place for the child and the family were insufficient or not fully accessed. The Department should identify counties that may pose safety risks to children based on these outcomes and focus on providing technical assistance to correct these problems. The Department should also use this information to identify best practices and share this information with other counties.

Because ensuring the safety of children is a fundamental goal of foster care, the Department should strengthen its evaluation of the information currently being collected to identify trends and develop processes that reduce the rate of abuse and neglect incidents and lower the reentry rate of children returning to foster care.

Recommendation No. 1:

The Department of Human Services should identify the reasons abuse and neglect incidents in foster care have increased in recent years and the reasons foster care reentry rates have

remained significantly higher than the national benchmark rate. The Department should also develop and implement a plan to address how it will lower these rates by July 1, 2003.

Department of Human Services Response:

Agree. Implementation: July 1, 2003. The Department agrees to develop and implement a plan by July 1, 2003 to address how to lower the rate of abuse and neglect incidents in out-of-home placement and re-entry rates in out of home placement.

The federal Child and Family Services Review was conducted in Colorado the week of June 17th. In the debriefing conference the federal office indicated some of the strengths noted were "the value Colorado placed on the safety of its children" and "that there was not a high incidence of repeat maltreatment" on the cases reviewed. Strengths were also noted in the foster care program such as in the use of concurrent planning and family group conferencing. A written report will follow. Colorado will be implementing a plan with the federal office to correct any deficiencies noted in the federal review, similar to the other 25 states review thus far, regarding national benchmarks and systemic issues with the foster care program.

Improve Investigations of Institutional Abuse and Neglect

Investigations of abuse and neglect in foster care facilities are complex and often involve several entities. The Department and counties receive referrals on issues related to the safety of children in foster care homes. Both the Department and the counties have different responsibilities for investigating allegations of abuse and neglect that occur in foster care homes.

County Responsibilities

The county departments of human/social services are responsible for investigating allegations of abuse or neglect in foster care homes, including CPA- and county-certified foster homes. These investigations are called Stage I investigations. Through Stage I investigations, the county determines whether the abuse or neglect allegation was

substantiated. Additionally, counties are required to report to the State if there are any "problems or complaints concerning the care or treatment of a child in a . . . child placement agency placement . . . or a report of violations of child care standards." Further, counties must submit reports on all Stage I investigations to the Department's State Institutional Abuse Team.

Department Responsibilities

CPAs are required by department regulations to report all critical incidents to the Department's 24-Hour Monitoring Unit. Critical incidents are "serious life safety or potential life safety incidents or concerns that pose danger to the life, health, or well-being of a child." Critical incidents may include the death of a child; an injury to a child; an allegation of physical, sexual, or emotional abuse or neglect; or a drug- or alcohol-related incident. Not every critical incident involves abuse or neglect. Critical incidents are classified based on the severity level of the referral. Severity levels range from 1 to 4, with 1 being the most severe. Staff from the 24-Hour Monitoring Unit may follow up with CPAs on the reported critical incidents.

Additionally, the State Institutional Abuse Team reviews all Stage I investigation reports submitted by the counties on abuse and neglect incidents occurring in all 24-hour child care facilities, including county- and CPA-certified foster homes. These reviews are intended to ensure that Stage I investigations were conducted properly by county departments. For reports submitted on county-certified foster homes, the Team may recommend that a county take additional actions. Department regulations require counties to advise the Department of actions they have taken related to recommendations from the State Institutional Abuse Team. For reports submitted on CPA-certified foster homes, the Team submits all Stage I reports to the 24-Hour Monitoring Unit. It should be noted that the Team is an advisory committee and has no statutory authority.

The 24-Hour Monitoring Unit conducts Stage II investigations on all Stage I reports it receives on state-licensed facilities (e.g., CPAs). The purpose of the Stage II investigation is to "determine the administrative culpability of a facility where an alleged incident of abuse has occurred and to determine if problems identified through the investigation are administrative redressable and/or if negative licensing action should occur." The Stage II investigation focuses on the part the facility played in relation to the alleged abuse (i.e., administration, policies, procedures, and practice).

CPA Reports on Critical Incidents

We identified two problems with how CPAs are reporting critical incidents to the Department. First, we found that CPAs do not always report critical incidents to the Department's 24-Hour Monitoring Unit. As discussed earlier, this Unit is responsible for monitoring the activities of CPAs. It tracks reported critical incidents in a database. We selected a sample of three CPAs to determine whether all Stage I investigations conducted on these CPAs from January 2000 to February 2002 had corresponding critical incidents reported in the database. We found that 21 of the 25 investigations (84 percent) did not have corresponding critical incidents listed in the database. Of these 21 incidents, 15 (71 percent) involved abuse or neglect referrals, which are required to be investigated by county departments. These results indicate that CPAs are not reporting the critical incidents to the 24-Hour Monitoring Unit. According to department staff, "during the Stage II Investigation, CPAs who fail to report critical incidents to the Department are written up as licensing violations and documented on the Report of Inspection."

Second, we identified problems with the timeliness of CPAs' reporting critical incidents to the Department between March 2000 and February 2002. Specifically, we found that 69 of the 342 incidents (20 percent) listed in the Department's critical incident database were not reported within three days after the incident occurred. Department regulations require critical incidents to be reported to the Department within 24 hours, excluding holidays and weekends. The table below shows how long it took CPAs to report critical incidents.

Critical Incidents Reporting Time Frames
March 2000 to February 2002

Number of Days	Number of Incidents	Percent of Total
3 Days or Fewer	273	79.8%
4 to 7 Days	41	12.0%
8 to 30 Days	16	4.7%
Over 30 Days	12	3.5%

Source: Office of the State Auditor's analysis of the critical incident database maintained by the Department of Human Services.
Note: Our analysis allowed for three days to compensate for weekends and holidays.

The Department provided training to CPAs on how to properly report critical incidents to the Department in 2001. We found that the percentage of untimely critical incidents reported by CPAs in the most recent year (March 2001 to February 2002) has improved, with 14 percent not reported timely. However, it is important that CPAs report all critical incidents to the Department in a timely manner for a number of reasons, including:

- To determine whether counties plan to investigate critical incidents reported by CPAs. When CPAs report critical incidents to the Department, staff may contact the county to inquire about the status of an investigation. If the county chooses to screen out an abuse or neglect incident related to a CPA-certified foster home, the Department has the discretion to conduct its own investigation. However, if the Department is unaware that an incident has occurred, it cannot take actions early in the process to ensure that an investigation is being conducted, if needed.

- To allow the 24-Hour Monitoring Unit the opportunity to begin its Stage II investigation earlier in the process, if needed.

- To identify CPAs that have severe critical incidents or habitually submit critical incidents outside of the prescribed time frame. This information could be used to identify CPAs with repeated safety concerns and provide these agencies with increased monitoring and technical assistance.

We also identified one CPA that consistently failed to report critical incidents. The 24-Hour Monitoring Unit expressed concerns related to this issue on a number of occasions in a six-month period (December 2000 - May 2001). As a result, the Department provided additional monitoring of this CPA. However, the Department did not take negative licensing actions against this CPA until more than a year after this problem began. Further, we found one CPA verbally reports critical incidents to the Department's licensing specialist instead of reporting them in writing to the 24-Hour Monitoring Unit. Currently department regulations do not indicate who specifically at the Department should receive the critical incident reports. In Calendar Year 2001 the Department provided critical incident training to 24-hour facilities in several locations in Colorado. However, we found that the two CPAs noted above did not attend these training sessions.

The Department should clarify in regulations who should be notified of critical incidents. The Department should also identify CPAs that are not reporting critical incidents as well as CPAs that are reporting these incidents to the Department after the prescribed time frame. Since knowledge and timely receipt of critical incidents may be essential in ensuring the safety of children in foster care, the Department should emphasize the importance of compliance with department regulations in this area. Further, the Department should

ensure that information related to training sessions on critical incidents is provided to all CPAs that are unable to attend these sessions. Finally, the Department should initiate corrective actions against those CPAs that consistently violate department regulations related to properly reporting critical incidents.

Recommendation No. 2:

The Department of Human Services should ensure that all child placement agencies properly report critical incidents by:

a. Identifying the child placement agencies that are not reporting all critical incidents to the Department and/or do not report these incidents within the time requirements.

b. Clarifying to child placement agencies to whom at the Department they should report critical incidents.

c. Providing technical assistance and training to the child placement agencies that are not meeting the requirements for reporting critical incidents.

d. Taking negative licensing actions against child placement agencies that repeatedly fail to meet the reporting requirements.

Department of Human Services Response:

Agree. Implementation: January 1, 2003. The Department is pleased to note that the Auditors cited the improvement in timeliness to 86% of critical incidents reported timely by CPAs during the period of March 2001 to February 2002. The Department agrees to implement these recommendations using progressive discipline including taking negative licensing action with facilities who are not meeting requirements to assure compliance.

County Stage I Investigations

As discussed previously, county departments conduct the Stage I investigations of abuse and neglect referrals related to both county- and CPA-certified foster homes. Department regulations require counties to conduct investigations on all allegations involving abuse or

neglect. These investigations must be conducted within 24 hours after receipt of the referral. According to our analysis of information in the Department's Stage I database, counties do not always conduct these investigations within the required time frames. We found that 147 of the 512 (29 percent) Stage I investigations conducted between March 2000 and March 2002 were not conducted within the required time frames.

Additionally, we found that counties do not submit Stage I reports to the Department within the mandated time requirement. Department regulations require counties to submit Stage I investigations to the Department within 60 days of receipt of the referral. We reviewed information in the database for reports submitted between September 2000 and March 2002 and found that 124 of the 217 (57 percent) Stage I investigations submitted were not within the prescribed time frames. The number of days that elapsed between the date the county received the referral and the date the county submitted the investigation report to the Department ranged from 8 to 275 days, with an average of 80 days.

The Department should ensure that counties complete and submit investigations in the specified time requirements. Currently there is no negative action taken if counties do not complete and submit investigations in a timely fashion. Because proper investigation information is a critical piece for ensuring the safety of children in the foster care program, the Department should impose fiscal sanctions against counties that consistently are out of compliance with current regulations.

Recommendation No. 3:

The Department of Human Services should ensure that county departments of human/social services conduct Stage I investigations and submit reports to the Department in a timely manner by:

a. Tracking the amount of time it takes counties to complete Stage I investigations and submit the reports to the Department on an ongoing basis.

b. Providing training and technical assistance to counties related to the time requirements for conducting and reporting Stage I investigations.

c. Imposing fiscal sanctions against counties that repeatedly fail to complete and report Stage I investigations within the time requirements.

Department of Human Services Response:

Agree. Implementation: September 1, 2002. The Department agrees to monitor the time it is taking counties to complete and submit Stage I investigations by reviewing data at the time of submission; conducting training and technical assistance annually to counties about the time requirements, and placing counties on corrective actions who repeatedly fail to meet the time requirements. The Department will use fiscal sanctions in the most extreme cases. The Department will need to develop a process to impose fiscal sanctions in such cases.

The Department's Stage II Investigations

As discussed previously, the Department's 24-Hour Monitoring Unit follows up on the county Stage I investigations by performing Stage II investigations for facilities the State licenses (e.g., CPAs). Our review of information in the Department's Stage II database for incidents occurring between October 2000 and March 2002 revealed that on average the Department took 65 days to conduct a Stage II investigation on founded incidents and 51 days for unfounded incidents. Our calculations are based on the number of calendar days between when the Department received the county report and began the Stage II investigation. The department policy requires the Unit to conduct the Stage II investigation within 17 working days if the Stage I investigation was founded and 30 working days if the Stage I was unfounded. This policy does not specify whether the time frames begin when the Department receives the Stage I reports from the counties or when the Department assigns the Stage II investigation to the 24-Hour Monitoring staff.

Department staff stated that they determine timeliness based upon when the 24-Hour Monitoring staff are assigned the Stage II investigations. The Department assigns Stage II investigations after the State Institutional Abuse Team reviews the corresponding Stage I investigation report. We believe the Department should modify its policy to assign Stage II investigations to the 24-Hour Monitoring Unit staff when the Department first receives the Stage I investigation report on CPA-certified foster homes. The State Institutional Abuse Team's review of Stage I investigations on these homes does not impact the outcome of the Stage II investigations. As a result, it is not necessary to wait to assign the Stage II investigations until the State Institutional Abuse Team reviews the corresponding Stage I investigation reports.

It is essential for Stage II investigations to be conducted in a timely manner. As discussed earlier, a Stage II investigation identifies licensing violations by the CPA that contributed

to the abuse or neglect incident. With this information, the Department can take appropriate measures to prevent future violations.

Recommendation No. 4:

The Department of Human Services should ensure that it conducts Stage II investigations in a timely manner by:

a. Modifying the review process to assign Stage I investigations to the 24-Hour Monitoring Unit when the investigation is first received by the Department.

b. Tracking the timeliness of Stage II investigations on an ongoing basis and identifying reasons why investigations are not being conducted within the prescribed time frames. The Department should implement changes to the process to address these timeliness issues.

Department of Human Services Response:

Agree. Implementation: August 1, 2002. The Department will modify the review process to assign Stage I investigations to the 24 Hour Monitoring Unit when the county's Stage I is received by the Department. The Department will implement changes to the Stage II review process to address the timeliness issues identified and will also track timeliness of Stage II investigations by the 24-hour monitoring team, documenting the reasons for any lack of timeliness that may occur.

Streamline the Process for Tracking Referrals and Investigations

Overall, we found that the Department's processes for tracking safety-related referrals and investigations are cumbersome and fragmented. The Department maintains five separate databases to record abuse/neglect referrals and investigations related to certified foster homes. In general, the data tracked by the Department include only referrals and investigations on facilities the State licenses (CPAs, Residential Treatment Centers, child care facilities, etc.). The five databases are as follows:

- **Critical incidents** related to facilities the State licenses (e.g., CPAs). The Department does not gather, track, or analyze critical incidents related to county-certified foster homes.

- **Complaints** related to facilities the State licenses (e.g., CPAs). The Department does not track complaints related to county departments and/or county-certified foster homes.

- **Stage I investigations** on abuse and neglect incidents occurring in 24-hour facilities reviewed by the State Institutional Abuse Team. The Stage I investigations involve both county-certified and state-licensed (e.g., CPAs) facilities.

- **Stage II investigations** conducted on facilities the State licenses (e.g., CPAs).

- **LOLA**, an optical imaging child care system designed to track information about facilities the State licenses, including applications, inspections, critical incidents, correspondences, complaints, investigations, and department actions. LOLA does not contain any information about county-certified foster homes.

Additionally, the Department maintains the Central Registry of Child Protection to track substantiated incidents of child abuse or neglect.

