



Minnesota Department of Human Services

CCAP Fraud Investigation Data Analysis and Business Process Improvement Review

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INTRODUCTION

Project Scope – Phase 1

For Phase 1, the PFM project team was asked by the Minnesota Department of Human Services (DHS) to provide a third-party evaluation of the operations of the Child Care Assistance Program (CCAP) Investigations Unit and assertions related to CCAP fraud and investigation. It should be understood at the outset that this is not a legal opinion related to the issues that have been raised, nor is it a separate and distinct review of the specifics of any particular fraud case investigation that has been conducted by the CCAP team.

PFM was tasked with the following:

- Analyze the basis for and sufficiency of data and information supplied by the CCAP Investigations Unit (Investigations Unit or Unit)
- Determine the source of existing data
- Determine whether data and its sources are accurate and reliable
- Identify the policies and practices that govern data collection and production
- Make a determination as to whether the policies and practices governing data collection and production are sufficient to ensure that the data is accurate and reliable

Project Scope – Phase 2

For Phase 2, the PFM project team was asked to conduct a business process improvement project related to the Minnesota Child Care Assistance Program (CCAP). Phase 2 is focused primarily on operations related to the CCAP investigations unit and recommendations related to:

- Whether both official and actual policies and practices, including internal controls, are appropriate and adequate to control program work, ensure its integrity, and provide accurate information including data and metrics.
- Identification of new policies or practices that the State should add or implement to improve control and integrity of its work.
- Identification of actions that the State can take to remove barriers to compliance with policies and procedures, remove barriers to effectiveness, improve outcomes, and adhere to best practices.

Project Methodology

In conducting Phase 1 of the review and evaluation, PFM used multiple methods for gathering data and information related to the CCAP program. These include:

- Conducted detailed program interviews with DHS leadership, program staff, CCAP Investigations Unit, leadership and staff, and Bureau of Criminal Apprehension (BCA) investigators.
- Reviewed program statutes and rules and related documents.
- Obtained and reviewed program financial data, including data submitted by the CCAP Investigations Unit related to current and past investigations and claims of fraud.

Some of the Phase 1 project activities also formed the foundation for work done in Phase 2. In addition, PFM carried out the following activities as part of Phase 2:

- Conducted detailed program interviews with:
 - Licensing
 - Recipient Eligibility
 - IT
 - Data Team



- Hennepin County Attorneys
- Ramsey County CCAP administrators
- Hennepin County CCAP administrators
- Researched similar programs in other states to identify best practices.
- Participated in discussions with Ohio’s Bureau of Child Care and Development and Office of Fiscal and Monitoring Services to discuss the state’s new electronic attendance system and use of data analytics.

PHASE 1

Executive Summary

During the course of our interviews, members of the Investigations Unit repeatedly asserted that changes to CCAP legislation and policy are critical in order to minimize the amount of fraud taking place within the program by child care providers and parents. For a number of suggested changes, CCAP program and Investigations Unit leadership are in general agreement. Nevertheless, accurate and reliable data is needed to better estimate the amount and impact of fraud, identify the areas where reform is most needed, and estimate the potential impact of those reforms. While data on current and past investigations exists in the form of reports completed by the Investigations Unit, it is not organized in a central database or in a way that allows for its use in analyzing or quantifying trends, supporting the assertions made by the Investigations Unit, or providing sufficient justification for the potential impact of program changes on fraud.

The lack of centralized data collection emanates from multiple sources. A major factor appears to be a default position within the Unit that prefers confidentiality (as opposed to transparency), even when communicating within the Department. Of course, when there is a potential for a criminal case arising from an investigation, there is a need for confidentiality. That said, not every piece of information that the Investigations Unit gathers fits into that category, and the lack of information sharing makes it more difficult to inform policymakers about the need for changes to the program or the Department’s processes. A related factor is the limited use of data and metrics to help manage the work of the Investigations Unit itself.

Some of the issues with data and its analysis stem from the systems that are in place for program operation. The Unit does not have an integrated, real-time case management system in place, which could assist the Investigations Unit in better understanding and managing its workload. However, even if existing data was centralized, organized, and accessible, the type of data collected as part of investigations is not particularly helpful for facilitating an analysis to estimate the amount of fraud that exists within the program. Other data that exists, such as information on CCAP billing, payments, enrollment, provider registration information, and similar data collected through existing systems, while useful in determining levels and characteristics of fraud once an investigation is underway, are also not sufficient to estimate overall levels of fraud or even to complete analysis that would enable the Department to reasonably identify, without risk of bias, current centers that represent an increased fraud risk.

While being able to develop an informed estimate around levels of potential fraud can be useful for improving program outcomes, it is not the ultimate goal. The primary focus should be on the dual outcomes of reducing fraud and increasing convictions when fraud does occur. These goals are advanced by obtaining and using additional Investigations Unit data, both quantitative and qualitative, and these touch on more than just the volume of fraud. Ideally, the data collection process will be designed in way that allows both the Unit and the Department to achieve their desired outcomes.

At this time, the Investigations Unit carries out investigations that are triggered by tips, leads, and referrals that it receives, as opposed to any internal risk analysis. While these have been sufficient to maintain a steady workload for the Investigations Unit, it is less clear that this is the approach that, in the long run, would reduce the amount of fraud that takes place within the program. While it is generally understood that the



current investigation methods are necessary for a legal determination of fraud and imposing penalties, they are time and resource intensive, and nearly every Investigations Unit participant that was interviewed was of the opinion that simply providing additional investigators is not likely to reduce the overall incidence of fraud. There were multiple reasons advanced in support of this belief, including the fact that prosecutors have been somewhat hesitant to take cases to trial, and, even when convictions have been obtained, the penalties may be insufficient to deter continued criminal activity. As a result, it is likely that the more cost effective approach will focus on methods to reduce fraud on the ‘front end’ of program activities. In these efforts, the CCAP Investigations Unit can also assist, particularly by helping to better identify (with data) the program elements that align with fraudulent program activities.

But while additional investigators may not directly impact the overall incidence or volume of fraud, we have reason to believe that additional resources supporting the Investigations Unit may improve the ability to not only increase the number of investigations into suspected fraud, but also to expand the Unit’s ability to identify and communicate trends and support future requests for changes to CCAP policy. Investigators mentioned that a bottleneck exists after the Investigations Unit completes its work, when BCA involvement is needed to move the case forward. Therefore an increase in BCA resources would enable the Unit to pursue investigations in a more timely fashion. In addition, investigators stated that there is a backlog of tips and leads that have never been investigated. Some tips may never lead to investigations although why this is occurs is not effectively tracked or communicated to leadership. However, there may be others that warrant an investigation, where additional resources allow the Unit to be more responsive in identifying and investigating possible instances of fraud. Finally, we believe that additional resources outside of the immediate Investigations Unit, specifically resources related to data collection and analysis, would add the most value to the work of the Unit in terms of identifying and preventing fraud.

As part of our evaluation, we identified the types of data that, if collected in an organized and centralized manner, would enable the Department to better support their assertions and justify recommended changes to policy. As already noted, these changes are mostly (but not solely) focused on fraud prevention rather than fraud penalties and enforcement. These changes may form the basis for some of the project Phase Two research and analysis.

Findings

For the purposes of general discussion, PFM has summarized some of the common assertions around CCAP fraud and provided our analysis of its factual basis (where that can be determined) and overall impact on the program and its successful operation.

In all of this discussion, it should be kept in mind that the CCAP program has important goals and objectives that should not be lost in the discussion of possible misuse of the program. For most families eligible for CCAP assistance, child care is a necessity, and without that assistance, fathers and mothers would not be able to seek education, training or work – and without that, they have little or no opportunity to meaningfully improve their economic outlook. Child care assistance is an important tool, supporting low income parents in maintaining stable employment and contributing to improved outcomes for children¹ and its potential value should not be lost in concerns about its misuse. At the same time, reducing fraud without making changes that reduce overall program effectiveness will help provide additional resources to advance the important and legitimate goals of the program. This is an important trade-off that should be kept in mind throughout the analysis.

¹ See, for example, “Childcare Subsidy Policy: What it Can and Cannot Accomplish,” Erdal Tekin, IZA World of Labor, 2014:43. Accessed electronically at <https://wol.iza.org/uploads/articles/43/pdfs/childcare-subsidy-policy-what-it-can-and-cannot-accomplish.pdf>. In that paper, the author identifies the following key findings in favor of childcare assistance programs: The [federal] childcare subsidies increase employment among low-income parents; the subsidies encourage parents to invest in their own potential by engaging in educational and job-training activities; to the extent that childcare subsidies encourage human capital investment, they may lead to long-term economic self-sufficiency; childcare subsidies coupled with an employment requirement facilitate the move from welfare to work among low-income parents.



