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ABSTRACT

The Child and Adult Care Food Program provides over $1.5 billion in benefits annually to children and adults in day care. In order to address the longstanding problems of fraud and abuse present in the program, state agencies have been charged with the responsibility for implementing Food and Nutrition Service's (FNS) regulations to prevent and detect fraud and abuse. At the request of congressional committees, this study examined the extent to which states have implemented required and recommended controls, and FNS's effectiveness in directing the states' efforts. Data were collected by surveying the administrating agencies in 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. Findings indicated that, although all agencies had implemented at least part of the minimum required controls, there was variation in implementation of recommended controls. Agencies cited several factors making it difficult to strengthen controls over fraud and abuse, including lack of resources, lack of training, and unclear regulations. Further, the FNS has not effectively directed states' anti-fraud efforts, nor strengthened minimum control requirements, despite recommendations dating to 1995. The service has not adequately monitored states' implementation and therefore has little basis for identifying and correcting problems; it has also had difficulty correcting compliance problems, partly because it lacks an appropriate range of sanctions. Oversight weakness results largely from insufficient resources. Based on findings, it was recommended that the FNS develop a comprehensive plan to strengthen the states' controls for detecting and preventing fraud and abuse. (Two appendices describe the study methodology and list key contacts.) (KB)

United States General Accounting Office

# GAO

Report to Congressional Committees



November 1999

# FOOD ASSISTANCE

# Efforts to Control Fraud and Abuse in the Child and Adult Care Food Program Should Be Strengthened





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The Child and Adult Care Food Program provides over $1.5 billion in benefits annually to children and adults in day care. The U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) administers this program through designated state agencies, usually state departments of education or health, which are responsible for ensuring that children and adults receive nutritious meals. To do this, the states use program funds to subsidize the meals served by day care providers. State agencies operate their programs through state-approved organizations (sponsors), such as nonprofit community action agencies or school districts, which oversee the day care providers. In fiscal year 1998, the program benefited a monthly average of 2.5 million children and 58,000 adults in the care of about 220,000 providers, nationwide.

The Child and Adult Care Food Program has long been plagued with fraud and abuse. Since 1993, USDA's Office of Inspector General has conducted over 55 audits and investigations in 23 states—identifying case after case of the intentional misuse of federal funds.[1] Scams uncovered included sponsors' creating fictitious day care providers, inflating the number of meals served, and padding executives' salaries and benefits. Given the scope of the problems that the Inspector General identified, USDA declared the program to have "material weaknesses"—that is, the program lacked sufficient controls to ensure that federal funds were adequately safeguarded.

As the principal administrators of this program, state agencies are responsible for implementing FNS' program regulations to protect against fraud and abuse. Specifically, these regulations require the state agencies to, at a minimum, (1) review and approve sponsors' budgets to ensure that they cover only allowable and reasonable costs; (2) conduct administrative reviews of sponsors and providers to ensure compliance with the program's requirements; (3) ensure that required financial audits are completed and corrective actions taken; and (4) review all monthly claims submitted for meal reimbursements. In 1995, USDA's Office of

[1]U.S. Department of Agriculture Office of Inspector General, Food and Consumer Service Child and Adult Care Food Program Day Care Homes-Nationwide, Audit Report No. 27600-6At, March 1995; U.S. Department of Agriculture Office of Inspector General, Food and Nutrition Service Child and Adult Care Food Program National Report on Program Abuses Presidential Initiative: Operation Kiddie Care, Audit Report No. 27601-7-SF, Aug. 23, 1999.

Inspector General and a federal-state task force[2] recommended that the states implement a number of controls, beyond the minimum program requirements, to better protect against fraud and abuse. These recommended actions included conducting unannounced visits to providers to ensure the accuracy of meal reimbursements, requiring criminal background checks on sponsors' and providers' employees, and contacting parents to verify children's enrollment and attendance. To date, FNS has not incorporated these recommendations into its regulations for detecting and preventing fraud and abuse in the Child and Adult Care Food Program. However, it has provided guidance to the states on how they can adopt some recommended controls on a voluntary basis.