As part of the audit, we compared information maintained in the five databases for a sample of three CPAs. Overall, we found the LOLA database was not always complete. Department staff do not record all of the critical incidents, complaints, and investigations in the LOLA system. For example, regarding complaints and critical incidents:

- **Critical incidents**: Forty-nine of the sixty-two (79 percent) critical incidents recorded in the critical incident database could not be found in LOLA.

- **Complaints**: Two of the thirteen (15 percent) complaints recorded in the complaint database could not be found in LOLA.

Regarding investigations:

- **Stage I investigations**: Five of the twenty-nine (17 percent) Stage I investigations recorded in the State Institutional Abuse Team database could not be found in LOLA.

- **Stage II investigations:** Twelve of the twenty-four (50 percent) Stage II investigations recorded in the Stage II database could not be found in LOLA.

Essentially, LOLA information is not complete, making it difficult to compare this system with the other databases maintained by the Department. It is important that the information in LOLA be accurate. The Department developed LOLA in 1996 to provide easy online access to licensing information by parents, other members of the public, and its staff. The information in LOLA has, for the most part, replaced all hard-copy licensee files. In our 1996 audit of the Division of Child Care, we found that some information in LOLA was inaccurate and incomplete. Without complete and accurate data, the public and the Department's staff cannot rely on the reports in LOLA to provide correct information regarding CPAs.

The Department's current process does not allow staff to easily track complaints or critical incidents through the series of investigations. Although staff can track information through a license number, there are no unique identifiers that link a critical incident to the Stage I and Stage II investigations. As a result, we believe the Department should streamline its critical incident, complaint, Stage I, and Stage II investigation databases so that users can more easily track each phase of the process. One central database could be used by the Department to better manage the foster care program. For instance, staff could use this database to ensure that all phases of the process are conducted in a timely manner. Further, it could be used to identify trends and issues related to critical incidents and investigations.

Currently department staff enter and scan data into the various systems, but no one evaluates and analyzes this information in a comprehensive manner. We believe these individual systems should be combined and streamlined. The need to centralize these databases has been identified recently by both the Department and the General Assembly. For instance, the Department's 2003 budget request identifies 17 computer systems used by the Division of Child Care, which include four of the five systems discussed earlier. The budget request stated that "the systems are not integrated and are not easy to access. The data need to be moved to another single database package that is capable of handling the volume of data and number of users." Additionally, the Foster Care Interim Committee's recommendations included implementing "an integrated database for distribution of information." This would include centralizing Child Welfare and Child Care databases for tracking critical incidents and institutional abuse investigations occurring in out-of-home placements.

In addition, the Department should ensure that information recorded in the system is complete. This would include monitoring the information on an ongoing basis to ensure its

reliability and provide training and guidance to staff on how to properly input and analyze the data.

Recommendation No. 5:

The Department of Human Services should improve how information related to abuse and neglect referrals and investigations is tracked by:

a. Evaluating the feasibility of developing a central data system that records information on critical incidents, complaints, Stage I and II investigations, and licensing actions related to child placement agencies. As part of the budget process, the Department should submit a request for funding of a centralized database, if appropriate.

b. Evaluating the information maintained in the databases to ensure that all phases of the process are conducted in a timely manner and to identify trends and issues related to critical incidents and investigations.

c. Ensuring on an ongoing basis that information entered into the databases is complete.

d. Providing training and guidance to department staff on how to properly enter information into the databases.

Department of Human Services Response:

Agree. Implementation: Fiscal Year 2005. The Department presented a budget initiative for FY03 which requested funds to integrate some of the listed data bases. A cost analysis study was funded and is in process of being implemented. Based upon results of the study, the Department will consider the feasibility of a budget initiative for FY05 to integrate the databases which were outlined in the FY03 budget initiative.

Place All Founded Abuse and Neglect Incidents on the Central Registry

Counties are required to report all founded incidents of abuse or neglect to the Central Registry of Child Protection. Individuals do not have to be charged with or convicted of a criminal offense to be listed on the Registry. A Central Registry check must be conducted before a foster care provider certificate is issued. However, there is currently no requirement that an individual listed on the Central Registry be prohibited from providing foster care services.

During the audit, the Department provided us with the names of 36 individuals who were listed on the Central Registry in 1999 and 2000 due to substantiated abuse or neglect incidents occurring while they were certified foster care providers. The Department was unable to provide data for 2001 due to problems with TRAILS. However, when we compared the Central Registry listings provided by the Department with information maintained in the State Institutional Abuse Team's database on Stage I investigations, we identified a number of confirmed incidents of abuse or neglect that were not listed on the Central Registry. Specifically, we identified 43 founded investigations recorded in the Stage I database in 1999 and 2000 that were not listed on the Central Registry. The majority of these incidents involved some type of abuse or neglect. We found that 14 incidents (33 percent) involved physical abuse and 3 incidents (7 percent) involved sexual abuse. Additionally, 10 incidents (23 percent) involved neglect situations. Further, 16 incidents (37 percent) involved a lack of supervision by the foster parent. Some of the confirmed lack of supervision incidents that were not listed on the Central Registry include:

- A confirmed incident of sexual abuse on the foster child by the foster care provider's adopted son.

- A founded investigation involving the foster care provider’s leaving five foster children alone for periods of time.

- A founded investigation involving the foster care provider’s leaving a three-year-old foster child in the car unsupervised.

It is not clear why foster care providers with founded incidents of abuse or neglect are not listed on the Central Registry. It is possible that county departments are not submitting all of these incidents to the Central Registry as required by statute or that the Department is not entering this information correctly into the Registry. In a prior audit we noted serious problems with the Central Registry. While it could be an effective tool to identify

individuals with a history of abuse or neglect, at present it is not effective in ensuring that a prospective foster parent does not have a history of abuse or neglect in Colorado. Regarding foster care cases, the Department should work with county departments to review all Stage I investigations on foster homes and ensure that all founded investigations are listed on the Central Registry.

Recommendation No. 6:

The Department of Human Services should work with the counties to identify foster care providers with founded Stage I investigations who are not listed on the Central Registry and determine whether the individuals should be placed on the Central Registry, according to statutory requirements. Additionally, the Department should compare founded Stage I investigations with the Central Registry on a quarterly basis to ensure that all foster care providers with founded investigations are listed on the Registry.

Department of Human Services Response:

Agree. Implementation: October 1, 2002. The Department will work with county departments to assure providers are listed on the Registry as required by statute and will review founded Stage I information quarterly to identify providers not listed that should be.

Evaluate How the Central Registry Should Be Used When Certifying Foster Parents

We identified 5 foster care providers listed on the Central Registry in 1999 and 2000 who were still providing foster care for CPAs in State Fiscal Year 2001. Additionally, we identified 10 certified foster care providers with a founded Stage I investigation who were not listed on the Central Registry during this period. We were able to identify the founded incidents for 9 of these 15 providers:

- Two providers had confirmed incidents of physical abuse against a foster child.
- Two providers had confirmed incidents of neglect of the foster child.
- Five providers had confirmed incidents of lack of supervision.

The Department could not provide any additional information on the six remaining incidents.

Counties or CPAs conducting the required Registry check on the nine individuals with a founded investigation would not have been able to learn about their abuse or neglect. These individuals were not listed on the Registry. As a result, the certifying agency would not have been accurately informed of prior incidents of abuse or neglect. We contacted one of the CPAs that certified a foster care provider that should have been listed on the Central Registry in 2000 for a founded lack of supervision incident. This agency was aware that an investigation had occurred but believed the investigation was unfounded. The investigation for this incident occurred in March 2000 and the agency conducted the Central Registry check in May 2000.

As discussed earlier, department regulations do not prohibit individuals listed on the Central Registry from being foster parents. However, one of the main purposes of the Central Registry is to provide a database of information that county child protection workers can access to track incidents of child abuse. We believe the Department needs to evaluate how the Central Registry should be used when certifying foster care providers. Some options include:

- Establishing criteria based upon the severity of the incident(s) to determine whether to deny certification of a prospective foster parent who is listed on the Central Registry.

- Requiring counties and CPAs to contact the Department if a prospective foster parent is listed on the Central Registry. Department staff would be responsible for reviewing the circumstances surrounding the listing and determining whether the individual should be certified as a foster care provider. The Department would need to define criteria that would assist staff in making this determination. Additionally, the Department may need to propose changes in statute and/or department regulations to obtain the authority for this responsibility.

- Denying certification of all prospective or existing foster parents listed on the Central Registry but establishing an appeals process that can be used by these individuals. The appeals process could be used to identify extenuating circumstances that would allow some individuals to be certified as foster parents.

Recommendation No. 7:

The Department of Human Services should evaluate how the Central Registry should be used when certifying foster care providers. Based upon the results of this evaluation, the Department should propose changes in state statutes and/or department regulations, as appropriate. Additionally, the Department should provide guidance to county departments of human/social services and child placement agencies on changes related to certifying individuals listed on the Central Registry as foster care providers.

Department of Human Services Response:

Agree. Implementation: January 1, 2003. Currently in 26-6-104, C.R.S., there is a list of convictions that prohibit providers from being licensed or certified. Included in the list are child abuse related felonies and a pattern of misdemeanors. The individuals prohibited through this statute based upon abuse/neglect convictions or patterns of misdemeanors may well be listed on the Central Registry. In previous legislative sessions, the preference was to use the threshold of conviction or pattern of misdemeanors rather than a Registry listing as reason for denial of a license or certificate. The Department will evaluate how the Central Registry should be used in certifying foster care providers. The Department will also work with counties and child placement agencies to improve how Registry listings are used in determining the character and suitability of prospective foster parents, and will provide written guidance to counties and providers on how the Registry should be used in screening.

Track Foster Parents Who Transfer From One Certifying Authority to Another

There have been problems in the past that resulted from foster care providers transferring from one certifying authority (county department or CPA) to another. We reviewed several cases in which a CPA had identified problems and closed the provider's foster home. When applying at another CPA or county, the foster parent did not indicate previous certification. As a result of these problems, changes were made to state statutes and department regulations in 2000 and 2001 that now require prospective foster care providers to report all agencies to whom they had previously submitted applications. The CPA or county department wishing to certify the applicant must conduct a reference check

by contacting all of the identified agencies, including the counties, before issuing the certification for that foster home. We recognize that this change in the regulations makes it easier for certifying agencies to identify individuals who may change certifying authorities. However, these provisions do not always prevent foster parents with serious problems at one agency from being certified at another.

For example, we identified two instances from our review of provider files where the CPA did not contact the agency that previously certified the provider. In these cases the CPA did not conduct a reference check until it began experiencing problems with a provider. If the CPA had contacted the previous agencies, it would have been aware of the safety concerns and might have chosen not to certify this provider. We also identified one provider who applied to four CPAs within a one-year period. The first CPA did not certify her because she had been convicted of a misdemeanor domestic violence offense. The second CPA certified her but closed her home because she had problems dealing with children. She applied to a third CPA, which also certified her. This CPA also closed her home because of allegations of ill treatment of children. Although this CPA called the previous CPA for a reference check, the home study did not document any potential problems. She applied to a fourth CPA, which certified her as a foster care provider. This CPA did not conduct reference checks with CPAs that previously certified this individual until problems arose. The CPA eventually closed this foster home.

Additionally, we identified two foster care providers who did not indicate that they were previously certified, or denied a certificate, by other agencies. As a result, the subsequent certifying authorities were unaware of safety concerns that would have been shared by the previous agency. Currently there is no way for an agency to know if a provider has been denied a certificate or has been closed by another agency, unless the provider voluntarily reports this information or the agency checks the TRAILS system for closed foster care homes. Currently, most CPAs do not have access to TRAILS.

When a foster home is closed by an agency, the agency completes a department form to indicate the reason for the closure. Department staff stated that agencies often document that the reason for closure was due to a foster care provider request or an agency decision. CPAs are often reluctant to document the actual reason for closure when there have been problems with a provider they have certified. For example, we found a case in which two foster children requested to be removed from a foster care home based on "ill treatment." The closure letter from the CPA to the provider stated:

> The last three children ended up in crisis situations requiring me to find foster homes for them on short notice. I feel these last few incidents have placed our agency at risk.

However, when the CPA closed the home, it noted on the department form that the reason for closure was an "agency decision." As a result, if this provider applies with another certifying authority, that agency will not be able to easily learn the safety reasons for closure.

Several CPA directors told us that they were uncertain what information they were and were not allowed to share with agencies requesting information on previously certified providers. They said that they are often reluctant to provide specific information related to the closure due to fear of liability issues. Currently the Department does not provide any guidance on what, and how, information can be shared. However, it should be noted that Senate Bill 01-012, which was passed during the 2001 Legislative Session, included a provision in statutes stating that "child placement agencies and county departments shall be held harmless for information released, in good faith, to other child placement agencies or county departments."

Furthermore, the Department does not have a policy of tracking foster parents who move from agency to agency. Movement of foster care providers can be tracked through the TRAILS system. However, this system is currently not being used by the Department, counties, and CPAs to track this information. As discussed earlier, most CPAs in the State do not have access to TRAILS.

Recommendation No. 8:

The Department of Human Services should ensure that prospective foster parents are properly screened before being certified. This should include:

a. Ensuring that county departments of human/social services and child placement agencies are conducting the proper checks with agencies that previously certified prospective foster care providers. This should include requiring counties and child placement agencies to use TRAILS to identify all agencies that previously certified the prospective foster care providers. Child placement agencies may need to request this TRAILS information from the Department or counties due to their limited access to the system.

b. Instructing county departments and child placement agencies to provide more specific information on the reasons why a foster home is closed.

c. Providing guidance to CPAs and county departments regarding what and how information about former foster care providers can, and should, be shared

between agencies. This could include forming a committee to discuss ways in which agencies can share information about foster care providers without fear of reprisal.

Department of Human Services Response:

Agree. Implementation: September 1, 2002. The Department agrees to continue to make TRAILS information available to child placement agency providers upon request. Through training and technical assistance, the Department will work with county departments and CPAs about providing more detailed information for entry into Trails. Currently the Department enters information into Trails for child placement agency providers when a foster home opens, closes, moves or changes status. The Department will provide technical assistance and training to CPAs and county departments on the importance of openly sharing information between agencies regarding foster homes and what can be shared.

Prohibit Agencies From Certifying Family Members as Foster Parents

We identified instances in which CPAs in our sample certified family members of the director or owner as foster care providers. Specifically:

- One CPA certified the owner's son as a foster parent in Calendar Year 2000. The owner had initially conducted the home study on her son. However, the Department's 24-Hour Monitoring Unit found this to be unacceptable and the new family assessment was prepared by an employee of the CPA. According to department regulations, an agency is not supposed to perform a family assessment on its own staff members or family members. We also found that the owner's son was receiving larger payments than other foster care providers certified with the agency.