Current Data

The project team performed some analysis of Investigations Unit and program data to identify what fraud metrics can be accurately stated given the amount of available information. Using data provided by the Investigations Unit, the team identified sixteen centers that have been closed as a result of investigation or conviction, as well as five centers that closed during the course of or leading up to an investigation. In Minnesota, prosecutors can only bring cases for the amount of overbilling that can be shown through evidence. However, even for centers that were convicted of fraud, the project team did not receive information on specific dollar amounts related to overbilling (because even in the instance of fraud, there is some amount of the child care charges that could be considered to be justified).

Given this key data limitation, in order to develop a “highest dollar estimate” of the level of CCAP fraud determined so far, the analysis assumed that **all** CCAP funds received by those centers over the course of their operations (back to 2013) would be considered fraudulent. This methodology aligns with the approach in some other states, such as Kansas, where if any level of CCAP fraud is proven, the entire amount of CCAP funding that the center has received can be prosecuted as fraud. With this assumption, the total amount of CCAP funding over the past five years to centers that have closed as a result of or during an investigation totals approximately \$71.6 million. Total CCAP funding over that same time period was just under \$1.1 billion. Under this set of assumptions, funding to fraudulent centers represented approximately 7 percent of CCAP funds since 2013. In this calculation, the possibility that there are additional fraudulent centers that have not been exposed and/or prosecuted and/or closed (including centers currently under investigation) is balanced by the claim that all CCAP funding to those centers is fraudulent. While this may or may not be a reasonable trade-off, it at least balances some of the concerns on both sides of the debate over the extent of CCAP fraud.

The project team also examined another metric, the amount of restitution that has been ordered for centers as a result of a criminal case. Between 2014 and 2017, a total of \$1,634,053 has been ordered across 5 cases (ranging from \$16,680 to \$1.5 million). If that metric were applied more broadly (and given the small number of cases, it is debatable as to whether that is a reasonable assumption), it would equate to roughly \$330,000 of fraud per center. Of course, this fraud may span multiple years, but it might allow one to identify the number of suspected fraudulent centers and extrapolate that data. The small set of centers with restitution, however, makes this analysis problematic.

A final piece of data that was provided by the Investigations Unit relates to the effectiveness of the billing system, specifically the inability to control the flow of funds to prevent payments from being made after fraud has been determined. The Investigations Unit provided a list of centers that received CCAP funds after fraud was determined, defined as the date that the Unit notifies county workers to end payments to a designated CCAP provider, which occurs immediately prior to a search warrant being executed on the CCAP center. This data shows that a total of \$776,063 was paid out to centers after the date on which fraud was determined. This is due to the fact that the current billing system does not allow counties to automatically stop payments to centers for *prior* billing periods.

1. The need for statutory (or DHS policy) changes to the CCAP program.

There were a variety of concerns raised about the need for program changes to combat fraud, both for legislative and department changes. From our review of the legislative and program history, it is notable that there have been significant (and repeated) changes to the program and policy over the course of many years. These have included:

- Restrictions on the CCAP centers who employ parents of enrolled children, which has been tightened in 2011, 2015 and 2017 and now limits the number CCAP eligible children of employees at a center to 25.



- Attendance record keeping requirements, including attendance records being required (2003) and kept on site (2015) as well as the ability to revoke authorization and establish overpayments based on attendance records (2015).
- Increasing fraud penalties (2013).
- Requiring reporting on decreases in attendance (2015).
- Limits on CCAP center hiring practices, including making it a felony to wrongfully employ a parent of a child who receives CCAP (2015).
- Restrictions on the ability of a parent to use multiple day care providers (limited to a primary and secondary provider and limits on the hours per each) (2017).

While it is clear that there are additional opportunities to continue to refine the overall program, the review of past history suggests that there is not an unwillingness on the part of the Department (or the Legislature) to consider and enact program changes aimed at reducing and/or preventing CCAP fraud. It is also notable that several of these changes are recent, and their overall impact on CCAP fraud should also be examined. In this respect, collecting data to determine impacts will also be important, and the Investigations Unit can assist in these efforts.

2. Claims related to the amount of fraud within the program.

It has been suggested that at least half of CCAP program funding goes to fraudulent activities. However, there is not sufficient data that has been collected to develop an accurate estimate of the overall amount of CCAP funds that are not being used for their intended purposes or that are being directed to centers that are engaged in fraud.

The information that is available includes CCAP totals that went to centers that were convicted of fraud or that are currently being investigated for fraud. Information on convictions include the amount that was included as part of the case, which represents the CCAP amount overbilled (or billed in total) during the time that video surveillance of the facility under investigation was carried out. There is also data on the amount of CCAP funds that were paid out to CCAP centers after fraud was identified. Finally, there is data on the total amount of CCAP funds paid to those CCAP centers since 2013.

There are over 1,500 child care centers that have received and are currently receiving reimbursement for eligible CCAP activities since 2013. However, the number of these centers where fraud has been identified by the Investigations Unit is not well documented. The sample size of convicted centers as well as the amount of proven fraud is too small to extrapolate an estimated amount of CCAP fraud.

Estimates of the amount of fraud in the CCAP program have been based on the prevalence of a number of characteristics associated with fraudulent providers. The problem, however, is that the validity of those characteristics as predictive indicators of fraud has not been proven. As discussed elsewhere in this report, information provided to support assertions regarding the estimated dollar amount of fraud has varying degrees of validity and utility and has not been presented as any type of statistically valid proof or predictor of fraud.

3. CCAP eligible center characteristics that are directly related to the occurrence of fraud

The CCAP Investigations Unit has gathered information on specific cases that have led them to identify certain characteristics of centers that have been convicted of fraud. Examples of these characteristics include:

- Parents (generally mothers) receive payments from the center in return for enrolling their children in the center. This often includes “paychecks” that can be used to support their CCAP program eligibility.



- Centers are overbilling – billing for children on days and during time periods where they were not in attendance at the center, including holidays. Related to this, centers have falsified attendance records to match billing records, but the attendance records do not accurately reflect the time that children were in attendance at the center.
- During the course of investigations, the Investigations Unit has identified other characteristics directly related to the occurrence of fraud, including:
 - Indications of money laundering and other factors related to bank records and the use of CCAP money that indicate intent as well as revealing that CCAP funds are not being used to effectively operate CCAP centers.
 - Shadow owners who are not listed on official registration, licensing, and business ownership documents.
 - Lack of center program resources, including lack of staff training, lack of adequate levels of care for children, lack of food and other characteristics of a licensed day care facility.

The results of these investigations, including interviews with parties who have been involved either directly or tangentially with fraud, analysis of billing and attendance records and comparison of attendance records to video surveillance, and detailed review of bank activity, have led to a belief that there is intentional and systematic fraud and collusion being carried out by people who are involved in other illegal or fraudulent activities.

While the individual cases have common characteristics, there is insufficient data to provide evidence of a trend or that specific indicators can be used to identify other providers who are likely to engage in fraud.

4. There is a belief that the identification of certain characteristics can be used to determine what centers are at a higher risk of being fraudulent and to estimate the percentage of CCAP funds potentially being used fraudulently.

As previously mentioned, the Investigations Unit currently identifies potentially fraudulent centers solely through the use of tips, leads, and referrals, which are primarily received from county CCAP staff, parents, employees, and co-owners. The Department does not currently perform any proactive data analysis that would assist in identifying risk factors or pursuing potentially fraudulent centers that have not been identified through a tip or lead. However, in attempting to provide an estimate for the possible level of CCAP dollars or number of centers operating fraudulently, the Investigations Unit has relied on the identification of characteristics that have been seen in some fraudulently operated centers and that they assert are rarely seen in legitimate centers.

While there is a recognition that any single characteristic would not be on its own an indicator of fraud, there has also not been specific data analysis to identify a combination of characteristics that would present a valid and reasonable concern about an existing center. These characteristics may be related to facility and program operations, licensing concerns, volume and percentage of CCAP funds, and include some that would not be identified unless a fraud investigation was already underway.

Although it has been established that the estimate of a fraud rate of 50% within the CCAP program was stated to be a belief that is not backed up by any data, the Investigations Unit has linked certain characteristics to high volume CCAP centers in order to help justify this estimate. However, there is not sufficient data to support these characteristics as indicators of fraud.