Because of continued concerns about fraud and abuse in the Child and Adult Care Food Program, we initiated work that (1) examined the extent to which the states have implemented required and recommended controls to prevent and detect fraud and abuse and (2) reviewed FNS' effectiveness in directing the states' efforts to implement these controls. To do this, we surveyed the agencies responsible for administering the program in the 50 states, the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. All 54 state agencies responded to our survey. We also reviewed program operations in four states (Florida, Georgia, Maryland, and Texas). Our review focused on the child care component of this program, which accounts for 98 percent of the program participants. Our scope and methodology are discussed in appendix I. This report is being addressed to committees that have jurisdiction over the Child and Adult Care Food Program.

## Results in Brief

Almost all of the state agencies reported they had implemented, at least in part, the Food and Nutrition Service's minimum required controls for detecting fraud and abuse in the Child and Adult Care Food Program. However, these agencies reported variation in implementing the additional controls recommended by the Inspector General and a federal-state task force. For example, 47 state agencies conducted unannounced visits to day care providers, either as needed or routinely; 13 verified children's enrollment or attendance through contacts with parents; and 8 required criminal background checks. State agencies cited factors that made it difficult to strengthen controls over fraud and abuse, including (1) a lack

[2]This task force was initiated by FNS to provide technical advice on USDA's efforts to improve management and regulatory compliance at all levels of administration in the Child and Adult Care Food Program. The task force consisted of FNS and state agency officials responsible for program implementation. Among other things, the task force recommended that FNS develop additional guidance materials and suggested regulatory or legislative changes for future consideration.

of resources (staff, funding, and/or computer technology); (2) a lack of training in and knowledge of how to identify fraud and abuse; and (3) unclear regulations by the Food and Nutrition Service on removing noncompliant sponsors from the program. Additionally, according to Service and state officials, some state agencies may be reluctant to adopt additional fraud and abuse controls because they view themselves as providers of program benefits—not policing organizations.

The Food and Nutrition Service has not effectively directed the states' efforts to protect against fraud and abuse in this program. First, it has yet to strengthen the minimum requirements for the states' controls over fraud and abuse, despite recommendations from the Inspector General and the federal-state task force dating back to 1995. This, in part, has contributed to many states' not implementing the types of controls necessary to reduce the program's vulnerability to illegal or inappropriate uses of federal funds. Second, the Food and Nutrition Service has not adequately monitored the states' implementation of controls over fraud and abuse and, consequently, has little basis for identifying and correcting problems that the states may be experiencing. Finally, the Food and Nutrition Service has had difficulty correcting problems involving the states' compliance with required controls, partially because it lacks an appropriate range of sanctions. Agency officials told us that these oversight weaknesses largely resulted from insufficient resources, noting that in the past few years, the agency needed to concentrate many of its resources on implementing changes required by welfare reform. Beginning in fiscal year 1999, the Congress authorized an additional $1 million annually for 5 years to strengthen the agency's efforts in preventing and detecting fraud and abuse in the food program. The Food and Nutrition Service has initiated but not completed actions to address these problems.

We are making a recommendation to the Secretary of Agriculture that the Food and Nutrition Service develop a comprehensive plan to strengthen the states' controls for detecting and preventing fraud and abuse. This plan should outline the actions necessary to strengthen states' controls and include measurable goals and objectives.

## Background

The Child and Adult Care Food Program was established to ensure that children and adults in day care, regardless of their income, receive meals and snacks that meet federal nutrition standards. As an entitlement program, it serves all eligible children and adults without regard to federal budgetary limitations.[3] In addition to technical assistance and training in nutrition education, it provides meal subsidies to participating day care providers through cash payments or USDA commodity foods. In fiscal year 1998, the program operated in 179,000 day care homes and 38,000 child care centers.[4]

Reimbursements to child care centers and day care homes depend on the type of meal served—breakfast, lunch or supper, or snack—and other factors, such as the income level of the child's family or provider. The rates for reimbursement can differ significantly.[5] For example, a center may be reimbursed daily for meal service, up to $3.61 for a child from a low-income family and up to $.45 for a child from a family whose income exceeds a prescribed level. Reimbursements are provided only for (1) enrolled children present on a given day and (2) the specific meals or snacks they are served. To be reimbursed, the provider must maintain records of the type, content, and number of meals served; income eligibility; and children's attendance.