- Another CPA certified family members of the director as foster care providers in Calendar Year 2000. The director conducted the family assessment on his aunt and uncle. The director's brother conducted a family assessment on a sibling who was applying to be a foster care provider and a home inspection on his parents, who were already foster care providers. The Department promulgated

emergency regulations in September 2000 to prohibit CPAs from conducting assessments on family members of staff or board members.

Certifying family members of CPA owners/directors, staff, or board members as foster care providers creates potential safety issues. Because of the close relations of these providers to the CPA, staff may have biased conclusions on safety issues related to these homes. Further, the CPA may give preferential treatment to the related party, particularly in a monetary form, as noted above.

Department regulations prevent staff of a CPA or county from becoming certified providers by that agency or county. However, regulations do not currently exist that prohibit family members of CPA or county directors and staff from being certified as foster care providers. Because of the safety risks in certifying related parties as foster care providers, we believe the Department should propose changes in state statutes and department regulations to prohibit CPAs and counties from certifying family members as foster care providers. We note that this recommendation would not prevent individuals from becoming foster parents, because they could be certified by another CPA or county.

Recommendation No. 9:

The Department of Human Services should propose statutory changes that prohibit family members of child placement agencies and county departments of human/social services from being certified as foster care providers of the related agency. The Department should ensure on an annual basis that child placement agencies and counties are complying with this requirement.

Department of Human Services Response:

Agree. Implementation: July 1, 2003. The Department will propose statutory change to implement this recommendation.

Prohibit CPA Staff and Family Members From Leasing Properties to Foster Parents

As discussed in Chapter 2, we identified six instances where owners or directors of CPAs leased properties to foster care providers. In addition to the financial issues, we identified safety concerns with these lease arrangements. Specifically:

- **Home Inspections.** According to department regulations, an annual on-site, unannounced, home inspection must be conducted on the foster care home to determine compliance with safety standards. The CPA is responsible for conducting this home inspection. Thus, a staff member of the CPA could potentially be conducting the home inspection on a home that he/she owns.

- **Closing Foster Homes.** CPAs may be less likely to close a foster care provider who is occupying a home owned by a staff member because the foster care provider is a tenant who is guaranteed to pay rent.

- **Matching.** Placement choice and safety of the child may also be affected because the staff member of the CPA would have an incentive to ensure that children are placed with the foster care provider leasing a home from the CPA.

As a result, safety concerns exist when the director, owner, or staff of the CPA leases to foster care providers. Currently there are no regulations to prohibit foster care providers from leasing homes owned by the CPA director or owner. The Department should prohibit this type of relationship between CPA staff members (including their immediate family) and foster care providers.

Recommendation No. 10:

The Department of Human Services should propose changes in state statute and/or department regulations that prohibit owners, directors, staff, and board members of child placement agencies as well as their family members from leasing properties to foster parents certified by the related child placement agency.

Department of Human Services Response:

Agree. Implementation: July 1, 2003. The Department will propose statutory change to implement this recommendation.

Strengthen State Monitoring of CPAs

The Department developed a CPA Risk Indicator tool in Calendar Year 2000. To rate CPAs, department staff are supposed to "review a sample of all of the provider, child and personnel files and the agency policies and procedures." On the basis of such a review, a CPA is scored and assigned a low- to high-risk rating. In January and June 2002, the Department provided us with lists of the CPAs by their assigned risk ratings. We found that:

- **Low to moderate risk ratings** were assigned to 76 percent of the CPAs on the January list. In June, 31 percent were rated as low to moderate risk.

- **Moderate to high risk ratings** were assigned to 12 percent of the CPAs on the January list. In June, 69 percent of the CPAs were rated as moderate to high.

Additionally, the Department did not assign risk ratings to 12 percent of the CPAs on the January list.

We commend the Department for establishing the rating system. This is an appropriate step for monitoring CPAs. However, we identified instances where monitoring could be improved. On occasion a CPA in our sample violated state requirements in statutes and/or regulations, but department staff did not document these violations on their inspection reports. This CPA also had questioned costs identified in Chapter 2. We emphasize that the violations may not be illustrative of the evaluation of care issues in other CPAs. The following summarizes these examples.

Respite Care Violations: According to Section 26-4-603(19), C.R.S., respite care represents "services of a short-term nature provided to a client, in the home or in a facility approved by the state department, in order to temporarily relieve the family or other home providers from the care and maintenance" of a foster child. Further, Section 26-4-603(18), C.R.S., states that a respite care provider must meet "all applicable state and federal requirements." However, we identified several instances where a CPA in our sample excessively used respite care. Individuals receiving payments for respite care from

this CPA were paid more than the actual certified providers during several months in Calendar Year 2001. The services provided by these individuals do not appear to meet the definition of respite care but rather resemble foster care provider services. Department regulations require a Central Registry and Colorado Bureau of Investigation (CBI) check of all foster care providers. However, we found that these individuals did not have the proper background screens to be certified as foster care providers. Specifically:

- Two individuals never had the required criminal background checks or Central Registry checks conducted.

- Two individuals did not have CBI or Central Registry checks conducted until September 2001 but had provided foster care services for several months prior to the check.

These individuals should not have been authorized to provide foster care services on a daily basis without the required background screens. This poses a safety concern for children cared for by these individuals. The Department did not identify this issue during its licensing visits.

Conflict of Interest: According to department regulations, "due to a conflict of interest, staff members of a CPA cannot be certified by the agency to operate a foster care home." Having a foster care provider also providing therapy to a foster child poses safety concerns because children often report incidents of abuse and neglect to their therapists. However, we found that a staff member of a CPA was certified as a foster care provider and also provided group and individual therapy for children placed by the CPA in her care. Additionally, this staff member conducted foster care training for another foster care provider — these two individuals worked closely with together. Further, the staff member investigated a complaint filed against the foster parent.

Wage Violations: According to the Administration for Children and Families, U.S. Department of Health and Human Services, payments for costs of providing care to foster children are not intended to include reimbursement in the nature of a salary. However, we found that foster care providers were receiving a wage for their services in violation of federal regulations. We identified a situation where a foster care provider licensed by a CPA was receiving child maintenance payments for children not only in his care, but also for children placed with two other licensed foster care providers. These two providers resided in homes owned by the first provider. The first provider told us that the two other providers were his "employees," and that each month he paid their housing and other living expenses (i.e., utilities, groceries) as well as a salary. The first provider was

"subcontracting" with the other two providers without the approval of the Department, which is a violation of the standard state contract.

Lack of Financial Resources: According to state regulations:

> The financial resources of foster parents shall be adequate to assure that the home where the care is provided is maintained in safe repair and in conformity with standards and that the requirements of these regulations can be fulfilled. A license or certificate shall not be granted for a family foster care home unless the applicant has demonstrated the ability to manage a household so that the licensing or certifying authority may determine that the applicant is able to acquire food, materials and other equipment as may be required for child care and to maintain records pertaining to foster children, including records required by statute or regulations.

However, we identified one foster care provider certified by a CPA who was unemployed during the audit period and stated that she would not be able to maintain her quality of life without income provided by child maintenance payments. According to a letter from this provider who lived in a home for which the CPA paid the mortgage, "I felt comfortable with the arrangements that [the Director] would subsidize my foster care pay and take care of the home and utilities. I know there are times my pay would not have covered the rent and utilities."

This individual was certified as a provider and using foster care maintenance payments as her only source of income. This is not the intent of the maintenance payment. Rather, the monthly maintenance payment is made to the family to help support a child, not to be used as income. The Department did not identify this as an issue during licensing visits.

Capacity Violations: Department regulations state that no foster child should be placed in a foster home if that placement results in more than four foster children, provided these children are not part of a sibling group. However, we found that a CPA placed more children than licensing rules allow in some foster homes. We reviewed monthly maintenance payment receipts for children placed in foster care from December 2000 to December 2001 and found several occasions where foster homes of one CPA were over capacity. Specifically, foster homes exceeded the allowed child capacity by a total of 162 days in four foster care homes. If too many foster children are placed in one home, the ability to properly supervise and monitor these children decreases and the quality of care received in the home also diminishes. The Department did not identify this as an issue during licensing visits.

Staffing Ratios: Although department regulations do not mandate CPAs to have certain staff-to-child ratios, we found that all but one of the CPAs in our sample employed multiple caseworkers and other staff. During Calendar Year 2001 a CPA employed two part-time caseworkers. One of these caseworkers worked for the CPA for only the first three months of the year. In Calendar Year 2001 the CPA served approximately 40 children at any given point in time. We compared this CPA's caseworker-to-child ratio with that of another CPA of similar size. In Calendar Year 2001 the other CPA served an average of 48 children and employed seven caseworkers. A Stage II investigation report prepared in April 2001 related to the first CPA stated that it was "clear that [the CPA] was understaffed for a period of time and contacts with families and children were not consistently provided." According to the investigation report, the owner of the CPA informed 24-Hour Monitoring staff that she had "hired two case managers to help supervise the homes and the children." However, we found that from April 2001 to early 2002, only one caseworker was employed by the CPA.

It is questionable whether one caseworker can fulfill all of the contact requirements for the number of children at the first CPA. It is important for the caseworker to develop a strong tie with the foster child because this relationship allows the foster child to feel comfortable and report concerns. This relationship also allows the caseworker to identify indications that the child may be at risk.

Improve State Oversight of CPAs

State monitoring and licensing staff do not always appear to be consistently identifying and documenting violations. For example, a Stage II investigation conducted in April 2001 by the staff monitor assigned to oversee one of the CPA's operations stated that this CPA was understaffed for a period of time and contacts with families and children were not consistently provided. When we asked this staff monitor about the current caseworker-to-child ratio, he stated there were now two full-time female caseworkers employed by the CPA. However, the CPA had employed only one male caseworker since March 2001.

As we noted above, we found several violations at one particular CPA. The 24-Hour Monitoring Unit has not conducted a formal monitoring visit of this CPA. However, we identified a number of instances when one of the counties that contracts with the CPA expressed concerns about this agency to the Department. This county's Child Protection Team stated on three separate Stage I investigations conducted at the CPA in 2001 that it was concerned with the large number of problems it has had with the CPA and urged the Department and the 24-Hour Monitoring Unit to further investigate this matter. The 24-Hour Monitoring Unit conducted a Stage II investigation on each of these referrals. However, a formal monitoring visit had not been scheduled. On the basis of the number

of violations we noted at this CPA, the Department should evaluate the monitoring tools used by the 24-Hour Monitoring Unit to ensure that quality-of-care issues are not being overlooked.

Recommendation No. 11:

The Department of Human Services should ensure that child placement agencies are complying with program requirements related to quality-of-care issues by:

a. Evaluating the instruments used by 24-Hour Monitoring Unit staff and licensing specialists on their site visits to the child placement agencies and ensuring that these instruments result in staff monitoring important quality-of-care issues.

b. Providing additional training to staff on how to properly identify quality-of-care issues at child placement agencies.

c. Identifying those child placement agencies that have repeatedly violated requirements and imposing financial sanctions on them.

d. Evaluating whether requirements related to staff-to-child ratios for child placement agencies should be included in state statutes and/or department regulations. Based upon the results of the evaluation, the Department should propose changes in statutes and regulations as necessary.

Department of Human Services Response:

Agree. Implementation: January 1, 2003. The Department will continue to review the monitoring instruments used by the 24 Hour Monitoring Team and provide training to monitoring and licensing staff as a part of the internal quality improvement process. The Department will evaluate case management staff to foster home ratios and consistent with the findings will propose regulations as appropriate. Staff to child ratios are identified in that foster homes may only have a maximum of 4 children per home and foster parents are responsible for assuring supervision of children in their care.

Ensure the Safety of Children Placed With CPAs

As discussed previously, Colorado counties have a range of options for foster care placements, including (1) certifying their own family foster care providers, (2) contracting with CPAs for foster care, or (3) using a combination of county-certified homes and CPAs. County-certified foster homes are typically located within the county that certifies them, and staff from these counties may conduct their own family assessments when certifying these providers. Conversely, CPA-certified homes may be located in multiple counties, and CPAs may contract with several counties. Regardless of where the child is placed (i.e., a county- or CPA certified home), the county retains legal custody of the child and is responsible for ensuring the safety of the child. However, we found that, in general, county departments do not evaluate the quality of care provided by CPAs to foster children.

Through interviews with county departments, we found that the majority do not review family assessments and background checks of foster parents certified by CPAs. During our site visits to seven counties, we reviewed 181 child files and found 12 allegations of abuse or neglect occurring in foster home placements. Nine of these twelve allegations involved CPA-certified foster homes, four of which were substantiated. Counties should be requesting and reviewing home studies and researching CPA-certified foster homes before placing children with these CPAs.

According to the Department's regulations adopted in September 2000, the county department has the authority to review the written family assessments and background checks of the foster parents certified by a CPA. However, most counties in our sample stated they do not believe it is their job to review these documents. Although the Department is primarily responsible for ensuring the quality of care provided by CPAs, it is important that counties review CPA-certified provider information to ensure the safety and quality of care for children for whom they have legal custody. The Department should encourage county departments to utilize this information source.

We identified a county department that examines quality-of care-issues related to the CPAs with whom it contracts. Larimer County has one full-time staff dedicated to auditing the CPAs contracting with the county. This monitor ensures that the CPA is providing the agreed-upon services by examining child files maintained by the agency. If the CPA cannot provide documentation for the services provided, the county will not pay for these services. Such a practice helps ensure that CPAs provide quality care to children placed in their foster homes. The CPAs are held accountable for services agreed upon in the

contract with the county department. Additionally, fiscal sanctions and suspension of placements occur if the CPAs are not in compliance.

Recommendation No. 12:

The Department should ensure that county departments of human/social services are reviewing family assessments and background checks on foster care providers certified by child placement agencies where they place children. Additionally, the Department should identify best practices and provide technical assistance and guidance to the county departments for monitoring the quality of care provided by child placement agencies.

Department of Human Services Response:

Agree. Implementation: July 1, 2003. The Department will propose rules requiring counties to review family assessment and background checks prior to placing children. The Department will also provide training to counties on the importance of reviewing family assessments and background checks on foster care providers, and will provide technical assistance and guidance to counties on monitoring the quality of care provided by child placement agencies. The Department will ensure that county departments are reviewing family assessments and background checks by reviewing a sample of cases.

Monitor County Certifying Practices

Although the Department monitors CPAs, it provides minimal oversight of county processes for recruiting, training, certifying, and monitoring foster care providers. We identified several areas where the Department could strengthen its monitoring of the counties. For example, we found that a county department had actively recruited a foster care provider from a CPA in violation of department regulations. The county department was unaware that it was required to submit an appeal form to the Department before it could certify a provider currently certified with another agency. Additionally, the county department informed this provider that it could dually certify this individual as a family foster care provider and as a receiving home. A receiving home provides temporary emergency care for foster children and may be certified for up to eight foster children. According to department staff, the county department should not be dually certifying family foster homes as receiving homes because of the safety issues involved. Although the Department was aware of these recruitment issues, it took limited actions. The

Department sent two emails to the county department stating that the counties are prohibited from recruiting or training already certified foster care providers unless they file an appeal with the Department.