While the project team agrees that there may well be an analytical approach to estimate the potential for fraud, it will require real agreement on what the right indicia are to look for. A goal going forward (and something that can be further analyzed as part of Phase Two) is to bridge some of this analytical gap. Given the limited data that we have seen regarding centers either convicted of fraud or currently under investigation the project team would make the following observations:



- The most consistent characteristics of fraudulent centers, which therefore might serve as the most reliable cause for investigation or indication of a center at high risk of possible fraud would appear to be the following:
 - A tip, lead, or referral is received, primarily from county CCAP staff, parents, employees, or co-owners.
 - Attendance records do not support billing.
 - The provider has an unusually high number of employees based on capacity or customer base.
- Data analysis will also help make a distinction between characteristics of the CCAP program, how the program is intended to be used, and when programmatic characteristics do and don't make sense in the context of other potential indicators. For instance, centers that are licensed for multiple shifts or for seven days a week may be responding to a need in the community. Centers with 100 percent CCAP clients may be operating in a low-income community and reflecting the population within the center's catchment area. However, paired with additional indicators that can be determined through data mining (such as parent employment information, geolocation data on distance traveled between home and center, data on school age children enrolled, incremental or delayed billing, and other key characteristics), the Investigations Unit could develop a matrix of valid fraud risk indicators for use in predictive analytics.

5. Licensing compliance and potential fraud indicators.

Licensure can play a key role in identifying potential fraud and is in fact responsible for a number of tips and referrals received by the Investigations Unit to trigger an investigation. While licensing issues can and do exist separately from the presence of CCAP fraud, there certainly are some licensing requirements that, if not met, may signal the potential presence of fraud.

From our perspective, this is an important area for additional activity in the future. For one thing, it is generally accepted by all involved in the process that the fraud investigation activities to document overbilling are time and resource intensive. If licensing violations indicate that the center is not providing the services that they are being paid to provide as part of the CCAP program, then those violations alone could potentially be sufficient for investigation of fraud even without the existence of overbilling. Examples of this may include:

- lack of visible/accessible toys
- failure to provide all children with sufficient food
- falsification of employee identities and qualifications

Some of these may be a reflection on the quality of facilities without necessarily indicating the presence of fraud. However, others that might rise to the level of investigation, such as falsification of employee identities and qualification, may represent an opportunity to reduce fraud if they are enabled to be a trigger for the suspension of payments until further investigation is completed.

6. Banking records are a key component of fraud investigations.

The Investigations Unit provided documentation to share examples of evidence of money laundering from prior investigations, consisting of bank documentation that indicates "excessive money wires, money transfers, cash withdrawals, cash deposits in other accounts, and the use of multiple accounts to operate the business and their personal finances," as well as the various methods used to "integrate" funds, or write and receive checks that appear as regular business expenses and loans.

However, to our knowledge, the details of transactions, checks, cash withdrawals, etc. needed to provide evidence of fraud or intent to use CCAP money for purposes not related to the program cannot currently be



obtained outside of an investigation and require BCA's involvement to secure a search warrant for bank records.

The Department or County responsible for payment may be aware of frequent changes to a provider's business bank account if they are using this information to deposit CCAP funds (although it appears that providers are not required to receive funds via direct deposit). However, we have not seen any indication that this information is collected or reported outside of ongoing investigations. We are also not aware of any condition of CCAP registration that would allow the Department to access bank records or to permit auditing of books and records as a condition of becoming a CCAP provider, outside of an administrative subpoena.

7. Proposed back end policy changes to allow investigators to more effectively and efficiently identify and prosecute fraud

A number of policy changes were suggested as a means to improve the process of investigating and prosecuting centers engaged in fraud. At the start, it is notable that nearly all of those interviewed (which included investigation and program leadership and staff) were in agreement that the current number of investigators in the Investigations Unit is sufficient. In our experience, that alone is unusual – often the first suggestion for improving overall performance in nearly any program is to increase program resources (which is often primarily staff). The investigators did suggest, however, that there is a bottleneck when cases get to the level of criminal investigation and are transferred to BCA, as there are only two BCA agents in the Unit at this time. In addition, they stated that there are enough tips to “keep them busy” – what is lacking here is specific information on the number of tips that are not pursued and why (is it a capacity issue, are the tips not credible and why, etc.). When we suggested that data would support the Unit's ability to more accurately identify potential fraud and use internal analysis to identify centers that might be at a higher risk of fraud, the response was that they do not need additional means to determine fraud, as tips and referrals are currently sufficient to occupy the available time. Finally, the investigators also mentioned that equipment limits – including both the number of available cameras for video surveillance as well as the time that it takes to review video surveillance – also play into the number of investigations that the Unit is able to pursue at any given time.

Other proposed policy changes related to the effectiveness and time required to complete investigations include the ability to more easily access IP addresses, which would enable investigators to more easily identify who is doing the billing for centers under investigation. While this seems to be the case, it is also understood that system changes are generally large undertakings, and one specific change of this type is unlikely to be accomplished without it being part of a larger system transformation.

Another proposed policy change that was advanced to facilitate the conviction of fraud, and which is also supported by the program staff, is reducing the evidentiary standard for fraud civil cases from ‘clear and convincing’ to ‘a preponderance of evidence.’ In the opinion of the Investigations Unit, this change would not appreciably reduce the Unit's workload, particularly in terms of the time spent on the investigatory process. In addition, the investigators state that even now, with a clear and convincing evidence standard, they conduct the investigation to reach an even higher standard (proof beyond a reasonable doubt). It is also unclear whether this change would impact the willingness of the County or Federal attorneys to pursue and obtain additional convictions. However, we do believe that there is a value to moving to a lower evidentiary standard, particularly in terms of reducing the resources needed prepare for an administrative case if BCA determines that it will not move forward as a criminal investigation.

There is little data or specific analysis as to how much impact these changes would have. Few people outside the immediate Investigations Unit have access to information about the investigation process, including how roles are assigned, how long different aspects of investigations take, and where current cases are in the investigation process.



It was also asserted by the Investigations Unit that under current policies and even with many of the proposed changes, their point of view is that prosecution of fraud has a limited effect on deterring additional fraud. This is in part due to the difficulties in moving a case to a criminal investigation and ultimately to prosecution, to the low amounts of restitution that have resulted from criminal convictions, and to a lack of success even in taking cases to administrative court. The project team concurs with this assessment given the difficulties in proving intent and achieving conviction for fraud, as well as the limited consequences around restitution, fines, and disqualifications. This, of course, buttresses the argument that the best way to combat existing (and potential future) fraud is on 'front end' changes to the program, whether through more strict facility licensing and oversight or better facility reporting requirements.

8. Proposed front end policy changes to prevent or reduce fraud

The Investigations Unit and BCA have proposed a number of suggestions for front-end changes related to CCAP legislation, policies, and operations that they believe would prevent or limit the number of fraudulent CCAP centers and the amount of CCAP money lost to fraud. The proposed changes to statute and policy range in terms of feasibility and effectiveness/impact. CCAP Program leadership is in agreement with the Investigations Unit regarding some of the proposed changes, while others may result in restricting the program's effectiveness or access to the program by the people who need it to an extent that would negatively impact on program effectiveness.

Proposed front end changes include:

- Require additional background information / identification for center owners during the licensing and CCAP registration processes. The process of registering CCAP providers currently resides with the counties. Because of the population they serve, some CCAP centers are also required to register with multiple counties. There have been suggestions to centralize the CCAP registration process within DHS to avoid duplication of effort and centralize data related to center ownership and registration. This data integration aligns with what could be considered a program administration best practice (as decentralized data makes some forms of fraud easier to accomplish).
- Inclusion of a perjury clause that needs to be signed both by centers registering to be CCAP providers as well as during the eligibility application process for program participants. This would provide another legal avenue for pursuing criminal convictions and would also align with reasonable program enforcement.
- An attendance system that prevents or limits falsification of attendance records. Specifically, a biometric system such as one using fingerprints was mentioned in multiple interviews with CCAP Investigations Unit investigators as the only effective means of preventing falsification of attendance records. The use of pin numbers or swipe cards does not serve the same purpose as center owners can have access to those even if the family is not present. The primary concerns here are around privacy and confidentiality, as well as cost and how to handle issues related to technology failures.
- Impose additional limits on CCAP providers, such as the need for a center to operate for 12 months without CCAP reimbursement before being eligible to receive CCAP funds. This would be prohibitive for centers operating in low income areas, would provide beneficial treatment to existing centers and as a result may not be feasible (or even legal) or recommended.
- Limit the ability of CCAP providers to submit bills past 60 days and limit the allowability of retroactive payments of up to 1 year. Investigators assert that these policies allow fraudulent CCAP centers to submit bills after the payment dates, enabling them to bill incrementally and falsify attendance records. The Unit was able to produce what we understand to be comprehensive data on all centers that have submitted bills after 60 days and up to 318 days after the billing period has closed. The policy states that centers may submit bills after 60 days if they submit for approval to the county that they have "just cause." The only example provided for "just cause" is death or illness of the owner. However, it is clear that counties are approving bills for other reasons. The project team has not



been able to identify a logical business case for incremental billing of up to 318 days after the billing period has closed (other than the extreme cases of death or illness of the owner or some other calamitous event), and a change to program requirements in these instances appears warranted.