FNS administers the food program by providing grants to designated state agencies.[6] To oversee state agencies' efforts, FNS periodically conducts on-site management evaluations, which examine agencies' records to determine the states' compliance with program regulations.

At the state level, the designated agency operates through (1) state-approved sponsors, which oversee all day care homes and some centers, and (2) independent child care centers. Sponsors are private nonprofit or public organizations, such as community action agencies or school districts, to which state agencies delegate key management responsibilities for overseeing and identifying fraud and abuse in the program.[7] More than 1,200 sponsors nationwide approve day care homes and/or child care centers for program participation, conduct on-site compliance visits, reimburse homes and centers with federal funds, and

[3]Eligible children are children age 12 and under, migrant children age 15 and under, and children with disabilities. Eligible adults are elderly (age 60 or over) or chronically impaired.

[4]The program also operates in homeless shelters and adult day care centers.

[5]In centers, the three maximum daily reimbursement rates, depending on family income, are $.45, $2.64, and $3.61 per child. For homes, the maximum daily reimbursement rates are $1.49 and $3.11 per child.

[6]FNS directly implements the program in Virginia—the only state in which program implementation is not handled by a designated state agency.

[7]For-profit child and adult care centers may also receive program benefits if at least 25 percent of center participants receive Medicaid or social services provided with title XX funds under the Social Security Act.

ensure that federal nutrition standards are met. In addition, state agencies reimburse the sponsors of day care homes for reasonable and allowable administrative expenses, based generally on the number of homes they oversee. States may also allow the sponsors of child care centers to retain a portion of each center's meal reimbursements to cover allowable administrative expenses. Similarly, independent child care centers—centers that are overseen directly by the state agency—may retain a portion of their meal reimbursements to cover allowable operating costs. FNS' regulations require state agencies to conduct annual on-site administrative reviews of one-third of all sponsors and independent child care centers. In addition, FNS requires the state agencies, as part of their review of sponsors, to conduct on-site visits to a prescribed number of the homes and/or centers that the sponsors oversee.[8]

Since 1993, USDA's Office of Inspector General has targeted this program for audits and investigations to identify fraud and abuse committed by sponsors and day care homes. As a result, since 1994, USDA has recognized this program's vulnerability to fraud and abuse in its annual Federal Managers' Financial Integrity Act report.[9] As of February 1999, the Inspector General had examined 49 sponsors and their day care homes in 23 states through unannounced visits. During its audits and investigations, the Inspector General has disclosed the following:

- Thirty-seven of the 49 sponsors had committed serious violations that could warrant their removal from the program. These 37 had received $76.3 million in food and administrative funds annually. In addition, 28 individuals associated with these sponsors have pleaded guilty or been convicted of committing fraud.
- Some sponsors of day care homes created fictitious providers; inflated the number of meals served; were not monitoring or training their providers; and had unallowable, unsupported, and excessive costs in their administrative budgets.
- Providers did not always maintain adequate records, frequently inflated the number of meals served, and sometimes served meals that did not meet nutrition standards.

[8]Independent child care centers, sponsors of centers, and sponsors of day care homes with 1 to 200 homes must be reviewed at least once every 4 years; reviews of these sponsors must include 15 percent of their child care centers and 10 percent of their day care homes. Sponsors with more than 200 homes must be reviewed at least once every 2 years; these reviews must include 5 percent of the first 1,000 homes and 2.5 percent of homes in excess of 1,000.

[9]The Federal Managers' Financial Integrity Act of 1982 (P.L. 97-255) requires the heads of executive agencies to annually report to the President and the Congress material weaknesses in their management and financial controls.

The Inspector General determined that this fraud and abuse occurred because (1) state agencies' and FNS' oversight reviews did not focus on the primary management controls at the sponsors and day care homes and (2) state administrative reviews generally did not include sufficient tests to identify inflated and unsupported meal claims and assess the adequacy of sponsors' monitoring of homes. Most FNS management evaluations did not include sponsor or day care home visits.

FNS is currently revising the program's regulations to strengthen controls to prevent and detect fraud and abuse. These revisions are in response to a series of Inspector General recommendations, the findings of the federal-state task force, and problems that FNS has noted in its management evaluations. The agency expects to propose these revised regulations in fiscal year 2000. In the interim, it has issued written guidance on some of these recommended controls. However, the state agencies' implementation of these controls remains voluntary until FNS amends its regulations to include them.