As discussed previously, the Department's regulations require CPAs to report critical incidents to the Department. However, no statutes, rules, or regulations exist that require counties to track or submit this information to the Department for county-certified foster homes. Because counties do not track or report critical incidents related to county foster homes to the Department, no one is ensuring that counties are properly investigating and reporting abuse and neglect incidents.

The counties have the ability to screen out incidents they believe do not warrant an investigation. According to department records, counties screen out about 39 percent of all abuse and neglect incidents occurring in the State as not requiring any additional review. Since the counties have the authority to screen out incidents, it is important that the Department collect and evaluate county critical incident information to ensure all necessary investigations are conducted. Additionally, because the Department is not aware of all critical incidents that occur at county-certified foster homes, it cannot identify recurring incidents of abuse in foster care or evaluate statewide trends. This critical incident information should be reported to the Department on an annual basis. The Department tracks critical incidents at CPA-certified foster homes and uses the information for risk-based monitoring at CPAs. If county departments were required to report critical incidents to the Department, risk-based monitoring visits could be scheduled at the county departments.

Additionally, one county reported that it does not submit Stage I investigations on county foster homes to the Department unless the investigation is founded. Counties are required to report all Stage I investigations to the Department to be reviewed by the State's Institutional Abuse Team. If an investigation is not submitted to the State, there is no way to ensure a thorough investigation was conducted by the county. If critical incidents were tracked by county departments and submitted to the Department on an annual basis, the Department would be able to ensure that all abuse and neglect incidents are investigated as required in regulation.

Finally, as discussed previously, Stage II investigations are conducted on state-licensed facilities by the 24-Hour Monitoring Unit after a Stage I investigation has been completed by the county. According to the seven county departments in our sample, none of them conduct a formal Stage II or follow-up investigation on their certified homes. One county stated that it does not take the State Institutional Abuse Team's recommendations for follow-up "seriously," because the county believes the Department does not have the

authority to make these suggestions. The Department needs to strengthen the authority of the State Institutional Abuse Team or eliminate it. Further, the Department needs to assign staff to ensure that these follow-up reviews are properly completed. Conducting follow-up reviews of county departments is essential in determining whether the county violated rules related to screening, training, and monitoring foster care providers.

The Department recognizes a need for increased monitoring of counties. The Division of Child Welfare conducted foster care county monitoring reviews of three county departments at the end of Calendar Year 2000 and the beginning of 2001. These reviews focused on examining foster care provider records, sections of the family services plan, and staff and provider interviews. The monitoring reports identified county strengths, areas for improvement, and specific noncompliance findings. However, no safety issues were examined during the review. These reports did not mention if family assessments are being completed or if proper background checks are being conducted. The Department currently has no plans to conduct more of these reviews. Department oversight in this area is essential, and the Department should schedule subsequent monitoring visits to county departments. Additionally, measures should be taken to improve and modify the reviews to incorporate safety issues.

The 24-Hour Monitoring Unit addresses safety issues at the CPAs and CPA-certified foster homes, so it is important that the Department also focus on the safety of children in county-certified foster homes. Formalized monitoring of the county departments and their foster homes should be implemented to ensure the safety of children in the foster care program.

Recommendation No. 13:

The Department of Human Services should ensure that county departments of human/social services are properly monitored by:

a. Seeking statutory guidance on regulations requiring the county departments to track and report all critical incidents to the State on an annual basis.

b. Conducting annual site visits to a sample of county departments. Critical incident information should be used to assist in identifying high risk county departments for site visits. As part of these visits, department staff should review the procedures county departments use to recruit and certify foster care providers.

c. Providing training and technical assistance to county departments on recruitment of foster care providers and certifying requirements and methods for conducting investigations and preparing reports.

d. Revising regulations to give more oversight and authority to the State Institutional Abuse Team or eliminating the Team.

e. Assigning staff to ensure that county departments are properly conducting follow-up reviews and determining whether the county violated rules related to screening, training, and monitoring foster care providers.

Department of Human Services Response:

Partially agree. Implementation: July 1, 2003. The Department agrees to annually conduct site visits using a risk-based sample to monitor on the areas noted in the recommendation. The Department will propose rules change to require counties to track and report summarized critical incident information in provider records in Trails at the time a provider closes, moves or changes status. The Department does not agree with recommendation (d). This is an advisory team and the authority for oversight and follow-up in Institutional Abuse rests with the Department.

Improve Oversight of Medicaid Payments to CPAs

Child placement agencies may receive additional revenues from Mental Health Assessment and Services Agencies (MHASAs) for case management services provided for foster care children receiving mental health therapies. Medicaid funds are used to pay for these services. According to the request for proposal (RFP) issued by the Department, case management services are those "activities that are community-based and are delivered in the consumer's environment, including service planning, outreach, referral, supportive interventions, crisis management, linkage, service coordination and continuity of care, monitoring/follow-up, and advocacy." The Department is responsible for overseeing the activities of the MHASAs, which include ensuring that MHASAs are properly monitoring their subcontractors.

One CPA received nearly $29,000 in Medicaid revenues from a MHASA for case management services allegedly provided for foster children in this CPA's care in Calendar

Year 2001. To receive Medicaid funds from MHASAs, a CPA submits journals to the counties participating in the CPA Medicaid Transfer Program that detail the dates and time spent managing a child's therapeutic needs. Counties are responsible for ensuring that the children listed on these journals were under the care of the CPA during the time of the claim. Counties then forward the documentation to the MHASA overseeing mental health services in the area. In 2001 the MHASA paid this CPA $60 per month for every journal that was submitted for the children placed by counties located within the MHASA's service region.

We question whether the CPA should have received Medicaid funds for case management services. We selected a sample of Medicaid payments made by the MHASA to the CPA in 2001 and 2002, and we found no documentation that this CPA's staff actually provided therapeutic case management services to foster children under its care. Staff from the MHASA and the Department of Human Services indicated that the CPAs should be documenting in a log or case file the types of case management services provided for each child. However, our review of a sample of case files and notes found no such documentation. In fact, for some of the cases where the CPA received Medicaid funds for case management services, the case notes stated that the child was not receiving therapy services.

Additionally, a representative from the MHASA stated that the manner in which the journals were filled out by the CPA raises suspicions as to the validity of the journals. Each of the journals we reviewed included one single entry for case management services provided for between one and three hours. According to the MHASA, such journals, if accurately completed, would most likely include multiple daily entries in which case management services were being provided. Furthermore, the owner of the CPA stated to us that her agency does not provide psychological case management services to children in its care and that many of the children placed through the agency do not receive therapies.

As part of the audit, we found that counties and MHASAs do not always review the journals submitted by CPAs to ensure that CPAs are actually providing case management services. Further, some of the contracts between CPAs and MHASAs do not specifically define case management services. The Department needs to strengthen its oversight of Medicaid payments made to CPAs for case management services. It needs to ensure services are provided before payments are made.

Recommendation No. 14:

The Department of Human Services should work to achieve a greater degree of accountability of Medicaid-reimbursable case management services provided by child placement agencies. To accomplish this, the Department should:

a. Ensure that MHASAs are adequately monitoring case management services provided by child placement agencies on an annual basis.

b. Ensure that MHASA contracts with child placement agencies clearly communicate the types of case management services that are reimbursable and the types of documentation that should be maintained to support that these services were actually provided.

Department of Human Services Response:

Agree. Implementation: June 30, 2003. The Department will provide written notice to all MHASAs of the following:

a. MHASAs should monitor case management services provided to MHASA clients by child placement agencies to ensure that case management services billed to the MHASAs have been provided and documented. Monitoring should be conducted at least annually; and

b. MHASA contracts with child placement agencies should address the types of case management services that are reimbursable and the types of documentation that should be maintained to support that these services were actually provided.

Written notification will be completed by July 31, 2002. The Department will review the MHASAs' contracts with child placement agencies and the MHASAs' efforts to oversee child placement agency case management services by June 30, 2003.

Financial Activities of Child Placement Agencies

Chapter 2

Background

As discussed in the Overview section, county departments of human/social services often contract with child placement agencies (CPAs) to provide foster care services. These private agencies license, train, monitor, and directly compensate foster parents that they certify. Additionally, some agencies provide therapeutic services to children in their care. When a county contracts with a CPA for the placement of a foster child, the county must reimburse the CPA by the 15th of the following month for services purchased by the county. Counties pay CPAs on a monthly basis for each placement. A daily rate is determined by the county to cover the care of the child, the case management requirements, and administrative costs of the CPA. Counties may place children with any of the licensed CPAs in the State. Therefore, one CPA may be responsible for children from all over the State.

In Calendar Year 2001 counties paid 61 CPAs in the State for providing foster care services for all or a portion of the year. These CPAs were responsible for overseeing more than 5,000 foster children and were paid a total of $41 million of the $52 million (79 percent) paid by counties to CPAs and county-certified providers for family foster care services. It should be noted that payments to county-certified providers do not include group home care. Total payments to CPAs have minimally fluctuated over the last five years, ranging from $40 million to $42 million each year. CPAs may be designated as either for-profit or nonprofit entities. In Calendar Year 2001 there were 13 for-profit and 48 nonprofit CPAs licensed in Colorado. For-profit CPAs were paid nearly $10 million in this year; the nonprofits were paid more than $30 million. The State receives federal reimbursement only for children placed with nonprofit CPAs.

We selected a sample of 10 CPAs to review their financial activities. These CPAs were selected on a risk basis because of either known problems (follow-up type reviews) or because of a high-risk assessment score assigned by the Department. Depending on our initial assessment, we conducted either a comprehensive financial review or a limited

review of the financial activities. We note that the results of our reviews may not be representative of all CPAs in the State.

Calendar Year 2001 revenues for the 10 CPAs in our sample ranged from about $218,000 to more than $4.3 million. These 10 CPAs were paid a total of more than $14 million, or 34 percent of the total amount paid to all CPAs in the year. These agencies were responsible for overseeing 857 children, on average, ranging between 20 and 260 children each month. Further, these agencies placed children with an average of between 5 and 101 certified foster care providers each month.

Cost Requirements

The contracts signed between counties and CPAs require CPAs to:

> Conform with and abide by all rules and regulations of the Colorado Department of Social Services, the State of Colorado and any federal laws and regulations, as such, which may be amended from time to time, and shall be binding on the Contractor and control any disputes in this Agreement.

These contracts also state that CPAs must "maintain service program records, fiscal records, documentation and other records which will sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance" of the agreement. Further, contracts signed between six CPAs in our sample and El Paso County require the CPAs to "strictly observe and conform with all applicable federal, state, and local laws, rules, regulations and orders...., including but not limited to.....Office of Management and Budget Circulars (OMB)," including OMB Circular A-122.

Federal regulations require that subrecipients (i.e., CPAs) of federal funding through the Title IV-E, Title XX, and Medicaid programs must follow applicable cost principles. Specifically, Title 45 Subpart 74.27 of the Code of Federal Regulations requires that "the allowability of costs incurred by nonprofit organizations . . . is determined in accordance with the provisions of OMB Circular A-122," while, "the allowability of costs incurred by commercial organizations . . . is determined in accordance with the provisions of the Federal Acquisition Regulations (FAR) at 48 CFR part 31." One of the CPAs in our sample was a sole proprietorship. We did not identify any language that would exempt a sole proprietorship from complying with federal cost principles. Issues concerning financial operations of private child placement agencies have been identified in other states. For example, the Auditor of Ohio audited the financial operations of 25 private agencies.

Based on criteria found in OMB Circular A-122, these audits identified about $2.2 million in questioned and unallowable costs at 11 private placement agencies.

Using these cost principles, we reviewed expenditures of public foster care funds by CPAs in our sample. As we will discuss in this chapter, we identified more than $1.1 million in questionable expenditures incurred by 6 of the 10 CPAs included in our financial reviews. Questionable expenditures for each CPA ranged from about $50,000 to more than $420,000. It should be noted that the payments made to CPAs include a mixture of federal, state, and local funding sources. It was not possible to correlate specific questioned costs with the funding source. Therefore, when reporting questioned costs, we did not attempt to allocate those costs among the entities that provide the funding.

Throughout our audit, we have worked with the Department of Human Services and the Office of the Attorney General to determine the appropriate legal and administrative course of action regarding questioned costs.

Related Party Transactions

We found that four CPAs (three nonprofits and one for-profit) in our sample paid for mortgages and leases for 14 properties that were owned by these CPAs' directors, owners, or founders or their immediate family. According to OMB Circular A-122, which governs nonprofit agencies' financial activities, these transactions are referred to as "less-than-arms-length leases." Specifically, OMB Circular A-122, Attachment B, part 46(c), defines a less-than-arms-length lease as:

> One under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between (1) divisions of an organization; (2) organizations under common control through common officers, directors, or members; and (3) an organization and a director, trustee, officer, or key employee of the organization or his immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

Further, OMB Circular A-122, Attachment B, part 46(c) states that "rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property been vested in the organization." This provision makes allowable only those costs that would be allowed had a nonprofit organization owned the property. In other words, only the depreciable amount of the building can be considered as an allowable expenditure. Additionally, OMB Circular A-122 states that "rental costs are

allowable to the extent that the rates are reasonable in light of such factors as: (1) rental costs of comparable property, if any; (2) market conditions in the area; (3) alternatives available; and (4) the type, life expectancy, condition, and value of the property leased.

Title 48 Subpart 31.205-36(b)(3) of the Code of Federal Regulations, which governs the financial activities of for-profit organizations contracting with the government, states that rental costs are allowable between “organizations under common control, to the extent that they do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, facilities capital cost of money, and maintenance.” Further, Title 48 Subpart 31.205-36(b)(1) states that rental costs are allowable "to the extent that the rates are reasonable at the time of the lease decision, after consideration of . . . rental costs of comparable property, (and) market conditions in the area."

As part of the audit, we reviewed mortgage and lease payments made by CPAs in Calendar Year 2001 and the public records related to these property transactions. We found that four CPAs in our sample paid more than $450,000 for properties that were owned by the directors, owners, or founders or their immediate family. Of this amount, we questioned more than $355,000 of these payments. Specifically, these property transactions included the following:

- One nonprofit CPA paid its founders about $157,000 in lease payments for a property used as the CPA’s office space in Calendar Year 2001. As noted above, only the annual depreciation of about $14,000 on the building can be considered an allowable cost. As a result, the unallowable payments in Calendar Year 2001 total about $143,000.