- Limit ability of CCAP providers to claim CCAP funds retroactively. Current policies allow CCAP providers to bill CCAP for prior pay periods for up to a year once a family has been approved as CCAP eligible. Our analysis of the data provided by the Investigations Unit indicates that this may be the case for a portion of billing past 60 days (for instance where a provider submits for payment for one family going back several pay periods) but is clearly not always the case (for instance where a provider submits a bill for multiple families for a prior pay period). While some retroactive billing may be warranted, it is likely that the current window could be reduced without significantly impacting on overall program goals and objectives and likely would reduce the opportunity for fraud.

9. The policies around registration as a CCAP Provider and CCAP fraud.

CCAP providers enroll through counties (as opposed to DHS), and enrollment does not require center owners to provide identification, nor is there a background check or vetting requirement. CCAP providers may also have to register separately with multiple counties. As mentioned previously, this may increase the opportunities to commit fraud. It may also make it easier for facilities to continue to function where the level of care they provide to enrolled children does not meet industry (or state) standards.

The presence of falsified training documentation and inaccurate information provided on a license application (for instance about ownership) is consistent across previous investigations. While a number of investigations have revealed “shadow owners” that are not reported on CCAP provider application or business registration materials (and therefore would not be identified unless an investigation was underway), it is not clear whether information on prior ownership or employment by other closed centers is gathered or investigated prior to approval.

While there is not documentation on the amount of time the Investigations Unit generally spends on the process of proving who a specific provider/owner is or was (and therefore the impact on investigations and convictions), this represents an opportunity for increased up-front information that could serve to prevent fraud or identify risks much earlier in the process.

10. Current processes around data collection and analysis, Unit operations, and communication

As discussed throughout this report, in past years, the Investigations Unit has not put into place sufficient processes and procedures for the collection of data related to current and past fraud investigations to facilitate the tracking, analysis, and sharing of data related to CCAP fraud. However, there are resources within the Department to begin to address this deficiency. The Unit itself has recently begun using a tracking system for tips and leads. In addition, the Unit has implemented a reporting process in which the manager completes a monthly report with information such as key investigation activities, restitution received, administrative reviews, and case status. Additional metrics to be reported monthly include the status and disposition of tips and leads, warning letters, and further detail on case status.

Separate from the Investigations Unit, DHS Office of the Inspector General (OIG) has a data team that currently consists of four analysts and a supervisor, supporting the Surveillance and Integrity Review Section (SIRS), Child Care, and Recipient Fraud, and anticipates growing that team in the near future. The intention of the data team in relation to the CCAP Investigations Unit was that the data analysts would develop reports that would enable the Unit to perform data mining and analysis to recognize trends and evaluate the validity of potential fraud indicators, among other uses. The Data Team did develop four preliminary reports for this purpose. However, the CCAP Investigations Unit has not put these reports to use in a proactive manner. Instead, the Investigations Unit continues to rely on the data team for information related to current investigations and responses to internal and external data questions, which does not leave time for any



proactive data analysis that the Unit could use to guide their decision-making, approach to investigations, or to support their recommendations related to fraud prevention. In essence, even when the data is available or is made more easily accessible (such as through reports and queries), it is not currently used effectively by the Investigations Unit. The Unit currently lacks the background and motivation (and is not encouraged by management) to understand what data can tell them, how to manipulate existing data to determine collateral factors, and the value that this information could play in guiding decision making around the investigation process, the ability to communicate trends, and in supporting a valid estimate of fraud.

Improved collection and usage of data analytics serves multiple functions, including:

- Improving the unit's ability to be proactive in investigating fraud, as opposed to waiting for tips and leads. It is critical that the data used in making these determinations and the methods used to perform analysis are established as valid.
- Reinforcing the strength of investigations and facilitate acceptance of cases by the BCA.
- Providing data that supports the Unit's assertions and recommendations based on experience, which is a critical factor in communicating with leadership and in the ability of leadership to present an effective case to the legislature for changes that will have an impact on reducing the occurrence of CCAP fraud. The ability to share facts and data that supports and builds the case for program changes and resources is a key component in the ability to communicate, to be heard, and to have resultant action taken.

In terms of communication, the Investigations Unit seems to believe that OIG and DHS have either failed to offer sufficient opportunities for the investigators to communicate with leadership, or that attempts to communicate with leadership have been ignored. The project team was informed that the CCAP Investigations Unit meets regularly with the Children and Family Services leadership, but that historically there was some resistance on the part of the program to the suggestions and input of the Investigations Unit, due in part to the lack of supporting data. Although that resistance has dissipated, as evidenced by the fact that Program leadership now supports a number of the proposed legislative changes suggested by the Unit, there may have been a lasting impact on the extent of communication and the perception of how the Unit's input is received.

It is not clear to the project team what other avenues for communication currently exist beyond these meetings with CFS, or what information has been shared with leadership and what subsequent response the Investigations Unit has expected but not received. The lack of clarity around communication channels, opportunities, and expectations represents a need within the Department. At the same time, in order for communication to be effective, a level of trust needs to be established on both sides. The Investigations Unit needs to provide sufficient detail to support the findings (trends and concerns related to fraud) and recommendations (policy changes and resource needs to prevent fraud) that they present to leadership, and our analysis suggests that this has not been regularly advanced up the Department chain of command. For example, much of the data to support the claim of widespread fraud was only provided by the Investigations Unit to Department leadership after the assertions had been made and at the specific request of Department leadership for supporting data. If this information had been regularly flowing from the Investigations Unit, it would have been provided prior to those assertions, not after.

Recommendations

In general, our review identifies many typical aspects of a major state funded and largely county administered financial assistance programs. This can include differing standards for program administration among counties, lack of centralized data (at both the county and state level) and less than optimal sharing of program data and information. As is often the case, the fraud investigation data is also 'self-contained' within the Investigations Unit and is not used for proactive 'front end' activities related to staunching the instances of fraud.



We have identified the following data points that, if collected, organized, and shared, could serve as potential metrics to support or refute current assertions being made regarding fraud and to analyze trends around both volume and characteristics of CCAP fraud. Ultimately, this data can help effectively combat fraud both in program operation and administration as well as in enforcement:

Data on fraud investigations:

1. Total dollar amount of overbilling identified in convicted fraud cases.
2. Number of centers where fraud has been proven, either through administrative or criminal cases.
3. Number of cases/centers that have been investigated that have gone to criminal or administrative hearings.
4. Number of cases/centers that have been investigated where overbilling was identified; also the amount of overbilling in these instances.
5. Total number of overpayments assessed and outcomes.
6. Outstanding tips that indicate overbilling that have not yet been investigated and the number of centers implicated.

Characteristics of fraud:

7. Number of informants/interviewees who have stated that they receive kickbacks or are privy to other collusive or fraudulent activity, as well as specific information or quotes provided in those conversations which may be relevant to understanding and identifying the characteristics of fraud.
8. Data on CCAP centers that have closed, including why they closed, was closure voluntary, and were there fraud or licensing concerns (and if so, how were those concerns identified).
9. Number of centers opened in the same location where a fraudulent center had previously closed.
10. Number of centers opened in the same location as a previously closed center that had never been suspected or investigated for fraudulent activity.
11. Number of centers convicted of fraud that were opened in the same location as a previously closed fraudulent center.
12. Number of banking changes (bank account, financial institution, etc.), across time, made by centers that have been convicted of or investigated for fraud. (The Unit does appear to collect this data during the course of investigations, but not in a way that can later be used for comprehensive analysis).

CCAP Program data:

13. Actual or estimated percentages of public clients by center.
14. Number of instances a family changes centers within a year (total and average per family).
15. Number of families with children enrolled at multiple centers.

Billing and payments

16. Total amount billed after 60 days / average amount billed after 60 days by center.
17. Percent of children billed for after 60 days of the total pay period.
18. Percent of money billed for after 60 days of the total pay period.
19. Percent of the total number of billings after 60 days of the total pay period.
20. Average number of bills submitted per pay period.

Investigative processes:

21. Time spent pursuing data that could have been retrieved if IP addresses were easily accessible.



Licensing violations

22. Tracking licensing violations and the outcome of those violations may be an opportunity for additional fraud or risk indicators, or closure due to licensing issues.