## State Agencies Vary in Their Use of Recommended Controls to Prevent and Detect Fraud and Abuse

Almost all of the 54 state agencies indicated that in fiscal years 1997 and 1998 they had implemented, at least in part, the minimum required fraud and abuse controls contained in FNS' regulations for the Child and Adult Care Food Program. However, the agencies varied in the extent to which they had implemented the controls recommended by the Inspector General and the task force. State agencies identified several difficulties they face in strengthening their controls over fraud and abuse, and FNS and state officials added that some state agencies are reluctant to put more effort into combating fraud and abuse because these agencies view themselves as service providers, not as investigative entities.

### State Agencies Generally Use the Minimum Controls Required in FNS' Regulations

Most state agencies surveyed reported that they are using, at least in part, the minimum required program controls contained in FNS' regulations. These controls include (1) reviewing and approving the budgets of day care home sponsors to ensure that planned expenditures are adequately supported, (2) conducting administrative reviews of sponsors and providers to ensure compliance with the program's requirements, (3) ensuring that financial audits of sponsors and providers are completed and corrective actions taken, and (4) reviewing the reimbursement claims submitted by sponsors and providers to detect potentially fraudulent errors prior to payment.

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Regarding sponsors' budgets, 50 of the 54 state agencies reported that they had reviewed and approved these annual administrative budgets. These reviews for the sponsors of day care homes are to determine if the budgets contain only reasonable, necessary, and allowable costs, in accordance with federal requirements, prior to the agencies' paying sponsors their first reimbursement for meals. The budget is part of a sponsor's management plan, which provides information on how the sponsor will use federal funds to pay employees' salaries and other program-related costs, such as those for supplies and travel. According to our survey, when state agencies reviewed these budgets, they most often required changes in them because administrative expenses appeared to be unclear (22 state agencies) or were excessive (16 state agencies). The four state agencies that did not review sponsors' budgets received program funds totaling about $107 million, or about 7 percent, of all the program's funds for fiscal year 1998.

Administrative reviews, a key tool for states to identify fraud and abuse, are on-site visits by state agencies to verify children's eligibility and attendance, the accuracy of meal claims, and administrative costs. Of the 41 states that fully responded to our questions on these reviews, 31 reported that they conducted administrative reviews of sponsors and of all three types of providers—independent centers, sponsored centers, and day care homes—in fiscal years 1997 and 1998. However, of the remaining 10 states, 2 reported that they had conducted no reviews during this time, while 8 reported not conducting any reviews at either sponsors or one type of provider in one or both years. Moreover, our survey results indicate that over half the states had reviewed less than 5 percent of the day care homes annually. The 10 states that did not conduct all reviews received program funds totaling $224 million, or 14 percent, of all program funds for fiscal year 1998.

Concerning financial audits, while only two state agencies reported not receiving the findings from required financial audits,[10] nine reported that, although they received the findings, they lacked a tracking system to ensure these findings were resolved. Together, these 11 state agencies received program funds of about $130 million, or 8 percent, of all program funds in fiscal year 1998. These audits, usually performed annually by state government auditors or public accounting firms, can determine whether (1) program funds have been properly accounted for, (2) adequate internal

[10]Under the Single Audit Act of 1984 as amended, audits are required for all public and nonprofit organizations, such as sponsors or child care centers, that receive $300,000 or more in federal funds. In addition, USDA regulations require all for-profit organizations to be audited; however, the states have discretion in setting a dollar limit on the for-profit organizations subject to this requirement.

controls have been maintained over these funds, and (3) the funds have been used for appropriate program purposes. Ultimately, the effectiveness of the audits depends on ensuring corrective actions are taken.