- A for-profit CPA paid about $136,000 for mortgages or rents on seven properties owned by the agency’s owner and/or the owner’s immediate family in Calendar Year 2001. For five of these properties, the owner or her immediate family secured five-year mortgages. We questioned the allowability of all or a portion of the payments made by this CPA, which totaled more than $101,000. In Calendar Year 2001 one property was used as the CPA’s office space. Three properties were used as foster homes and were owned by two of the owner’s sons and her daughter. Another property was a former group home operated by the CPA’s owner and was vacant in Calendar Year 2001. A sixth property was owned by one of the owner’s sons and rented by another son, who reportedly provided respite care services in Calendar Year 2001. The CPA paid the mortgage payments to a nonrelated lender as compensation for the respite care services provided by the son renting this property. The seventh property was owned by the CPA’s owner and occupied by the agency’s housekeeper. According to the

CPA's owner, payments for this property were made as part of the compensation package for the housekeeper for maid services provided at the office and one of the foster homes.

- Another nonprofit CPA in our sample leased five properties from one or both of its directors in Calendar Year 2001. This CPA paid $111,500 for these properties to its directors. We questioned the allowability of all or a portion of the payments made by this CPA, which totaled more than $71,000. These property transactions were less-than-arms-length leases, and payments for these properties exceeded the depreciable amount allowed and/or the market value rental costs in the area (OMB A-122, Attachment B, Paragraph 46). These properties were used as office space, foster homes, and a group care center.

- The fourth CPA paid $48,000 in lease payments to its director in Calendar Year 2001 for the agency's office space. Since only the depreciable amount on the building in a less-than-arms-length lease is allowable, we questioned nearly $42,000 in lease payments for the property.

Additionally, we questioned nearly $20,000 in utility payments made by a CPA for a number of properties, many of which were owned by family members. Supporting documentation related to these utility payments was incomplete and it was often difficult to determine if payments were for legitimate business purposes.

Payments for Management Fees to Related Corporations

We questioned management fee payments made by one of the nonprofit CPAs in our sample to a related for-profit corporation in Fiscal Year 2001 due to the lack of documentation supporting that these costs were related to the provision of foster care. According to a draft of the independent auditor's report for the year ended June 30, 2001, this CPA paid nearly $370,000 to its related for-profit corporation in Fiscal Year 2001. The $370,000 in management fee payments appears to be excessive given that it represents more than 16 percent of the $2.2 million of this CPA's foster care revenues and no documentation of the work performed or services provided was available.

We obtained a copy of the management contract established between this CPA and its related for-profit corporation from the Division of Child Care. This contract states that the CPA will pay a management fee to its related for-profit corporation based upon the following:

- There shall first be determined the gross revenue for the month in question for the CPA.

- There shall then be subtracted from the gross revenue all amounts paid for (1) the account of employees, subcontractors, suppliers, and similar parties of the CPA; (2) all amounts paid for operating costs, including, but not limited to, rent, office supplies, telephone expenses, and similar items of the CPA; and (3) the sum of $1,000.

- The remainder of the gross revenue shall then be the monthly fee paid to the for-profit corporation.

In addition to the monthly management fee, the contract states that the CPA will pay the for-profit corporation an annual bonus. This bonus is based upon the net income of the CPA before taxes and deduction of depreciation or amortization expenses minus a subtracted sum of $12,000. With this arrangement, it appears that all of the "profits" of the "nonprofit CPA" are being transferred to the related for-profit corporation. The method used to pay the monthly management fee and the annual bonus is not based on the services provided by the for-profit corporation, but rather on the "profits." OMB Circular A-122 Subparagraph 7(d)(1) states that when evaluating compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families, "determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs."

Payments to Family Members

We identified more than $108,000 in cash payments made by a for-profit CPA to the owner's family members in Calendar Year 2001. We questioned the allowability of nearly $85,000 of these payments primarily due to a lack of documentation and failure to meet the reasonableness criteria in Title 48 Subpart 31.201-3, which states that the determination of reasonable costs depends on "whether it is the type of cost generally recognized as ordinary and necessary for the conduct of the contractor's business or the contract performance." Specifically:

- We questioned more than $55,000 in payments made to four family members for reported respite care services. The total cash payments made to each of these family members ranged from about $8,800 to $23,300 in Calendar Year 2001. The CPA did not provide us with original documentation detailing the total hours of respite care services provided, the dates of service, the names of the children, the location where respite care was provided, or the rate of pay for the services.

We questioned these costs based upon sections from Title 48 Subpart 31 of the Code of Federal Regulations and state statutes. Section 26-4-603(19), C.R.S., defines respite care as:

> Services of a short-term nature provided to a client, in the home or in a facility approved by the state department, in order to **temporarily relieve** the family or other home providers from the care and maintenance of such client. (emphasis added)

The Department noted that respite care payments typically amount to about $20 monthly per child. However, we found that respite care payments made by this CPA to the owner's family members significantly exceeded this monthly rate. For instance, payments to the owner's daughter often ranged between $1,500 and $2,100 per month and were sometimes higher than the amount the certified foster care provider received. Department staff indicated that such large payments for respite care services would be highly unusual.

- We questioned about $30,000 in other payments by the CPA to family members in Calendar Year 2001. Nearly $26,000 of these payments were made to the owner's spouse and son for reported loan repayments. The payments were questioned due to a lack of supporting documentation that the loans were in fact made to the CPA. Additionally, we questioned more than $4,000 in payments to family members primarily due to a lack of supporting documentation showing that these payments related to the business operations.

Additionally, we questioned $55,000 that was paid by another CPA to its related for-profit corporation. These funds were used by the related for-profit corporation to pay a dividend to a shareholder. The shareholder is a related party (i.e., mother of the CPA president). It should be noted that this figure was included in the $370,000 in questioned costs for management fees discussed earlier.

Payments for Personal Purchases

We identified nearly $65,000 in credit card payments made by a for-profit CPA that appeared to be for personal use. We questioned the allowability of these payments primarily because of a lack of documentation to support that the purchases were business-related. Itemized receipts were not provided for most of the credit card purchases, which included vacation, food, clothing, beauty, and home improvement items.

Additionally, we identified nearly $9,000 in ATM cash withdrawals from the CPA's bank account that do not appear to be business-related. These ATM transactions were withdrawn from automated machines located in casinos in Cripple Creek and Black Hawk. Further, we questioned the allowability of more than $37,000 in payments made by this CPA for other types of expenditures, such as insurance on properties not used as office space paid for by the CPA, plumbing repair, and food items. We also questioned more than $23,000 in costs incurred by one CPA for vehicle payments, insurance, repairs, and gasoline costs. No business-use logs were maintained by this CPA for the costs, and as a result, we could not determine if these costs were business-related.

In the case of two other CPAs, we found that about $4,600 in payments were made to various restaurants and for an advertisement to sell a director's car. No documentation was provided substantiating the business nature of the food expenditures. OMB Circular A-122 states that "costs of amusement, diversion, social activities, ceremonials, and costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities are unallowable."

Payments to Foster Care Providers

According to department regulations, foster care maintenance payments are intended to cover the "cost of providing food, clothing, shelter, daily supervision, school supplies, and reasonable travel to the child's home for visitation." Further, department regulations, the federal Social Security Act, and the Internal Revenue Code provide definitions of who qualifies to receive foster care maintenance payments. These definitions include:

- **Department regulations:** A child maintenance payment is required to be paid to all provider types where the child is in residence.

- **Federal Social Security Act:** Foster care maintenance payments may be made on behalf of a child in the foster family home of an individual.

- **Internal Revenue Code:** Any payment made pursuant to a foster care program and paid to the foster care provider for caring for a qualified foster individual in the foster care provider's home.

In Calendar Year 2001 one CPA paid more than $150,000 in foster care maintenance payments to a foster care provider. According to the owner of this CPA and the foster care provider, these payments were made for children under this provider's care as well as for children in the care of two other certified foster care providers. This provider owned two homes where the other two providers resided during the year. According to

the owner of the CPA, this provider requested that payments for all three homes be paid to him directly. This provider stated that he considers the other two providers to be his employees and he pays their housing costs as well as a wage for caring for the children in their homes.

According to internal documentation maintained by this CPA, about $83,000 in payments to this provider were intended for children in the care of the other two providers. Department documentation further indicates that payments were made to the CPA for children in the care of these two other providers. We requested documentation substantiating that the provider receiving the maintenance payments was actually passing on monies to the two other providers. However, no documentation was provided. As a result, we concluded that the $83,000 in payments paid to the one provider should have been paid directly to the other two providers.

On the basis of the definitions of foster care maintenance payments, we concluded that the $83,000 in payments made to the one provider on behalf of the other two providers do not fit the definition of foster care maintenance payments, because the children in the care of these two providers did not reside with the provider who received the payments. Furthermore, we cannot substantiate that the provider who received the payments passed on the portion intended for the other two providers. Additionally, it should be noted that the one provider who received the payments for the other two providers acted as a subcontractor to the CPA but was not certified by the State. The standard state contract prohibits a CPA from entering "into any sub-contract without the express written approval of the Executive Director" of the Department of Human Services.

Payments to Employees and Contractors Questioned

We questioned the allowability of about $83,500 in payments made to CPAs' employees and contracted laborers for wages, bonuses, and reimbursements, which included:

- **Reimbursements of about $31,000 paid by a nonprofit CPA to its director and clinical director** were questioned due to the lack of documentation substantiating that costs incurred related to the provision of foster care services, as required by OMB Circular A-122.

- **A bonus of $25,000 was approved by a nonprofit CPA to its director** in Calendar Year 2001, despite the fact that the CPA's revenues decreased from the previous year and it operated at a significant loss in Calendar Year 2001.

OMB Circular A-122 requires that when analyzing compensation paid to directors of nonprofit organizations, "determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs."

- **Reimbursements of nearly $14,000 paid by two nonprofit CPAs to their employees** were questioned due to the lack of documentation substantiating that costs incurred related to the provision of foster care services, as required by OMB Circular A-122. Additionally, we questioned gasoline reimbursements paid by one CPA to its case managers and therapists. These payments were made at a rate of $50 per month per foster home supervised by the case manager or therapist. For instance, if a case manager or therapist supervised five homes in a month, this staff member would receive $250 for gasoline reimbursements. The CPA did not establish a written policy on this reimbursement and the same amount is paid regardless of the location of the foster home. No mileage or other documentation is tracked to substantiate the reasonableness of these expenditures. According to OMB Circular A-122, Attachment B, Subparagraph 55(b), travel "costs may be charged on an actual basis, or a per diem or mileage basis in lieu of actual costs incurred, or a combination of the two." This CPA's method of reimbursing case managers and therapists for mileage is based neither on actual cost nor on a per diem or mileage rate. As a result, we have questioned all $4,400 in gasoline reimbursements paid to employees.

- **Payments of more than $7,500 paid by one for-profit CPA for contracted labor** were questioned due to the lack of documentation substantiating that costs incurred related to the provision of foster care services, as required by OMB Circular A-122.

- **Payments of $6,000 paid by one nonprofit CPA to a case manager** on behalf of a foster family for the purchase of a vehicle were questioned due to the applicability of the transaction to foster care. This CPA was withholding a portion of one of its foster care provider's child maintenance payments and remitting that portion to one of its case managers for the purchase of a vehicle by the foster parent from the case manager. While the foster care provider in question agreed to the transaction, child maintenance payments are supposed to be used by the foster parent to maintain a foster child in the home. We do not believe it is ordinary or necessary for a CPA to be involved in private party transactions between one of its certified foster parents and one of its employees. As a result, we have questioned the $6,000 paid to its case manager.

Strengthen Controls Over Financial Activities of CPAs

The foster care system needs adequate controls to protect the interests of children and to safeguard the State's financial assets. The Department has been aware of the risks of misuses of foster care funds by CPAs for years. For instance, the 1998 Office of the State Auditor's Division of Child Welfare Services audit stated:

> It appears that as much as 65 percent of the total rate paid to CPAs for out-of-home placements may be used for administrative or other purposes beyond those related to the direct care and maintenance of the children in placement . . . Consideration should be given to the amount CPAs are retaining for administrative purposes and the amount being used for the direct care and maintenance of children in placement. At present, unlike many other publicly funded programs, there are no limits on what is spent or retained for administrative purposes. A 1997 review by the Department found that some CPA directors and their administrative staff receive more than $100,000 in annual compensation while other directors receive no compensation.

Additionally, a series of newspaper articles was released in 2000 that identified numerous financial issues related to CPAs. Despite these reports of actual or potential misuse of foster care funds, we encountered a system seriously lacking effective controls.

Department Audits: Although the staff from the Division of Child Care conduct on-site visits of CPAs during each year, they do not review the financial activities of CPAs. These visits primarily consist of reviews of safety and licensing issues. Further, we found that the Department's Field Audits Division does not conduct any financial monitoring of the foster care program. We believe it is critical for the Department to conduct in-depth audits of the financial activities of CPAs. The Department should use its Field Audits Division as a key component of ensuring private child placement agencies spend taxpayer funds appropriately. Fields Audits:

> . . . provides an external audit function for the Colorado Department of Human Services that independently verifies fiscal information. The primary responsibility of the unit is to ensure that those organizations receiving federal and state financial assistance have spent the funds in accordance with applicable laws and regulations . . . This function includes a sub-recipient [i.e., child placement agencies] monitoring component that meets federal mandates. . . . Field Audits also provides protection for CDHS against fraud, abuse and federal sanctions.

> The statutory basis for the Field Audit Division is found in the Colorado Revised Statutes. . . . Authority is also found in the Single Audit Act of 1984 (P.L. 98-502), the Single Audit Amendments of 1996, and OMB Circular A-21, A-87, A-102, A-110, A-122, and A-133.

The Department should develop and implement a risk-based approach to conduct comprehensive financial audits of a sample of CPAs over the next year. Following these initial audits, the Department should implement and establish an ongoing cycle to audit all CPAs.

Desk Reviews of Audited Financial Statements: Although CPAs are required to submit an annual independent audit to the Department each year, we found that the Department has not enforced this requirement. During our audit we requested the financial audit reports for the CPAs in our sample. The Department provided us with the audit report for only 1 of the 10 CPAs in our sample. Conducting desk reviews of the audited financial statements of CPAs can help Department staff to better identify unusual expenditures that may represent misuses of foster care funds. A department regulation was changed effective February 2002 to now require CPAs to submit independent audits along with self-reported financial information to the Department. The Department's internal audit group plans to begin reviewing these reports and documents.

Reasonableness Tests: Because the Department does not conduct audits or desk reviews of financial transactions by CPAs, staff do not know if expenditures incurred by CPAs are reasonable. Some of the problems in our audit were identified using simple analytical review. For example, analyzing payments to foster care families in comparison to costs of therapy, case management, or overhead is a simple way to identify where problems may exist. The Department, however, compiles little information to allow it to check for exceptions and deviations. The Department should include these tests as part of its on-site audits and desk reviews.