Other recommendations:

1. Develop and implement a risk assessment/scale to replace the fraud indicators. Risk factors could be based on characteristics of centers that have been convicted of fraud once that data is able to be organized and analyzed.
2. Add resources to the data team and facilitate a strong collaborative relationship between the CCAP data analysts and the CCAP Investigations Unit that both encourages and requires the collection and use of data as part of the Investigations Unit's regular process. One first step would be to develop a workgroup in which representative data analysts and investigators meet to discuss how best to use current data mining reports as well as what other types of reports would be useful in proactively identifying and communicating trends and risk factors related to CCAP fraud.
3. Implement the ACISS system to facilitate organization, centralization, and analysis of investigation data.
4. Revise reporting policies and procedures to better organize data on the investigative process by case (as opposed to by date / week).
5. Centralize CCAP provider registration under DHS in order to standardize the provider enrollment/application process, facilitate review and tracking of enrollment/application materials, and enact new regulations and requirements around provider and owner identification and background.
6. Continue with the development and implementation of performance metrics for the CCAP Investigations Unit and investigators, and use these metrics for goal setting, accountability, triage practices of cases to investigate, holding leaders accountable to the work of investigators, and providing a dashboard of timely and accurate metrics of concern for more close examination by CCAP.
7. Develop a clear communication flow from the CCAP Investigations Unit to the OIG and to DHS leadership. This should include regularly scheduled meetings between the OIG and the CCAP Investigations Unit manager, as well as opportunities to communicate directly with investigators. In addition, there should be a clear chain of communication established that the Unit can use to ensure that their concerns are heard up the chain.
8. Proposed front end changes – In the Findings section of this memo, the project team lays out some of the proposed front end changes that have been suggested throughout the course of this project, along with discussion of the potential ramifications of those changes related to both fraud prevention and program usage and effectiveness. While we have not explored the feasibility of the changes discussed, the project team believes that certain adjustments to policy and regulation could have an impact on reducing the incidence of fraud without negatively impacting access to the CCAP program.



PHASE 2

Executive Summary

During both Phase 1 and 2, the project team evaluated current CCAP Investigations Unit and program data and information with the goal of understanding current practices, providing some perspective on claims made about fraud in the CCAP program and making recommendations that will improve the efficiency and effectiveness of the Investigations Unit as well as enhance overall CCAP program integrity.

Among the key findings is that while the current Investigations Unit uses typical investigative techniques and approaches and has successfully processed cases that led to civil and criminal penalties, the Unit is operating at close to full capacity, and there is little evidence to suggest that program fraud has been reduced or deterred as a result of those efforts.

There are opportunities for the Investigations Unit to be more productive in its efforts. Some of these, such as developing an integrated case management system and regularly reporting on Unit activities, are either underway or in the process of being implemented. These should help the Unit work more productively and start to develop a database (or at least data set) of useful information that can assist in data-driven analysis of centers that are program 'outliers' in their billings and practices. That information can help inform both the Investigations Unit and other programmatic staff to pay closer attention to facilities that may be suspected of committing fraud against the CCAP program.

There are other program or operational enhancements that can also help to deter fraud. Chief amongst these are greater use of technology, both in record-keeping and billing. Chief amongst these are upgrades to the State's billing system, MEC². There are significant limitations to MEC², which is a COBOL-based mainframe system that has very few database characteristics and cannot be readily used to 'data mine' information entered into the system. Simply put, it is a payment system, and a not very advanced one at that.

It is time for DHS to make upgrading that system a priority. While the concerns about program fraud make a compelling case for modernization, the fact is that MEC² is simply not sufficient for the needs of a program that annually allocates over \$200 million in taxpayer dollars to eligible child care providers. There are other states that have made a much more concerted effort to develop electronic systems that enable better record-keeping and deter fraud. Besides electronic billing systems, these also include systems that provide unique identifying information when children are checking into and out of CCAP eligible facilities. While these systems build additional costs (and technology knowledge) into the child care system, the benefits (particularly in terms of reduced risk of fraud) are significant.

These technologies could be phased into use – for example, they could be initially required by facilities with a minimum level of CCAP billing. There were, for example, 54 child care centers that billed more than \$1,000,000 to the CCAP program in 2017 – and another 94 that billed more than \$500,000. That level of billing suggests that these centers should have the financial and technical capacity to implement and use an electronic billing and time and attendance system.

Along with creating more and better data, the Department needs to be structured to effectively use it. While the current Investigations Unit efforts are typical for law enforcement, they are not particularly pro-active. Currently, the Unit relies on tips, referrals and leads to trigger an investigation. While there have been (and continue to be) enough of them to occupy the Unit's time, this is an ad hoc approach that does not provide an 'early warning system' to detect potentially troublesome centers or to use data to buttress the existing cases – which are primarily relying on video or other surveillance to make the case for CCAP fraud. The project team has identified types of positions – particularly Certified Fraud Examiner(s) and forensic and/or data analysts – that would provide additional expertise. These individuals should be responsible for more than simple support the current Investigations Unit – they should be charged with developing analytics to detect fraud prior to tips,



referrals and leads. This should be a continual part of the process to enhance fraud detection in this and similar programs.

There are also a variety of improved coordination efforts (particularly at the State and county level) that can improve overall program effectiveness and combat fraud. Effective communication is a particular concern – the project team encountered diametrically differing perspectives on various aspects of the program. Interestingly, in some areas, the program actors (for example, the program staff and the Investigations Unit staff) had views that were not all that dissimilar – but they were not necessarily aware of these shared opinions.

There is always some tension between program staff – who have a justified (and justifiable) interest in making benefits available to those who are eligible for them – and program enforcement staff – who believe that it is equally important to safeguard taxpayer dollars from improper use. However, there should be some common ground where both parties agree that fraud damages the program – not only from the taxpayer perspective but from the fact that it denies resources for people who are truly eligible and legitimately need child care assistance. In this respect, some shared efforts around detection and prevention make sense. In particular, the project team believes that centers that have in some way not complied with program requirements should be subject to stricter scrutiny, and these scrutiny measures should help deter and/or detect potential or ongoing fraud.

Findings and Recommendations

Investigations Unit Processes and Procedures

The information that the Investigations Unit provided to the OIG and which was provided to the project team was not well organized in terms of consistency and enabling the use of the data to understand the status of cases and centers that had been under investigation. Data was primarily organized using Excel spreadsheets, Word documents, and handwritten and scanned documents. It is also the project team's understanding that detailed case information is maintained in a combination of reports that the investigators write up at certain points during the cases as well as notes that are kept during weekly meetings and which may contain data on multiple cases at different stages of investigation.

At the start of this project, the Investigations Unit did not have a methodology for the development and approval of Unit policies and procedures. The Unit provided a set of written policies for a number of activities. Some of these policies appear to be designed to provide guidance and process direction for the Investigations Unit, while others seem to provide an explanation of the Unit's internal processes and activities to Department leadership. The policies include:

- Attendance Record Audits 5/25/17
- Protocol for Watching Video
- Financial Misconduct Investigations 8/9/17
- Digital Video Evidence 5/31/18

In addition, the Unit provided templates for:

- Child Care Provider Investigations Communications
- Minnesota Fraud Hotline Form
- Report of Investigation
- Camera Pre-Deployment Surveillance Checklist

During the course of this project, the Deputy Inspector General requested that the Unit Manager complete an updated set of policies that would be more comprehensive and cover a wider range of the Unit's activities. In addition, a template was provided to ensure that policies are consistent in their structure and the information contained.



Recommendation One: In addition to the actions already taken by OIG and the Investigations Unit to formalize written policies and procedures, the project team recommends the following:

- The new policies and procedures should be reviewed for consistency, clarity, and comprehensiveness. The policies should be designed to provide internal guidance and consistency for the actions undertaken by the Investigations Unit, including how decisions around investigating tips and referrals, opening and closing cases, specific investigative actions, and whether to pursue criminal or administrative action should be made internally and communicated to leadership and related stakeholders.
- OIG should develop a formalized process for review and official approval of Investigations Unit policies and procedures, which should be reflected on the Policy Template.
- All policies should be subject to annual review, and can be updated at other times subject to the same approval process. The review process should include Investigators as well as the Unit Manager who work together to determine whether the policy as written is still being followed, whether the policy needs to be tweaked or changed, or whether additional training or enforcement is needed to ensure that the policy is followed as intended.
- The Unit should also have a procedure for drafting and testing new policies and written processes when new systems or organizational changes (staffing changes including new positions, organizational/reporting structure, etc.) are introduced.