With regard to reimbursement claims, state agencies reported significant variation in the extensiveness of the methods that they used to evaluate the soundness of these claims prior to payment. There are a number of methods, referred to as "edit checks," including comparing the (1) number of approved sites (day care homes and child care centers) with the number of sites claimed, (2) number of meals claimed with the average daily attendance, (3) number of children enrolled with the average daily attendance, (4) licensed capacity with the number of children claimed, (5) days of operations claimed with the days of operations approved, (6) percentage of children claimed at different reimbursement rates in centers with the number of children approved at those rates for the centers, and (7) number of children claimed at the highest reimbursement rate in day care homes with the number of children approved for those homes at that rate. All states reported using at least one review method. In addition, 26 states reporting using between four and six methods; 18, all seven methods; and 10, three or fewer.

While these reviews of reimbursement claims are an important tool for identifying potentially fraudulent or abusive claims, they are not foolproof. For example, one state we visited used all of these methods, but a state reviewer found that the reviews did not catch a $5,000 overpayment to a day care home sponsor. In this case, the claim for reimbursement had jumped in one month to $7,000, from an average monthly claim of $2,000. The overpayment was apparently not detected because the state did not review claims for significant variation between monthly payments.

## States Vary in Their Use of Recommended Controls to More Effectively Prevent and Detect Fraud and Abuse

State agencies' implementation of the additional controls recommended by the Inspector General and the federal-state task force varied considerably. These controls included state agencies' (1) making unannounced visits to sponsors and providers to assess their operations; (2) developing profiles of high-risk sponsors, independent centers, and day care homes as a basis for conducting more frequent monitoring; (3) verifying children's enrollment and attendance with parents; and (4) conducting criminal background checks of prospective sponsors and providers.

Unannounced visits allow a state agency to verify the existence of the provider, its enrollment, and the quality and quantity of the meals its serves. Seven state agencies reported never conducting these visits. The remaining 47 varied considerably in the types of facilities receiving unannounced visits.[11] Moreover, the full extent to which these 47 agencies use unannounced visits is unknown. In comments in our survey, 21 state agencies reported that they conducted unannounced visits when they are following up on previously identified problems. However, two reported they use unannounced visits for all monitoring visits and said these visits are valuable for obtaining a realistic view of providers' operations, without giving the provider advance notice to allow for special preparation. In contrast, 16 state agencies responded that unannounced visits may not be an efficient use of their limited staff because planned visits better ensure that required records and responsible personnel will be available.

Twenty state agencies reported that they profile high-risk sponsors and independent centers. These agencies identified certain conditions as signaling high risk: (1) consistent requests for reimbursements for the maximum allowable number of children, (2) the program's funds serving as the sponsors' sole source of income, and (3) closed homes or centers found during on-site reviews. Some agencies reported providing additional training and technical assistance and conducting more thorough reviews at these high-risk sponsors and independent centers.

Thirteen state agencies reported contacting parents to verify their children's enrollment and attendance in day care. According to FNS and state officials, parental verification is a useful method to uncover fraudulent claims by providers for children who either were not enrolled or who were absent on the day for which the claims were made. The Office of Inspector General has also used parental verification to uncover significant fraud and abuse in the food program.

Eight state agencies require criminal background checks for the employees of sponsoring organizations and child care centers that the agencies administer directly. Both the Inspector General and the federal-state task force recommended state agencies do these checks before approving or renewing sponsors' applications for program participation. Such checks would allow state agencies to identify applicants or staff with a prior criminal conviction that may jeopardize the safety of children or the integrity of the program.

[11] Of the 47 state agencies that reported making unannounced visits, 21 visited sponsoring organizations, 26 visited independent child care centers, 27 visited child care centers administered by a sponsoring organization; and 41 visited day care homes.

## State Agencies and FNS Identify Difficulties in Strengthening Controls to Prevent and Detect Fraud and Abuse

State agencies cited various difficulties they face in implementing additional controls for fraud and abuse, including (1) a lack of resources to identify possible fraud and abuse, (2) a lack of training on and knowledge about fraud and abuse, and (3) unclear FNS regulations regarding the circumstances that would warrant removing a sponsor or provider from the program. Furthermore, FNS and state officials said that some state agencies are reluctant to employ additional controls because they prefer to concentrate their resources on providing nutritious meals to children rather than on investigating sponsors and providers for possible fraud and abuse.