Follow-Up and Enforcement: We found that the Department has not adequately followed up on concerns raised in the past. For instance, in May 2000 the Department attempted to identify how much money passed between a nonprofit CPA and its related for-profit corporation. However, due to the lack of information provided, the Department was unable to make this determination. A state inspection report dated May 11, 2000 recommended:

> Better documentation of the agency's income and expenses needs to occur. At present, it is still difficult to ascertain how much of the agency's revenues revert to [the related for-profit corporation] as opposed to remaining within [the CPA]

> to meet the needs of foster families and children in care. This has been a major risk factor for this agency in the past. In order to ensure that this does not reoccur, ongoing fiscal accountability of this agency to its funding entities is crucial.

Although state licensing staff noted concerns regarding this CPA, we found that the Department has made no effort since the May 2000 review to determine how much money passes between the CPA and its related for-profit corporation and whether these payments relate to the provision of foster care and are reasonable. The Department needs to require this CPA to make all of its financial records available for inspection, including all records related to payments between this CPA and its related for-profit corporation. The standard contract established between counties and CPAs includes a provision that permits the Department "to monitor the service program, fiscal books, and other records sufficiently to assure the purchases of services in the agreement are carried out for the benefit" of the foster care children. If this CPA refuses to provide these records, the Department should take immediate negative licensing actions against this CPA. Section 26-6-108(2), C.R.S., identifies several situations in which the Department can deny, suspend, revoke or make probationary the license of a CPA as well as assess fines against the CPA. One of the criteria in which negative licensing actions can be taken and fines assessed is failure or refusal by the CPA "to submit to an investigation or inspection by the Department or to admit authorized representatives of the Department at any reasonable time for the purpose of investigation or inspection."

To date, the Department has not identified any questioned costs at any of the 61 CPAs. We believe the Department should work with the appropriate federal and county organizations to recover all of the misused funds by CPAs in our sample. The standard contract established between county departments of human/social services and CPAs states:

> Incorrect payments to the contractor due to omission, error, fraud, or misuse of funds shall be recovered from the Contractor either by deduction from subsequent payments under this contract or other contracts between the County and the Contractor or by the County, as a debt due to both the State of Colorado, Colorado Department of Human Services, and the County.

Further, to date, there have been no sanctions imposed on CPAs for misuses of public funds. According to management, the Department does not have the statutory authority to impose sanctions for misuse of funds. The Department's regulations state that a licensed CPA "may be fined up to $100 a day to a maximum of $10,000 for each violation of the Child Care Licensing Act or for any statutory grounds as listed at Section 26-6-108(2),

C.R.S." This statutory provision identifies a number of circumstances in which the Department "may deny, suspend, revoke or make probationary" the CPA's license or assess a fee against the CPA. As stated in this section, the Department is authorized to take actions against a CPA for violations such as consistently failing to maintain standards prescribed and published by the Department or furnishing or making any misleading or false statements or reports to the Department. We believe the Department needs to seek statutory authority to impose fiscal sanctions for misuse of foster care funds.

Recommendation No. 15:

The Department of Human Services should ensure that all child placement agencies providing foster care services are meeting state and federal requirements related to how public foster care funds can be spent. To accomplish this, the Department should:

a. Propose statutory changes to authorize the Department to impose fiscal sanctions against child placement agencies for misuse of funds.

b. Develop and implement a plan to audit a sample of child placement agencies within the next year. The Department should use a risk-based approach when selecting the sample of child placement agencies. The Department should report the results of these financial reviews to the Senate Health, Environment, Children and Families Committee and the House Health, Environment, Welfare and Institutions Committee by December 31, 2003. Following these initial audits, the Department should develop and implement a plan to audit child placement agencies on an ongoing cycle.

c. Enforce requirements that child placement agencies submit audited financial statements on an annual basis. The Department should review and analyze these financial statements and follow up with child placement agencies on any questionable expenditures.

d. Provide technical assistance and training to child placement agencies on the proper uses of foster care funds.

e. Work with the U.S. Department of Health and Human Services administrators to identify and recover all federal unallowable costs incurred by child placement agencies in our sample.

f. Work with the county departments to determine whether the findings set forth in this report constitute a breach of their contracts, and if so, seek appropriate remedies.
g. Assist county departments in seeking recovery of misspent funds by providing administrative and technical support as needed.

Department of Human Services Response:

Partially agree. Implementation: December 31, 2003. The Department will propose the statutory changes recommended. The Department will also develop and implement a plan to audit a sample of child placement agencies based on risk in the next year and will report the results of the review as outlined. The Department will also develop and implement a plan to audit a sample of CPAs on an ongoing basis. The Department will enforce requirements that child placement agencies submit audited financial statement and will provide technical assistance and training on the proper uses of foster care funds. The Department will work with the federal Department of Health and Human Services as well as county departments in the recovery of unallowable costs.

Modify Rate-Setting Approach

Rates paid by counties to child placement agencies vary significantly. As the following table shows, average payments to CPAs by the seven counties in our sample in December 2001 ranged from about $1,400 to nearly $2,100 per month. It should be noted that average rates can be affected by the types of children served by the CPAs and the counties paying for the care of the children.

Average Monthly Payments Made by Counties in Our Sample to CPAs in December 2001

County	County Size	Average Monthly Payment
Morgan	Medium	$2,066
Clear Creek	Small	$1,916
Mesa	Large	$1,784
Larimer	Large	$1,514
Denver	Large	$1,450
Pueblo	Large	$1,449
Adams	Large	$1,413

Source: Office of the State Auditor's analysis of information provided by the Department of Human Services from its County Financial Management System (CFMS).

Note: The size of the county is based upon the Department's classification of counties. The five large counties listed above participate in the CPA Medicaid Transfer Program, which redirects a portion of the child placement agencies' normal reimbursement to Mental Health Assessment and Services Agencies (MHASAs). The rates for these five counties do not include Medicaid Transfer funds.

Colorado statutes give county departments of human/social services the authority to negotiate monthly rates paid to CPAs. In 1997 the Colorado General Assembly modified the ways counties set foster care maintenance rates. Senate Bill 97-218 established provisions allowing counties to:

> Negotiate rates, services, and outcomes with providers if the county has a request for proposal process in effect for soliciting bids from providers or another mechanism for evaluating the rates, services, and outcomes that it is negotiating with such providers that is acceptable to the state department [of human services].

Prior to the passage of the Bill, the Department was responsible for setting maximum rates for foster care. When comparing the 1996 foster care child maintenance rates established by the Department with the rates currently set by counties, we found that, in general, the current county rates are higher than the Department's 1996 foster care rates.

The total monthly payment to CPAs for children in their care is based upon four rate components, which include:

- **Child Maintenance** is a reimbursement to cover the cost of maintaining a child in foster care, including a difficulty-of-care component for children who require increased supervision. Counties often determine these rates using standardized assessment tools. One of the most common tools used by counties is the Needs Based Care (NBC) instrument. This tool was created by the Northern Consortium of Counties as a mechanism for counties to negotiate rates with child placement agencies. County staff use this tool to identify how difficult it will be for providers to care for the child and, based upon this information, assign a level of care for the child, often ranging from 0 to 3. Each level of care corresponds with a monthly child maintenance rate.

- **Administrative Maintenance** covers general and administrative overhead, and case management services provided to children in foster care. Some counties establish their own rates for this component. In our sample of seven counties, we found that five counties set their own administrative rates. Often, these counties either develop these rates based upon the results of the standardized assessment tool or establish flat rates to pay to CPAs for all children, despite their difficulty-of-care results. Counties that do not establish their own rates use the state-determined rates for this component, often referred to as the "anchor rates." In our sample of seven counties, we found that two counties use the state-determined anchor rates. Anchor rates are developed for each individual child placement agency licensed by the Department. The Department sets these rates based upon cost estimate reports prepared by CPAs applying for a license. These reports include personnel, office space, transportation, and other administrative costs that the CPA anticipates will be incurred when providing foster care services. Department staff use these cost estimates to determine the monthly administrative maintenance and services rates. According to department staff, approximately 90 percent of the anchor rates in TRAILS were established prior to 1997. These anchor rates have not been adjusted since early 1997.

- **Administrative Services** covers social services-type functions including therapeutic, recreational, and educational staff. These rates are established in the same way as administrative maintenance rates.

- **Respite** covers costs associated with the temporary supervision of foster care children. The State has set the monthly compensation rate for each child at $20.

The following table shows the rates established by the seven counties in our sample for each component. Some counties use various levels of rates. The assessment tools used to determine the level of care needed for the child are used to determine which specific rate (child maintenance and administrative) will be paid to the CPA.

Rates Established by Counties in Our Sample for Negotiating Monthly Payments With Child Placement Agencies

County	County Size	Child Maintenance	Admin Maintenance	Admin Services	Respite
Adams	Large	$349 to $980	$250 to $550	$0	$20
Denver	Large	$0 to $980	$250 to $596	$0 to $450	$20
Larimer	Large	$386 to $1,000	$350 to $650	$0 to $450	$20
Mesa [a]	Large	$349 to $980	$0 to $1,817	$151 to $1,989	$20
Pueblo [b]	Large	$680 to $1,080	$550 to $630	$0	$20
Morgan [a]	Medium	$350 to $424	$0 to $1,817	$151 to $1,989	$20
Clear Creek [c]	Small	$580 to $980	Varies	Varies	$20

Source: Office of the State Auditor's analysis of child placement agency rates established by counties in our sample.

[a] Two counties in our sample–Mesa and Morgan–use the state anchor rates to determine administrative maintenance and services rates paid to CPAs. Anchor rates are administrative rates determined by the Department of Human Services for individual CPAs and these rates vary from CPA to CPA. As shown in the chart, anchor rates set for administrative maintenance range from $0 to $1,817 and for administrative services range from $151 to $1,989.

[b] Pueblo County decreases administrative maintenance rates paid to CPAs by about $61 and remits this amount to the MHASA providing services in the area.

[c] Clear Creek County does not use established dollar guidelines or the anchor rates. Instead, this county negotiates each rate, which will vary from child to child and CPA to CPA.

CPA Rates Are Not Adjusted to Reflect Cost Experiences

We identified a number of problems with the rate-setting approaches used by the Department and counties to set administrative rates paid to CPAs. Specifically, the counties that set their own administrative rates do not base the rates on any type of cost analysis. For instance, one county merely requested that CPAs provide staff with the rate

that would sufficiently cover their administrative costs. The county did not require the CPAs to provide documentation to support the rate request. Using the CPAs' requests, this county set a flat administrative rate to pay its CPAs. Another county reported that it requests from the CPA a summary of its costs. According to county staff, CPAs provide this summary informally over the phone, and no documentation is provided to the county to substantiate the costs reported by the CPAs.

By not setting their administrative rates based upon CPAs' individual cost experiences, counties may over or under compensate CPAs for their services. For instance, we questioned more than $420,000 in costs paid to a CPA in Calendar Year 2001. We found that this CPA paid its foster parents high monthly maintenance payments, often passing on the entire maintenance amount paid by the county to the foster parents. After paying its foster parents, this CPA had enough foster care funds remaining to pay mortgages on various properties, disburse money to the owner's family members, and purchase personal items. This CPA was paid nearly $430,000 in administrative cost reimbursements in Calendar Year 2001. However, we determined that this CPA incurred administrative costs for the year of approximately $80,000, which included employee salaries, rental costs, and office supplies. Most of the counties that contracted with this CPA set their own administrative rates. Because these counties did not consider actual cost experiences related to foster care services, they did not account for the minimal administrative costs needed to operate this CPA.

Additionally, we found that had all the counties that contracted with this CPA in Calendar Year 2001 used the state-determined anchor rates, they would have paid this CPA more than $815,000 for administrative costs. One of the main problems with how the Department establishes anchor rates is that these rates are based upon each CPA's estimates of cost and caseloads at the time they are licensed by the State. The Department does not modify these rates after the CPA has begun its operations to better reflect the cost experiences and caseloads of the CPA. As we mentioned earlier, the vast majority of anchor rates entered in TRAILS were established more than five years ago.

It is essential that the Department and the counties reevaluate their methods for establishing administrative rates paid to child placement agencies. Administrative costs will vary from agency to agency, depending on the size of the organization and the range of services provided. Our review of the financial activities of a small sample of child placement agencies indicates that by not basing child placement agency rates on the cost experiences of the agencies, counties are paying some CPAs more than is needed to provide foster care services and are inappropriately using taxpayer dollars. Options for modifying the rate-setting approach include:

- **Establishing capped administrative rates for all CPAs at a reasonable percentage based upon analysis of cost data.** The Department would need first to collect and evaluate information related to the cost experiences of CPAs. Using this information, the Department could then determine a reasonable percentage that would allow CPAs to effectively and efficiently provide foster care services. Upon implementation of capped administrative rates, the Department would need to monitor the financial activities of CPAs to ensure that administrative costs are not exceeding the capped amount. If CPAs exceed the maximum amount allowed, the Department would need to take actions to recover the unallowed administrative expenditures.

- **Establishing statewide ranges of allowable administrative rates paid to child placement agencies.** Rather than capping administrative costs at a specified percentage, the Department could determine ranges of reasonable administrative rates that could be used by CPAs. To determine these ranges, the Department would need to conduct cost analyses of CPAs in the State.

- **Maintaining the current system of individualized rates for each CPA but centralizing the cost analysis to ensure reasonableness.** Under this model, the Department would need to conduct analyses of cost experiences of CPAs at least every two years and compare the results with how much counties are paying CPAs for administrative costs. The Department would need to be given authority to require counties that have set their administrative rates for a CPA too high to lower their rates to a reasonable amount, as determined through the cost analyses. Further, the Department would need to share the results of these cost analyses with counties so that they can use this information to make future decisions on administrative rates.

Recommendation No. 16:

The Department of Human Services should ensure that counties pay child placement agencies a reasonable level of compensation based upon their individual cost experiences. This should include:

a. Modifying the rate-setting approaches used by the Department and counties. This may include capping administrative costs incurred by child placement agencies, establishing statewide ranges of allowable administrative rates paid to child placement agencies, or maintaining the current system but enhancing the rate-setting procedures. Depending on how the rate-setting structure is changed, the

Department may need to propose statutory changes that would reassign some of the rate-setting responsibilities with the Department, particularly the setting of administrative rates.

b. Collecting and analyzing information on licensed child placement agencies' cost experiences at least every two years and ensuring that administrative rates set by the Department and counties reflect these cost experiences. The Department should share its CPA cost analyses with all counties in the State. Further, if the rates are higher or lower than a CPA's administrative costs, the Department should adjust the rates.

c. Reviewing counties' methodologies for establishing administrative rates at least every two years to determine if they accurately reflect the cost experiences of CPAs. If the Department identifies counties that have set their administrative rates too high or too low, the Department should assist these counties in adjusting these rates to accurately reflect the costs of the CPAs.