Recommendation Two: The Investigations Unit should maintain more consistent and organized case data. The recommended primary methodology is implementation of a case management system similar to the ACISS system used by the BCA. Our understanding is that the Unit is moving toward implementing this system. It is important that the policies and procedures around use of the case management system be developed and followed to ensure consistency and effective use of the system. In addition to the use of an internal case management system, which is designed to include detailed information that is maintained confidentially with limited access, the Unit should develop additional levels of case data for the purposes of tracking, identifying, and communicating trends, workloads, and other aggregated case data to various stakeholders. This should include:

- The ability to provide case detail with confidential information removed for wider use and review within OIG and DHS, including CCAP program and policy administration as well as county-level investigators.
- The development and use of consistent summary data that can be used to respond quickly to queries by external stakeholders, and that allows for tracking and reviewing broad case data and trends. Examples include information on number of cases, case resolution, number of flagged centers, etc.

The investigative strategies that the Unit uses are similar to those used by other states and similar programs. While there are additional investigative approaches used elsewhere, they could not be implemented in Minnesota without changes to program policy or the way the CCAP program is administered.

The project team spoke at length with the Investigations Unit and reviewed all written documentation that was provided regarding the activities undertaken by the Unit. Based on multiple interviews with subject matter experts in fraud investigation and a review of best practices around the U.S., the investigative techniques and strategies employed by the Unit do not differ substantially from the investigative practices used by similar programs.

The primary area where other CCAP program integrity and fraud investigation units have made further advances (in comparison to the Minnesota DHS CCAP Investigations Unit) is the use of data mining to proactively identify possible fraud indicators and flag centers for increased monitoring. In the Phase 1 report, the project team discussed the data currently collected by the Investigations Unit and the resulting limitations on its use for proactive data analysis. Because the Unit does not rely on a specific set of analytics that is supported by data and past history to identify suspicious facilities, the current identification of fraud indicators



relies on more subjective characteristics which reduces the effectiveness and validity of this type of risk assessment.

Program Characteristics and Communication Issues

Program communication is impacted by the nature of public assistance programs in Minnesota. These are primarily state (and federally) funded, with the state setting basic program guidelines and counties handling a lot (but not all) of the day to day administration of the program. This means that for many issues, multiple levels of government are involved, and even within that level of government (particularly at the state and local level), there are groups within separate parts of a department (or multiple departments) with responsibilities. This is the case with fraud investigation, where actual investigations can be conducted at both the local and state level – and, at the state level, there can be aspects of investigations that are handled by both the DHS and the BCA. If cases lead to administrative or legal action, the course of action may also rest with federal, state or local government decision makers.

In discussions with those involved with these activities, in many cases there are not always 'bright line' distinctions as to where responsibilities lie. For example, in discussions with Hennepin County CCAP staff, there was not a clear demarcation as to when County investigators might actively pursue instances of fraud versus when those would be referred to the CCAP Investigations Unit – although there did appear to be an understanding on the part of County staff that instances involving CCAP-eligible child care centers would likely be referred to DHS.

The DHS organization also exhibits 'siloed' characteristics of how the organization functions around this program. Fraud investigators are very concerned about the possibility of information being 'leaked' that might hamper an investigation. While this may (or may not) be a valid concern, it significantly hampers opportunities, through sharing of information, for pro-active responses to fraud issues. Given that there is general acceptance that it is difficult (and painstaking work) to build an airtight case for a criminal conviction for fraud, identifying opportunities to use program mechanisms to fight and deter fraud are sensible prevention methods. There does not seem to be a lot of coordination between the Fraud investigators and the program staff in this area.

Recommendation Three: Develop and implement formal structured opportunities for the Investigations Unit to share its findings and areas of interest related to CCAP eligible facilities. These would be established for both internal (within DHS) and external (with County staff and County/federal prosecutors) forums. The internal forum would focus on DHS leadership and program staff, including the Commissioner and/or their representative, the DHS Inspector General and Legal Counsel. This should be a regular occurrence (perhaps bi-monthly or quarterly) and include a review of the Unit's current efforts, the data that support its program findings and opportunities to improve the program or the data collected by the program to reduce fraud.

Similarly, for the external audience, the forum would include program staff and the Investigative Unit; the OIG and counties. These would focus on program issues that are administered by the Counties, issues that may have differing approaches amongst the counties and how DHS and the Investigative Unit can coordinate efforts with the Counties to improve overall program performance, including combating fraud.

Finally, our discussion with county prosecutors (and prosecutors in other states) suggest that there is not a clear understanding of the issues surrounding a successful prosecution and what prosecutors are looking for to be successful in this area. It would be helpful to develop a forum for the opportunity to share information and insights between federal, state and county investigators and prosecutors.

Recommendation Four: Develop a strategy for communicating with the public related to the CCAP program. Nearly every state communicates their interest in fighting waste, fraud, and abuse – within this program as well as other state assistance programs. In this respect, Minnesota is operating with the same general approach as other states – there are website announcements and opportunities to report fraud.



However, given the attention that has been focused on this program – both in Minnesota and other states – it makes sense for the Department to go beyond these basic approaches.

The State should kick off this campaign by hosting a meeting involving all program participants – counties, facilities, parents, program and investigation staff – to discuss program strengths and weaknesses, program trends, opportunities to improve program performance and weed out ‘bad actors’ as well as serve the needs of the parents and children who benefit from a well-run program. The State should also invite participation by other States that are dealing with similar issues to share data and approaches.

Resource Needs

There is a need for additional resources targeted at fighting fraud, but the need is for different resources than have been committed to the program to date. The Investigations Unit is primarily staffed by individuals who have been sworn officers in state and local law enforcement, some of whom have experience working with CCAP and other eligibility-based public assistance programs at the local level. These are useful skills and experience for investigators, and it will likely always be the case that some members of the investigations unit will have that background.

There are complementary skill sets and experience that might broaden some of the skills and experience of the Unit. This can provide it with additional methods and avenues to detect and help deter fraud in this program. For example, it would be helpful for the Investigations Unit to include a Certified Fraud Examiner (CFE). The CFE is a professional designation awarded by the Association of Certified Fraud Examiners, and it is a widely recognized professional certification – for example, it is accepted as a preferred credential in the hiring process for the FBI, the General Accountability Office (GAO) and the Securities and Exchange Commission (SEC). The CFE designation requires an individual to have a bachelor’s degree or equivalent and at least two years of ‘professional experience in a field related to the detection or deterrence of fraud, including auditing, loss prevention, law and accounting.’ Besides the basic background requirements, applicants must pass a certification exam to receive the CFE designation.

There are no individuals in the Unit that currently have this designation. In discussions with DHS OIG managers, there are individuals with the CFE designation in other positions within that Division. It might be possible to engage those individuals in investigations where appropriate. If that is not a feasible alternative, the OIG should consider providing additional weighting for future Unit hires for those with the CFE designation.

A related skill set to those with the CFE designation are those with expertise in forensic accounting. There is a legitimate concern that as DHS efforts to fight fraud lead the ‘bad actors’ in the system to become more sophisticated in their methods. There was significant discussion with members of the Investigations Unit of some of these methods. As this becomes more prevalent, it will be necessary to also increase the sophistication of detection efforts.

Forensic accounting is primarily focused in two areas, investigation and litigation. As it relates to investigations, a forensic accountant is likely to be brought into an investigation where there is already strong evidence of a crime. In this respect, while forensic accounting and fraud auditing are related, fraud auditing is more anticipatory. A forensic accountant is often hired after there is a strong suspicion of theft, fraud or embezzlement. In fact, the primary role for a forensic accountant in many organizations is to provide expert testimony and support during litigation.

Forensic accountants generally are CPAs with additional specialized training. Given their highly specialized skills and training, it may make more sense for the Unit to procure these skills where appropriate (rather than hiring and maintaining one on staff).

The third skill area that is currently under-represented relates to data mining and data analysis. This is, in comparison to the CFE and forensic accountant positions, an area that will likely touch on all fraud



investigations as well as efforts to detect fraud early in the process. This pro-active approach can build on the 'after the fact' investigations that are the primary responsibility of the existing Investigations Unit.

There is currently one forensic analyst within the Unit. That person's role is primarily support of current investigations, such as gathering background information on owners and co-owners prior to an interview by investigators. There is no real effort at this point in time to use forensic analysis in earlier stages of the program to identify likely problem areas or centers.

Within the category of forensic analysis, the current staffing and organizational structure may make it difficult to effectively use additional resources in different ways. As previously noted, the existing management of the Unit (both the manager and supervisor) are former law enforcement officers, and their approach to the work done by the Unit is still geared to an after-the-fact investigation of possible criminal activity based on tips, leads or referrals. There is little of their work that is focused on predictive analytics or crime prevention prior to its occurrence. It is unlikely that entering additional analytical resources into the current structure would materially change the Unit's existing focus – or its results.