First, almost two-thirds (35 of 54) of the state agencies surveyed indicated that they lacked the resources—including staff, funding, and/or computer technology—to adequately detect and prevent fraud and abuse in their programs. In responding to our survey, state officials frequently cited problems with an adequate number of staff. FNS regional and state officials indicated to us that state-imposed hiring ceilings were a major reason the states have inadequate staffing. However, FNS officials also pointed out that the federal funding available for this program is often not fully used by state agencies, although they do not know why.

With respect to the second most frequently reported difficulty, one-third (19) of the 54 state agencies reported that their staff's training was inadequate for detecting or preventing fraud and abuse. These agencies indicated that they would like additional training in identifying fraud and abuse. One survey respondent described the state's staff as educators who are not trained to conduct fraud and abuse investigations. Moreover, this respondent did not consider conducting these types of investigations to be the staff's role. FNS is now providing state officials with training that should assist them in identifying fraud and abuse, and FNS officials said that fraud investigations are only to be done by appropriate investigative officials.

Regarding the third most frequently reported difficulty, 14 state agencies said that the regulations were unclear or unspecific on how and under what circumstances to remove sponsors or providers from the program. Although the regulations provide examples of activities that are "serious deficiencies"—including the submission of false information, failure to maintain adequate records, and the serving of meals without required components—some of these state agencies indicated that the regulations do not provide specific guidance on how frequent or severe these activities have to be to warrant removal from the program. In addition, some states indicated that the regulations should provide other administrative sanctions short of removal from the program, such as denying administrative payments to sponsors for noncompliance with program requirements. One state has taken this approach. Officials in this state said their agency had promulgated its own regulations to (1) clarify the specific circumstances in which a sponsor or provider would be subject to removal from the program and (2) provide additional administrative sanctions short of removal.[12] According to these officials, the additional sanctions provide a means to progressively penalize a sponsor or provider.[13]

In addition to the difficulties identified by the state agencies, FNS and state officials said that some state agencies are reluctant to employ additional controls because they prefer to concentrate their resources on providing technical assistance to ensure that children receive nutritious meals rather than on identifying fraud and abuse. Officials in two of the four state agencies we visited echoed this sentiment, saying that that they viewed their agencies primarily as service organizations, not policing organizations.

In view of this orientation, it is perhaps not surprising that most state agencies reported that they do not perceive fraud and abuse as a widespread problem overall—despite the findings of the Department's Inspector General over the last several years. For example, 40 states reported that, in their view, fraud and abuse is little or no problem at sponsors and sponsored child care centers.

Relatedly, although the state agencies surveyed frequently reported finding indicators of serious deficiencies in sponsor or provider activities, they generally did not report taking strong enforcement actions. For example, 30 agencies indicated that they most frequently sent letters of corrective action and provided technical assistance to first-time offenders who submitted meal claims for more children than attend the day care center or home. However, even for repeat offenders, a majority of state agencies continued most frequently to send corrective action letters, provide technical assistance, or declare offenders seriously deficient, rather than

[12]State agencies are allowed to issue regulations that supplement those issued by FNS. However, the state regulations are subject to FNS' approval and must not deny the program to an eligible institution.

[13]The additional sanctions provided in this state's regulations include disallowing claims for ineligible meals for a first violation; disallowing claims for ineligible meals and suspension of administrative reimbursements for a second offense; and removal from the program for a third offense.

remove the offender from the program.[14] For example, 23 of the 54 state agencies reported identifying sponsors and providers that had repeatedly submitted false information, but only 8 of these 23 agencies removed the offenders from the program.

## FNS Has Not Effectively Directed States' Efforts to Control Fraud and Abuse

FNS has not effectively directed the states' efforts to control fraud and abuse in the food program in terms of (1) developing adequate minimum requirements for the states to follow, (2) overseeing the states' implementation of these requirements, and (3) having appropriate sanctions in cases of noncompliance. FNS has begun but not completed actions to address these problems, but it lacks a comprehensive plan with measurable goals for ensuring that the states are consistently implementing controls to protect the considerable federal investment in this food program.

FNS has yet to strengthen the minimum requirements for state controls over fraud and abuse, despite recommendations from the Inspector General and a federal-state task force dating back to 1995. This delay has contributed, in part, to many states' not implementing the types of controls that the Inspector General and the task force believe are necessary to address the program's significant vulnerability to fraud and abuse. Originally, FNS planned to issue new requirements for state fraud and abuse controls in fiscal year 1998. However, according to FNS officials, that issuance date has been delayed because they have focused their resources on implementing the significant program changes required by the welfare reform act; FNS currently plans to issue proposed regulations in fiscal year 2000.