Department of Human Services Response:

Partially agree. Implementation: July 1, 2003. With respect to (a), the Department disagrees with setting administrative caps or reassigning rate-setting to the Department. With the passage of SB 97-218 which capped the child welfare allocation, counties were given the ability to negotiate their rates in order to better control their costs. Regarding (b) the Department agrees to improve rate-setting by analyzing cost information and providing the results of the analysis to county departments. Additionally the Department will adjust the administrative rate in the system to be more aligned with the cost reports. The Department also agrees to review counties' methodologies for setting rates and as a result of the review will communicate either approval or denial of the rate-setting methodology.

Cost of Care

Chapter 3

Background

Foster care program costs in Colorado are incurred at a number of different governmental and non-governmental levels, including the Colorado Department of Human Services, county departments of human/social services, Mental Health Assessment and Services Agencies (MHASAs), private child placement agencies (CPAs), and family foster and group homes. Foster homes and group homes are reimbursed for their costs by either counties or child placement agencies. Child placement agencies are reimbursed for their costs by counties and in some instances MHASAs. MHASAs are reimbursed for their costs by the State and the federal government. Counties are reimbursed at 80 percent of their costs by the State. The State is partially reimbursed for its costs by the federal government through Title IV-E, Title IV-B, and Title XX of the Social Security Act of 1975 as amended.

Compare Costs of CPAs and Counties

Senate Bill 01-012, which was passed by the General Assembly during the 2001 session, included a provision that requires the Department to "analyze and evaluate expenditures as reported by child placement agencies each year and compare such expenditures to county expenditures for the provision of foster care services." To comply with this requirement, department staff have modified the County Financial Management System (CFMS) and the County Employee Data Store (CEDS) so that these systems will be able to track county foster care certification and training costs. In addition, direct and indirect costs incurred to maintain the foster care certification program, such as supervision of the certification program by the immediate supervisor and/or administrator, will be tracked in a spreadsheet. According to department staff, they have been implementing these changes during the first six months of 2002, and full implementation is expected by the end of the year.

To meet the requirements of Senate Bill 01-012, the Department and counties need to track and compare foster care costs that counties and CPAs are likely to incur when providing foster care services. A proper cost comparison would include only those

services that both counties and CPAs provide. While certification is one of the primary services provided by CPAs, these agencies also provide other services, such as case management and therapy, in which costs are incurred. It is essential that the Department's comparison include the same types of costs as well as any monitoring activities conducted by the Department or counties that are solely attributable to CPAs.

Currently the Department does not specifically track total foster care program costs, which include county and department administrative costs. The Department tracks foster care administrative costs as part of child welfare administrative costs. In addition to foster care, child welfare administrative costs include costs associated with administering other child welfare programs, such as the Subsidized Adoption Program, residential treatment centers (RTCs), and residential child care facilities (RCCFs). The Department provided us with a cost estimate related to department-level administration and actual payments made to county-certified foster homes and child placement agencies. However, because county administrative costs are not specifically tracked as foster care program costs, the total costs for children placed in foster care in Colorado cannot be reported.

In 1998 our Division of Child Welfare Services audit report discussed the lack of information on the total cost of providing care for children in the child welfare system. This report stated:

> The Division does not know the cumulative costs of serving a child in the child welfare system or whether certain age groups or program areas are more or less costly than others. Consequently, the Division cannot determine whether the cost of providing services has changed significantly over time or identify changes to provide services or treat children in a more cost-efficient manner.

We identified several benefits of tracking the total cost of foster care. Specifically, identifying and monitoring total program costs allows the Department and counties to:

- **Determine future budgeting needs and identify ways to control costs.** Using cost information, program managers can control and reduce costs. For example, with appropriate cost information, managers can compare costs with known and assumed benefits of activities and with value-added and non-value-added activities. They can then make decisions to reduce resources devoted to activities that are not cost-effective. Further, managers can use this information to compare and determine reasons for variances between actual and budgeted costs of activities, compare cost changes over time and identify their causes, and identify and reduce excess capacity costs.

- **Measure the efficiency and cost-effectiveness of foster care.** Measuring costs is an integral part of measuring performance in terms of efficiency and cost-effectiveness. Also, information on program costs can be used as a basis for cost-benefit considerations.

- **Develop rate-setting approaches.** Cost information is an important factor in setting fees and reimbursements.

Recommendation No. 17:

The Department of Human Services should either modify its financial reporting systems so that they will accurately track total foster care program costs or conduct a study to allocate county-level child welfare administrative costs to the various programs in which costs are incurred, including the foster care program. The Department should ensure that the cost comparisons it makes between county foster care programs and child placement agency foster care programs include comparable activities.

Department of Human Services Response:

Partially agree. Implementation: July 1, 2003. The Department agrees to comply with SB01-12 by assuring cost comparisons between county and child placement agency foster care programs in terms of comparable activities. The Department will make adjustments to the financial reporting systems to the extent necessary in order to track the comparable activities between foster homes and CPAs.

Compare Payments to Foster Parents by Counties and CPAs

In our 1998 performance audit report of the Division of Child Welfare Services, we noted that neither the Division nor the counties maintained comprehensive information on what CPAs actually paid their providers. We found that this is still a problem. Department staff do not monitor how much CPAs in the State are paying their foster care providers. This information cannot be tracked in TRAILS, because the system only reports the total amount paid to the CPA for each child, which includes administrative rates. Department and/or county staff would need to review documentation maintained by the CPA that

shows how much of the total monthly payment for the child was actually passed on to the foster care provider.

As part of our audit, we determined the average payments made to foster care providers for a sample of children served by eight CPAs in our sample in December 2001, as shown in the table below.

Average Payments Made by CPAs to Providers for a Sample of Children in One Month	
CPA	**Average Monthly Payment**
#1	$1,559
#2	$1,421
#3	$1,342
#4	$1,282
#5	$997
#6	$952
#7	$847
#8	$746

Source: Office of the State Auditor's analysis of payment information provided by CPAs in our sample.

Note: Our analysis includes payments made in January 2002 for all CPAs except CPA #7. For CPA #7, we determined the average payment made in December 2001. In addition, we did not have foster care provider payment data for two CPAs in our sample due to the limited nature of our review for these CPAs.

Monitoring how much counties are paying their certified providers is easier because this information can be tracked in TRAILS. As the following table shows, the average monthly payments made by counties to their certified foster care providers ranged from $566 to $831.

Average Payments Made by Counties to Providers

County	County Size	Average Monthly Payment
Larimer	Large	$831
Denver	Large	$778
Pueblo	Large	$756
Clear Creek	Small	$699
Morgan	Medium	$672
Adams	Large	$582
Mesa	Large	$566

Source: Office of the State Auditor's analysis of information provided by the Department of Human Services from the County Financial Management System (CFMS).

Note: Average monthly payments include only family foster home care payments. We calculated the average payments made by Denver, Pueblo, Morgan, Adams, and Mesa counties in December 2001. Due to problems with data, we were unable to determine from department data the average payments to foster care providers by Larimer County in December 2001. As a result, we used payment data for November 2001 for this analysis. Additionally, we used payment data for the entire calendar year for Clear Creek due to the small number of payments made by this county.

Reviewing payments to foster care providers by counties and CPAs would be useful for several reasons. First, this information could be used by the Department and counties to determine if payments made to foster parents sufficiently meet the needs of the children. Second, the data could be compared between the counties and CPAs to identify how varying rates among counties and CPAs affect the foster care program as a whole and to determine the most effective method of providing foster care services. Finally, the data could be used to ensure that the entire child maintenance amounts paid to CPAs for Title IV-E children are actually passed on to foster parents. Federal regulations only allow states to claim federal reimbursement for the portion of the maintenance payments actually paid to the foster care providers. Because the Department does not monitor these payments, it does not know if all the maintenance amount claimed for federal Title IV-E

payments is actually being paid to the foster care providers. The State could be liable to the federal government for reimbursement amounts that were never paid to foster care providers.

Recommendation No. 18:

The Department of Human Services should compare payments that counties and child placement agencies make to their certified foster care providers on an annual basis to determine how varying payments to foster care providers impact the foster care program and to identify the most effective method for providing foster care services in the State. Additionally, the Department should monitor provider payments made by counties and child placement agencies to determine whether the child maintenance payments meet the needs of the foster care children and to ensure that these agencies are paying the entire federally claimed Title IV-E child maintenance payments to foster care providers.

Department of Human Services Response:

Partially agree. Implementation: July 1, 2003. The Department agrees to randomly sample providers to determine if child maintenance payments made by child placement agencies are given to the foster home providers. Comparing payments will not provide information about the most effective method of providing foster care services in the State. Beyond a simple comparison of the rate paid, the Department would need to evaluate if children in each setting were of similar age, had similar needs, how involved family and significant others were in the child' life in order to assure a valid comparison of effectiveness of services. This would be a significant study that would require funding by the Legislature.

Claim All Federal Title IV-E Reimbursements Available to the State

As discussed in the Overview section, the State can receive federal Title IV-E reimbursement for 50 percent of the child and administrative maintenance payments made for foster care children meeting the Title IV-E eligibility criteria. It should be noted, however, that states cannot claim IV-E reimbursement for children placed in foster homes certified by for-profit CPAs.

During the audit, we identified several instances where the Department failed to claim all of the federal Title IV-E funds available to the State. First, we found that the Department did not always correctly categorize child placement agencies' business designation (nonprofit vs. for-profit). The Division of Child Care is responsible for entering a child placement agency's business designation into TRAILS. We identified 23 nonprofit CPAs that were erroneously classified as for-profit agencies for all or a portion of Calendar Year 2001. According to department staff, the Division of Child Care has not verified the accuracy of the business classifications of CPAs as recorded in its automated systems for several years. The Department will not claim federal Title IV-E reimbursements for IV-E eligible children placed with CPAs classified as for-profit in TRAILS. This means that if the Department incorrectly classifies a nonprofit CPA as a for-profit, then the Department will not receive federal reimbursements on the child and administrative maintenance payments for IV-E eligible children in the care of the CPA. We estimate the State lost nearly $1.2 million in federal IV-E child and administrative maintenance reimbursements as a result of incorrectly classifying nonprofit agencies as for-profit. However, it should be noted that we identified a few instances where for-profit CPAs were incorrectly classified as nonprofits, and we estimate that nearly $150,000 in ineligible Title IV-E federal reimbursements were claimed. The Department needs to review these business classifications periodically to verify that they are correct.

Second, we found that counties are placing IV-E eligible children in for-profit CPAs. As mentioned earlier, the State cannot claim Title IV-E reimbursements for the child and administrative maintenance payments made to for-profit child placement agencies. We estimate that the State lost more than $1.4 million in federal foster care maintenance reimbursements due to placing IV-E eligible children through for-profit CPAs. The Department should work with representatives from the U.S. Department of Health and Human Services to determine why states cannot receive IV-E reimbursement for children placed with for-profit CPAs and whether any flexibility in this requirement exists. Additionally, the Department should evaluate the costs and benefits of requiring CPAs to be nonprofit organizations and propose changes in statutes and regulations, as necessary.

Finally, we found that many counties are not properly entering foster care rates into TRAILS. As mentioned earlier, county payments to CPAs comprise four rate components: (1) child maintenance, (2) administrative maintenance, (3) administrative services, and (4) respite care. The Department uses the child maintenance and administrative maintenance components to determine the amount to claim for Title IV-E reimbursements. We identified 8 instances in a sample of 15 where the county-negotiated CPA rate components did not match the information reported in TRAILS. The Department requires the counties to make adjustments to rates in TRAILS based on the

counties' negotiated rates with CPAs. If the counties do not adjust these rates, then the child maintenance amount will default to a lower level.

From analysis of TRAILS payment data, we found that many counties are not adjusting the child and administrative maintenance components to reflect the higher negotiated rate. As a result, the difference between the negotiated child maintenance rate and the rate entered into this component in TRAILS is being classified under the administrative services component. This means that the child maintenance rate claimed through the Title IV-E program for children eligible under this program is lower than it should be, and the administrative services rate component is being overstated. Costs classified under the administrative services component are funded partially through the Social Services (Title XX) Block Grant. Overstating administrative services draws funding away from other Title XX-funded programs. We were unable to determine the total amount of Title IV-E funds that the State did not claim as a result of these errors because we could not obtain all of the data needed to make this determination. We found that county staff are confused about the appropriate adjustments required in TRAILS for the rate components. Further, some county staff were unclear on which rate component should be used to categorize various CPA rates. County staff reported that they have not received training on how to properly enter rates into TRAILS.

Additionally, in December 2000, department staff identified 285 of 913 (31 percent) non-Title IV-E cases that were determined to be eligible for Title IV-E foster care. These cases were identified in five counties. According to a department guidance letter issued in June 2001, retroactive claims for maintenance costs incurred for IV-E eligible children in four of the five counties were submitted to the federal government, resulting in reimbursements to the State of more than $600,000. Further, following this discovery, the Department assigned staff to review county Title IV-E programs in 46 counties and made recommendations to counties for improvements. The Department has also conducted annual training related to determination of Title IV-E eligibility.

State statutes emphasize the importance of accessing all available Title IV-E funds. According to Section 26-1-109(4.5), C.R.S., the Department shall "undertake necessary measures to obtain increased federal reimbursement moneys available under the Title IV-E program." As a result, it is essential that the Department take the necessary actions to ensure that all available Title IV-E funds are claimed by the State in the future. Further, the Department should submit retroactive requests for all federal Title IV-E reimbursements that were not claimed within the last two years. According to federal regulations, claims for reimbursements can be submitted to the federal government up to two years after the costs are incurred.

Recommendation No. 19:

The Department of Human Services should ensure it submits reimbursement claims that include all federal Title IV-E funds available to the State. To accomplish this, the Department should:

a. Work with counties to identify all Title IV-E costs eligible for federal reimbursement that were not claimed within the last two years. Upon identifying these costs, the Department should immediately submit a retroactive request to the federal government claiming reimbursements for these costs.

b. Verify that business classifications (nonprofit vs. for-profit) of all child placement agencies are properly entered into TRAILS. The Department should review the information in TRAILS biannually to ensure that it is accurate.

Department of Human Services Response:

Agree. Implementation: January 1, 2003. The Department will continue to work with counties to assure that eligible IV-E costs are retroactively claimed as appropriate. The Department will also review information in TRAILS to assure that providers' business classifications are accurate.

Recommendation No. 20:

The Department of Human Services should ensure that counties' placement and data entry processes result in the Department's accessing all of the federal Title IV-E funds available to the State by:

a. Working with representatives from the U.S. Department of Health and Human Services to determine why states cannot receive Title IV-E reimbursements for children placed with for-profit CPAs and whether any flexibility in this requirement exists.

b. Evaluating the costs and benefits of requiring CPAs to be nonprofit organizations and proposing changes to statutes or regulations, as necessary.

c. Issuing a written policy to all counties in the State that details how counties should enter foster care rates into TRAILS. In addition, the Department should provide

technical assistance and training to counties on how to enter rates into TRAILS and monitor how counties are entering rates into TRAILS on an annual basis.