Recommendation Five: Given this set of circumstances, the project team recommends that additional data analysis resources be provided outside of the existing Investigations Unit but within the structure of the OIG. These resources would work with the Department (and State) IT staff as well as other resources within OIG (and the Investigations Unit) to develop useful databases, predictive analytics and other tools that can be used throughout the CCAP program (including licensing and inspection as well as fraud investigation) to enhance the opportunities to predict and detect fraud prior to receiving a tip, lead or referral as well as once a tip has been received.

Use of Electronic Systems to Reduce Fraud

Nearly every state undertakes efforts to combat waste, fraud and abuse in public assistance programs. Many of these are broad efforts aimed at both educating the public regarding program requirements and providing opportunities for those who suspect fraud to report it for investigation. These efforts are similar to the ones that generally trigger investigations in Minnesota.

Of course, these (tip lines and Internet reporting sites) are primarily focused on uncovering existing fraud, which, while important, does not necessarily prevent the fraud prior to it occurring. Many states are implementing program features that make it more difficult for fraud to take place – or make it easier to investigate and/or prove the fraud once it is uncovered.

Every child care assistance program requires evidence of attendance as a requirement for billing. While Minnesota requires attendance records be available at CCAP-eligible facilities, those records can be maintained in paper (as well as electronic) formats. In the case of facilities that maintain paper records, concerns have been expressed that these records are, in many instances, not credible. Besides instances where those records are not readily available (or provided well after the request), other factors suggest problems. In some cases, the times provided for CCAP-eligible children are exactly the same for long periods of time, the time entries are all in the same handwriting across the records of multiple children or have other similar types of issues.

Other states have encountered similar issues and have taken steps to deal with them. Ohio, for example, has used an electronic attendance system since 2012. The State is currently in the process of implementing their second electronic attendance system, which includes a number of components designed to strengthen the accuracy of attendance and billing records and prevent fraudulent attendance records. These components include:



- A personalized pin for each parent and caretaker as well as center staff;
- Multiple features to ensure identity of the user, including a computer tablet given to all providers, an onsite QR² code that can be scanned by the caregiver, and a phone number that can be used for centers that do not have Wi-Fi;
- Time-limited options to correct attendance records which require active approval by the parent;
- A photo taken at the time of sign-in and sign-out that is saved securely and only accessed if necessary for monitoring or investigation;
- Geolocation data that will allow the state to track where attendance was logged and flag if sign-in or sign-out occurred offsite.

Ohio uses the data, such as ‘swipe times’ to monitor suspicious facilities – for example, they have established minimum and maximum average swipes per hour and identify the outlier facilities. They use ratios and counts of transaction time (the time where children are checked in and out) for most of their analysis. For example, when a child is checked in as present from 8 am to 5 pm but the swipe times do not validate this. They also use child-level analytics and create pivot tables related to patterns of attendance, which also helps identify suspicious activity.

Recommendation Six: Minnesota should implement an electronic attendance system with a biometric or photographic component. The system should be designed to meet the needs of the State with the goals of improving accuracy and ease of tracking attendance and submitting for payment, as well as preventing fraudulent activity, and reducing the administrative burden on centers as well as on counties responsible for processing payment. Finally, the system should facilitate data collection and should be compatible with data mining software that enables the department to identify trends and outliers that may assist the Investigations Unit in proactively identifying potential indicators of overbilling and fraudulent activity.

Electronic attendance systems that link attendance to billing systems serve the dual purpose of reducing administrative burden for CCAP administration and collecting and providing data that enables program integrity or fraud investigators to identify trends and outliers. While these systems can assist in identifying potential fraud, they do not necessarily prevent centers from carrying out fraudulent activity, including falsification of attendance data. For instance, systems that require a pin number or swipe card can be vulnerable to abuse by centers, with or without the knowledge of CCAP clients. Adding a biometric or photo component (that is protected and used only as needed for increased monitoring) can add another layer of security and assurance that attendance is being accurately reported and that CCAP payments accurately reflect the use of the program. Because there is always the possibility that privacy concerns will be raised, it is important that the agency proactively communicate the benefits of this type of system while also ensuring CCAP clients that biometric data would only be accessed if there is a suspicion of fraud, that all personal information would not be shared, and the information would remain confidential even within the course of an investigation.

These are some of the components that, in combination, can serve the multiple roles of creating a barrier to fraudulent activity, linking attendance records directly to the billing system, reducing the burden on providers and clients around attendance tracking, as well as facilitating access to attendance records and data analysis for the Investigations Unit.

Besides electronic billing, there are also other aspects of the program where greater use of technology can provide useful information and act as a deterrent to fraud. The DHS should continually seek opportunities to increase the program data that is regularly transmitted electronically.

Recommendation Seven: Update the CCAP program policy to require both electronic billing and direct deposit of CCAP funds for registered centers. Requiring direct deposit allows the program to better track

² A QR Code or “Quick Response Code” is a two-dimensional barcode consisting of a black and white pixel pattern which encodes a URL. Parents and centers use smartphones or tablets to scan the code which provides a data point validating that the sign-in or sign-out was recorded on-site.



frequent changes to bank accounts which may be an indicator of potential fraud. In addition, electronic funds transfer is less costly for the State and less likely to lead to lost/stolen payments to the centers themselves.

Related to this, the program could consider adding as part of the registration process and requirements for centers receiving CCAP funds that the DHS can access the center's financial records under specific circumstances. Potentially this could be "upon request" or it could be subject to the monitoring criteria described elsewhere in this report (for instance, if a center is subject to repeated citations such as not being able to produce attendance records). There is language on the CCAP Provider Registration Form that could be expanded to achieve this purpose. It currently states that third parties have permission to share information about the center "during the course of investigations regarding fraud, fraud prevention and misrepresentation, and conducting Federal or state audits."

Program Changes

There are characteristics of the Minnesota CCAP program that other states have addressed in order to prevent fraud and strengthen the ability to prosecute fraud. As previously discussed, these include changes to the attendance record keeping system. There are other methods that are used as well, such as providing an attestation by those submitting the records that they are accurate and that the submitting party understands that submitting false records is a criminal offense.

Besides these steps, in states where the program is jointly administered between the state and the counties, it is important to identify those activities where uniformity is important for program integrity. In those cases, there either need to be very detailed policies and procedures for county administration, or the state should shoulder those responsibilities. We believe there are areas where DHS should take on a bigger role in program administration.

Recommendation Eight: Consider moving some functions to DHS for better centralized tracking and control. This is particularly applicable to functions that impact CCAP providers serving multiple counties, where the need to interact with multiple counties could be an impediment to identifying either trends across the program or individual centers acting fraudulently. Two primary functions that could shift to DHS are:

- Registration of centers as CCAP providers. Currently, providers must register separately with every county through which they will be receiving CCAP funds. There are additional controls that could be added related to the registration process (which will be discussed below), and moving this process to the State would ensure consistency and access to the resources necessary to adapt this process.
- Enrollment as an MEC² user. Currently, centers and individuals at those centers who will be doing the billing go through county accounting offices to request a user log-in and access to MEC² for the purposes of billing. Similar to registration, there are opportunities to implement some additional controls and tracking that would be beneficial to the CCAP program and to the Investigations Unit.

Recommendation Nine: Strengthen controls around registration of centers as CCAP providers. Currently, the CCAP Provider Registration form collects information about the center's license and location, as well as contact information for a "Site Contact" and "Payment Contact" and a Provider's Signature. However, the project team's understanding is that registration does not require any specific form of identification to be provided by the provider, owner, site contact, or payment contact, nor is there any background check completed outside of what is required for licensing. Tightening controls on this process would include:

- Require the facility owner or operator to provide an approved form of identification as well as a home address for each of the contacts included on this registration form.
- DHS, as part of its internal controls process, would compare this information to existing data (which would be maintained for all licensed facilities), including data on centers and owners who have been disqualified or have been associated with centers that were under investigation or had closed previously.



- If the DHS does not have capacity to complete this type of review on all centers applying for registration, certain criteria could be applied, including: center capacity, how long the center has been open/licensed (e.g. under 1 year), center location by zip code or county, or centers opening at the same location as a center that was previously closed. This criteria should be developed and formalized in policy prior to beginning the new registration procedures.
- The DHS OIG must also establish criteria for the results of the background check, such as whether association (by address or name) with a disqualified center would result in inability to register as a CCAP provider, trigger a request for additional information prior to registration approval, or factor into criteria for risk assessment or increased monitoring.