Department of Human Services Response:

Partially agree. Implementation: January 1, 2003. The Department agrees to work with Federal Representatives to determine if flexibility exists in claiming IV-E for for-profit CPAs. The Department will continue to provide technical assistance and training to counties on entering rates into Trails appropriately. The Department agrees to evaluate the role that for-profit CPAs fulfill in the public Child Welfare System.

Redesigning Colorado's Foster Care Program

Chapter 4

Background

This report identifies fundamental problems related to the design and administration of Colorado's foster care program. Due to a lack of accountability and oversight of county and CPA foster care activities, Colorado's program does not ensure the safety and well-being of children in the system.

We note that many of the issues found during our audit are familiar ones that have been identified repeatedly in recent years. Specifically:

- **Division of Child Welfare Audit.** The 1998 Office of the State Auditor's Division of Child Welfare Services audit report identified numerous problems with management of the child welfare system.

- **Division of Child Care Licensing Audit**. The 1998 report identified problems with oversight of licensed facilities.

- **Newspaper Investigations.** Investigations by journalists have uncovered numerous safety and financial issues in the foster care system.

- **Foster Care Interim Committee.** In Calendar Year 2000 a Foster Care Interim Committee was created to determine how to correct problems in the foster care system. This committee recommended several areas for improvement that were introduced to the General Assembly in the form of nine bills.

The Foster Care System Needs to Be Overhauled

While we found the goals and mission of the foster care program to be appropriate, we identified systemic weaknesses related to the program's structure, oversight, and accountability. Specifically, we identified three primary problem areas within Colorado's system, including (1) the roles and responsibilities of the various agencies involved with foster care; (2) the program requirements; and (3) the use of CPAs.

Strengthen Department Oversight

As discussed in the Overview section, Colorado's foster care system is state-supervised and county-administered. In addition, counties may contract with private agencies for foster care services. Approximately 130 county and private agencies are involved with administering Colorado's foster care system at any given time. The Department is responsible for overseeing counties' and CPAs' activities related to foster care. Section 26-1-111, C.R.S., requires the Department to "provide services to county governments including the organization and supervision of county departments for the effective administration of public assistance and welfare functions," which include out-of-home placement services.

We found, however, that Colorado's approach to administering foster care is fragmented and lacks accountability. No one entity is held accountable for the protection of vulnerable children in the Colorado foster care program or for the fiscal operations of the program. While we recognize that decentralizing foster care operations gives local communities more flexibility in designing and implementing programs that address their specific needs, that flexibility needs to be matched with strong oversight and accountability. The State needs to ensure that counties and CPAs are providing services that result in the safety and well-being of foster care children. Without this oversight and accountability, there can be no assurance that foster care programs are operating in the best interest of the children and Colorado taxpayers.

We found that the Department has poorly managed Colorado's foster care program and failed to require accountability from counties and CPAs. As mentioned earlier, many of the problems identified are not new issues. Specifically, Department staff do not:

- Ensure that funds paid to CPAs are actually used to benefit children in the system.
- Take proactive actions to reduce abuse and neglect incidents in foster care and prevent reentries into the system.
- Conduct investigations of abuse and neglect incidents in a timely manner.
- Ensure that all founded abuse and neglect incidents occurring in foster care are listed on the state's Central Registry.
- Provide sufficient monitoring of CPAs' and counties' activities to ensure the safety of children in the system.

Although the Department has placed more emphasis on its oversight of CPAs in recent years, we found problems with the thoroughness and effectiveness of its monitoring. The Department has not monitored the financial activities of CPAs. Licensing staff have failed to identify safety issues at a CPA in our sample. Additionally, the Department is often slow to take negative licensing actions and impose fiscal sanctions against CPAs with repeated or egregious safety and fiscal violations.

Within Colorado's current foster care system, the Department distributes substantial federal and state funds to counties and gives significant discretion in how they spend these funds. Counties are given the flexibility to negotiate their own rates with CPAs. The Department has no authority to limit how much counties pay their CPAs, and as a result, counties may overcompensate their contracted CPAs, and taxpayer funds may not be used to benefit children in the system. Additionally, although statutes provide monetary incentives to counties to maximize the amount of federal funding that the State receives, these incentives are not working. As discussed previously, actions and decisions made by some counties resulted in the State's losing at least $2.6 million of federal funding.

The Department needs to establish accountability for the foster care program and thus improve services to children and taxpayers. Managers, supervisors, and staff who deal with the foster care program must be held accountable for program outcomes. The Department should establish benchmarks and goals for areas such as reducing critical incidents, improving foster care abuse/neglect and reentry rates, and ensuring the appropriateness of expenditures of foster care funds. The Department can then use these goals as a framework for assigning duties to staff and conducting performance evaluations of staff. Measuring performance against specific outcomes should improve the management of the foster care program.

Recommendation No. 21:

The Department of Human Services should establish specific outcome measures for the foster care program. Managers, supervisors, and staff of the program should be held accountable for these measured outcomes in their performance plans and evaluations. Those who do not meet the specific goals should be disciplined or terminated.

Department of Human Services Response:

Partially agree. Implementation: Ongoing. The Department agrees that specific outcome measures are needed in the foster care program. The measures listed in this audit in Chapter 4 should be, and are, amongst such outcomes. The Department disagrees that these are the only specific outcome measures for the foster care program. Other already established outcomes measures are also important, such as length of time to reunification, stability of placements, meeting safety requirements, achieving permanency and adequate service array. The Department currently uses performance objectives in employees' performance plans and will continue to do so. Evaluations are tied to those objectives. Disciplinary action is taken when there is information to show that an employee has repeatedly failed to perform duties required by the position. The auditors provided no specifics to indicate that employees knowingly failed to perform duties or that they have not been held accountable.

Strengthen State Statutes

As a result of the Foster Care Interim Committee, the General Assembly passed two bills (Senate Bills 01-012 and 01-014) during the 2001 Legislative Session that address some of the safety issues related to CPAs, including:

- Modifying the training requirements for foster parents by increasing the number of initial training hours from 12 to 27 and requiring that foster parents receive their initial training prior to providing care for children in the system.

- Reducing the amount of time for recertification of foster parents from three years to one year.

- Eliminating the practice of issuing permanent licenses to CPAs and requiring that on or after July 1, 2002, and contingent upon the implementation of TRAILS enhancements, the Department must license CPAs on an annual basis until the implementation of a risk-based schedule for the renewal of licenses.

- Disallowing licenses or certificates to be issued for the operation of a foster care home or child placement agency if the individual applying for the license or certificate has been convicted of any felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of the application for a license or certificate.

- Disallowing licenses or certificates to be issued for the operation of a foster care home or CPA if the individual applying for such license or certificate, or an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant at the facility:

  – Has been determined to be insane or mentally incompetent by a court of competent jurisdiction and insanity, or mental incompetency, is of such a degree that the applicant is incapable of operating the foster home or CPA.

  – Has a pattern of misdemeanor convictions within the 10 years immediately preceding submission of the application.

- Requiring an applicant for certification as a foster care provider to supply the CPA or county from whom the certification is sought with a list of all prior CPAs and county departments to which the applicant had previously applied. Additionally, applicants must provide a release of information from CPAs and county departments to which the applicant had previously applied. This release allows the current certifying CPA or county to obtain information about the application and any certification given by the previous CPAs and counties that certified the applicant.

- Requiring county departments to communicate to the Department any substantiated evidence that a CPA with which the county has contracted to provide foster care services has violated provisions of the Child Care Licensing Act or department regulations.

Additionally, the Department implemented emergency regulations in September 2000 in response to issues raised by the Interim Foster Care Committee. Some of the changes included:

- Allowing county departments of human/social services to review written family assessments and background checks of foster parents prior to placing children in CPA-certified foster homes.

- Requiring that background and Central Registry checks are conducted and reviewed for all individuals 18 years of age or older entering the home with the intent of residing in the home or providing caretaker services prior to placement of a child in the home.

- Standardizing the family assessments completed by counties and CPAs.

- Standardizing the CPA foster parent applications to make them the same as county applications.

- Requiring a statement to be included in CPA applications for certification of a foster home that states that "any applicant who knowingly or willfully makes a false statement of any material fact or thing in this application is guilty of perjury in the second degree as defined in Section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly."

Throughout this report, we have recommended several changes in state statutes. Specifically, as recommended in Chapter 1, statutes should be changed to include provisions that prohibit (1) CPAs from certifying family members of CPA staff as foster parents and (2) CPA owners, directors, staff, and board members and their immediate families from leasing properties to foster care providers certified by the CPA. Additionally, we have recommended that the Department evaluate how the Central Registry should be used when certifying foster care providers, and based upon the results of this evaluation, propose changes in state statutes and department regulations, as appropriate. In Chapter 2, we recommended that the Department propose statutory changes that would allow the Department to impose fiscal sanctions for misuse of foster care funds. Further, the Department may need to recommend changes that would reassign some of the rate-setting responsibilities with the Department, particularly administrative rates. In Chapter 3, we recommended that the Department should consider proposing statutory provisions that require CPAs to be nonprofit organizations, if no flexibility exists in federal Title IV-E policy regarding the placement of children with for-profit CPAs.

In addition to these modifications, we believe that there should be stiffer penalties against CPAs and counties that violate safety and financial requirements. The Department should identify loopholes and barriers within the current system that prevent the Department from imposing fiscal sanctions, taking negative licensing actions, or referring cases to the

Attorney General and/or district attorneys for criminal prosecution. Upon identifying these loopholes and barriers, the Department should propose changes in statutes and regulations that strengthen penalties against CPAs and counties that violate safety and financial requirements.

Recommendation No. 22:

The Department of Human Services should propose changes in state statutes and department regulations to address gaps in requirements related to safety and financial issues. This should include statutes and regulations that establish stronger penalties for private and/or public agencies that violate safety and financial requirements.

Department of Human Services Response:

Agree. Implementation: July 1, 2004. The Department agrees to propose statutes and regulations to address gaps in requirements related to safety and financial issues as outlined in the Department's responses throughout this report.

Determine the Most Effective Use of CPAs

With more cases than they can handle, Colorado counties are reliant on CPAs to place children in foster homes. These private agencies fill a niche in finding, training, and administering a network of foster parents willing to care for foster children. We recognize the public-private relationships established between counties and CPAs play a critical role in providing foster care services to children in the State. However, with the continuing problems with some CPAs noted in this and previous reports, we believe the Department needs to determine the most effective and efficient use of CPAs within the foster care system. Many of the private agencies have operated with inadequate oversight or scrutiny. We have identified instances in which public funds intended to be used for vulnerable children have instead been used for the profit and pleasure of the CPA management. At best, these egregious activities give foster care a horrible image. At worst, they breach the duty of the State to provide for the safety and welfare of children who need it the most.

While CPAs can serve an important role in the State's foster care program, the quality of care provided by some of these agencies is lacking, and the CPAs are not held accountable for their fiscal actions. Because of the ongoing issues with the use of CPAs

for foster care, we believe their use should be challenged. The State needs either to provide stronger regulatory oversight of these agencies or to assume their duties. The Department should work with the General Assembly to evaluate options for placing children in foster care, including:

- **Maintaining the current system but strengthening oversight of CPAs and counties by the Department of Human Services**. Under this option, counties would be able to contract with CPAs for placement of children. However, the Department should at a minimum:

  – Establish through regulation a standard contracting requirement for counties using the services of private child placement agencies that effectively sets forth all applicable compliance requirements, fiscal accountability standards, and allowable costs.

  – Design and implement an effective system of program monitoring of private child placement agencies to ensure fiscal accountability and program compliance that includes desk reviews of all cost reports and periodic site visits to the agencies.

  – Design and implement a cost reimbursement system that properly classifies and allocates costs in a manner that ensures costs are in accordance with applicable state and federal regulations. As part of this system, the State should consider modifying statutes and regulations to allow the counties to directly pay the child maintenance rates to all foster care providers caring for children in their custody, rather than paying these rates to the CPAs. This would ensure that the full child maintenance rate is paid to the families.

  – Establish guidance that sets forth the minimum standards for private child placement agencies to document their fiscal accountability and legal compliance to the Department.

  – Establish by regulation a cap on the percentage of the private child placement agency's administrative costs. The administrative cost cap should be structured in a manner that maximizes the amounts expended for maintenance and other direct services to children, while allowing a reasonable percentage for necessary administrative costs.

  – Eliminate holding companies.

  - Restructure foster care rates so that amounts paid to foster homes, CPAs, and the counties are comparable.

  To implement and enforce these modifications, the Department may need to propose changes in statutes and regulations.

- **Eliminating the use of private child placement agencies.** Under this option, children would be placed in foster care homes certified by the counties. The counties would be responsible for ensuring their safety and paying the foster care providers. Counties would have to be held accountable for both safety and fiscal operations. We note that this option would require substantial fiscal analysis by the Department, since the Department does not know the administrative and case management costs of either the counties or the CPAs. Further, this is a severe option and would no doubt produce hardships for counties and the Department.

- **Centralizing the foster care program at the state level**. Colorado is one of only 11 states that have a state-supervised, county-administered system for foster care. Other states have found that this type of structure results in fragmentation, inconsistencies, and lack of accountability. By centralizing the foster care program, the State could provide consistent management of the program. However, the Department would have to take steps to improve its own operations. Under this option, the State could decide whether or not to contract with private child placement agencies.

The entire foster care system needs to be reassessed and restructured. There must be accountability for the foster care program in Colorado. The Department and General Assembly should evaluate alternatives for restructuring the program.

Recommendation No. 23:

The Department of Human Services should work with the General Assembly to identify and implement alternatives for restructuring Colorado's foster care program, including (1) maintaining the current system but strengthening oversight of CPAs and counties by the Department of Human Services; (2) eliminating the use of private child placement agencies; and (3) centralizing the foster care program at the state level.

Department of Human Services Response:

Partially agree. Implementation: January 1, 2003. The Department agrees with the need to strengthen the oversight of CPAs and county department foster home programs. Based upon the Auditor's small sample of 10 previously identified high risk CPAs, the Department cannot generalize that these findings are representative of all CPAs, as Auditors have also noted in Chapter 2. Further monitoring of the CPAs will allow the Department to determine the overall performance of all CPAs.

The centralization of the foster care program would require significant study to determine the feasibility given the current mandated state-supervised, county-administered structure. In order to work with the General Assembly to identify and implement alternatives (2) and (3), the protocols between the Legislative and Executive Branch would need to be followed in order to determine the feasibility of these recommendations.

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