One policy change that has been suggested is to require centers to operate for a period of time prior to being registered as a CCAP provider. The project team considers this overly restrictive in terms of limiting access to the program in low income areas where CCAP is anticipated to be a high percentage of capacity and funding. However, it can be considered reasonable to expect that centers registering for CCAP should have all employee background checks and training completed prior to receiving CCAP reimbursement for services. Review of this information should be part of the registration process. Additional monitoring or follow up regarding training – such as contacting the training program to confirm that the owner and employees have received the required training, could also be implemented for centers meeting certain criteria, such as opening within the past year.

Recommendation Ten: Strengthen controls and tracking for users submitting billing through MEC². This recommendation aligns with the finding from Phase 1 related to the difficulty in determining who was responsible for electronic billing submission at centers that are under investigation for fraud. While IP addresses can sometimes be logged to identify the location or address, that information is not easily accessible to the Investigations Unit. Further, if a case moves to the level of criminal prosecution, there can be difficulty in identifying the party ultimately responsible for fraudulent activity if the owner and the person submitting billing are different people. Hennepin County has recently started using a spreadsheet to track registered users of MEC² – previously, they did not do any tracking, and it is unknown what processes other counties use to assign and track MEC² user information and whether it is consistent across counties.

In order to strengthen controls, the project team recommends the following:

- Centers should be limited to a certain number of registered and authorized users and log-ins (the number can be determined by DHS, but the project team recommends keeping it at a minimum for tracking purposes, while allowing sufficient access for timely billing).
- Registered users must provide home addresses and personal email addresses in addition to the provider's information. Those home and email addresses should be verified prior to being approved as a CCAP provider.
- Registered users must sign and have notarized an affidavit attesting that they will be the sole user of their log-in information, and that they are responsible for all billing submitted under their user log-in.
- A perjury clause and attestation of accuracy in submitted billings should be included in all submitted documentation, including initial registration, billing submissions, attendance sheets, etc.
- Online or similar forms of training will be provided related to the use of MEC², specifically billing processes, including description of fraudulent activities and consequences of purposely submitting bills known to be false, and requiring completion of a test and a signature to indicate that the user has completed the training.

Finally, as it relates to controls within the current system, it is evident to the project team that there is a link between facility quality (which can be evident in the licensing and inspection aspects of the program) and fraud risk, identification, and prosecution. There need to be greater opportunities for monitoring facilities, particularly new facilities in the first year of their license. While there is general agreement on this point, staffing to conduct these visits is an issue. From the project team's perspective, this is one of the proactive opportunities to reduce the incidence of fraud at the start. This license monitoring function could be a role for



a component unit within the OIG, which could coordinate with the Investigations Unit in establishing criteria for increased monitoring – beyond those in the first year of licensure.

One of the problems with the current licensing and monitoring system is that, based on federal scheduling requirements, facilities have a reasonable expectation of when they will be visited for compliance purposes. These additional monitoring activities could complement the existing schedule for facility visits.

Recommendation Eleven: Implement a data-driven risk assessment methodology that enables the program to proactively identify registered CCAP centers for increased monitoring. The criteria to be used is dependent upon the data available. A risk assessment for additional monitoring threshold could include:

- CCAP funding level and/or the number of CCAP clients compared to capacity;
- Centers opening in locations previously closed during the course of or as a result of an investigation;
- Attendance records and/or billing irregularities – billing on holidays, repeated time/attendance/billing related issues, delayed billing, attendance logs filled out with same time/handwriting (which would, of course, be ameliorated should the state go to an electronic system);

Of course, a key to being able to develop this sort of monitoring system is the need to collect and use data. Once this system is established, ‘flags’ can be included to identify outliers. For example, once the average time to submit for a billing period by type of provider is established, outliers can be identified, such as centers that submit x number of bills by some percentage later than the average. Once the State develops an automated attendance system, different criteria could be established related to available data. Similarly, the number of hours and number of absences billed can be tracked to establish an average. That average can then be used to identify outliers. Once these data-driven metrics are in place, there is less of an opportunity for facilities to claim that they are being targeted.

After identifying criteria and setting a threshold indicating increased risk, the agency would then determine what increased monitoring entails. Examples include:

- increased unannounced visits by licensing or the Investigations Unit
- increased collection and review of attendance records
- detailed auditing of attendance records and billing for specific billing periods

Other recommendations:

The project team believes that the eleven preceding recommendations provide the greatest opportunity for a positive return on the investment of time and other resources for the CCAP program. There are a variety of other options and opportunities that can also be considered. In many cases, the decision to pursue some of these options will boil down to issues related to time and resources. These include:

- **Eliminate the CCAP center eligibility for back payments and time limit billing for services.** Currently, centers may bill retroactively for CCAP payments for up to one year. This practice may be viewed (from the perspective of a center wishing to commit fraud) as an excellent target, as it can provide an opportunity for substantial lump-sum payments. From a business perspective, it is unusual for a private sector service provider to willingly provide its services without payment for up to a year, as the costs associated with providing the service require more regular payments. As a result, it is reasonable to assume that a significant portion of these back payments are for services that were not provided.

Likewise, CCAP eligible centers should be required to timely submit their billing for service. Excessive delays can result in the underlying data and information becoming ‘stale’ as clients, employees and program staff leave their positions and the recollection of specific events and circumstances dissipates. There is also a valid concern that centers might seek to ‘bury in paper’ those responsible for validating and verifying the invoices charges for services by submitting months



of billings at the same point in time.

Federal policy associated with child care assistance stipulates that the State must pay any amount owed to a child care provider for eligible children during the period of eligibility determination and redetermination. So if Minnesota reevaluates children on an annual basis, those children deemed eligible are guaranteed payments for that year- unless they are deemed ineligible for various reasons. However, the process for paying providers is left to the discretion of the State. As a result, the authorization for back payments and the timeframe in which these submittals are valid is left to the discretion of the State.

- **Reduce the number of paid absences.** The current number of program paid absences is generous, and it creates additional difficulties in providing program fraud. Currently, a center may bill for child care for 25 days in a year for absences, which is significant. While it is understandable that there are days when children will be absent and centers still need to cover their fixed costs, the number is considerably lower in some other states. For example, Missouri allows for 10 days of paid absences.

Reducing this number would both conserve program funding and make it easier to combat fraud. Currently, the primary method for proving fraud related to overbilling is to conduct video surveillance. However, because of the ability to invoice for 25 days of child care where the child is not present, it requires substantially more surveillance time to ‘prove the case’ on overbilling, as the first 25 days could be explained away in court as the paid absences allowed under the program.

- **Eliminate CCAP reimbursement for facilities that employ parents of enrolled children.** Perhaps the most prevalent version of CCAP fraud involves parents who are ‘employed’ by child care centers to, in essence, care for their own children. There is significant anecdotal evidence that centers will seek out parents with multiple children and offer them some form of employment in return for their children being cared for (and thus eligible for CCAP reimbursement) at the center. There have also been reported cases of payments to parents of CCAP-eligible children, even when no real work is done at the center by the parent.

The State has restricted the ability of CCAP-eligible child care centers to employ parents; it is now limited to parents of 25 enrolled, CCAP-eligible children. However, this places an administrative burden on program staff to continually check records for compliance with this restriction. A much simpler approach (which has been adopted by the State of Missouri) is to prohibit CCAP reimbursement for a child whose parent is employed by the center. While this may make it a bit more difficult for some parents to secure child care, the fact is that nearly all working parents who use child care have to drop their children off on their way to work – very few parents have access to on-site child care.

- **Discuss with prosecutors expanding the ask for damages associated with CCAP fraud.** In Missouri, federal prosecutors are making the claim that where CCAP-eligible child care centers are consistently violating the contract terms of the program, the business has been established for the purpose of committing fraud, and all CCAP payments to the center are considered fraudulent and subject to restitution.

One of the concerns raised when discussing CCAP fraud is that the level of restitution – and even the felony criminal penalties associated with conviction – is low compared to the financial reward associated with the fraud. This is one avenue that might change that calculus and thus deter criminal activity.



Conclusion

It is accepted that there is ongoing fraud within the State CCAP program, and instances of fraud are not limited to the State of Minnesota. While there are laudable goals associated with assisting low income parents with the costs associated with child care, the existing fraud comes at a significant cost – to the program itself and taxpayers.

The State of Minnesota has devoted substantial resources to combatting this fraud, and, in fact, its Investigations Unit has been growing in size. The State has also made multiple changes to the program with the goal of reducing fraud.

There is still more that can be done, particularly as it relates to modernizing program billing and reporting. Likewise, there are promising strategies to more proactively combat fraud – simply waiting for tips, leads and referrals and investigating them is not enough. The State can take proactive steps to improve overall program administration, which should, in the long run, increase the child care resources that are available to the families who are truly in need of assistance.