In addition, FNS has not adequately monitored the states' implementation of fraud and abuse controls and, consequently, has little basis for identifying or correcting problems that states may be experiencing in implementing such controls. FNS relies primarily on broad management evaluations to monitor the states' program activities, including the controls the states may have over fraud and abuse. However, in fiscal years 1997 and 1998, only 23 of FNS' 47 management evaluations directly evaluated the states' implementation of required controls over reimbursements to sponsors and providers. Almost half of these reviews found serious problems, including the failure of some states to conduct

[14]Prior to removing offenders from this program, FNS regulations require state agencies to notify offenders that they are being declared seriously deficient and to provide them with every reasonable opportunity to correct their deficiencies. If they do not correct the identified deficiency within a specified time, the state may remove the offender from the program.

any administrative reviews of sponsors or providers. FNS officials said that in fiscal year 2000 their regions will use a comprehensive approach to evaluate state agencies' operations.

Finally, even when a management evaluation uncovers a problem, FNS has difficulties correcting it. FNS officials said that they have only one sanction to use when states fail to remedy identified problems—to withhold or take back the state agency's funds for administering child nutrition programs.[15] They say that this "all or nothing" sanction has rarely been imposed. For example, they did not impose this sanction when the Inspector General identified major problems with fraud and abuse in California—one of the largest state programs. Similarly, FNS has not taken any formal action against the state agencies that were not implementing minimum required controls, such as administrative reviews and required financial audits. Instead, FNS only required that these states develop a plan to correct their deficiencies. FNS has also not pursued obtaining authority to impose additional forms of sanctions.

Beyond this lack of a flexible array of sanctions, FNS officials told us that the oversight problems they have experienced were in large part a result of insufficient resources. More specifically, according to these officials, the agency focused its resources on ensuring that the states were implementing changes to the program associated with the welfare reform changes enacted in 1996, including changing the reimbursement structure for day care homes.

FNS has begun to take actions to strengthen its oversight of states' controls over fraud and abuse. It has been authorized an additional $1 million annually for 5 fiscal years, beginning in fiscal year 1999, to strengthen program integrity. In the first year, FNS spent most of this money to hire additional staff, develop training for federal and state officials, and increase travel budgets in its regional offices, which are responsible for overseeing the states' activities. Furthermore, as noted earlier, FNS plans to issue proposed regulations for minimum state controls over fraud and abuse.

While FNS has taken certain steps to correct oversight problems, it has not developed a comprehensive plan for reducing the food program's vulnerability to fraud and abuse. Currently, FNS' course of action for

[15]These funds (referred to as state administrative expenses funds) are paid to state agencies to cover their administrative costs for managing a number of child nutrition programs. Besides the Child and Adult Day Care Program, these programs include the National School Lunch Program, Special Milk Program, and School Breakfast Program.

addressing weaknesses in the program's controls over fraud and abuse can be found in an "action plan" developed in response to USDA's identifying the controls in the program as materially weak. This two-page plan broadly summarizes the agency's intended actions, which are primarily to develop new regulations and guidance for state controls over fraud and abuse and to assess the states' implementation of these new controls. The plan does not, however, contain specific, measurable goals and objectives that would allow FNS to evaluate how successfully it implemented these actions or how successful these actions were in reducing fraud and abuse. For example, the plan does not include goals for the minimum number of evaluations that should be completed within a given time frame. Furthermore, it does not discuss what measures could or should be used to indicate the level of fraud and abuse in the program—a key piece of management information that currently is unavailable.

## Conclusions

Despite FNS' and the states' efforts to reduce the vulnerability of the Child and Adult Care Food Program to fraud and abuse, USDA's Office of Inspector General continues to uncover these problems in the program. Part of the responsibility for this situation rests with the states as the program's principal administrators. However, FNS shares in the responsibility—it has not exercised its leadership role effectively. Perhaps most importantly, FNS has not sent clear messages to the states that it expects them to have strong programs to detect fraud and abuse. This is evidenced by, among other things, its failure to (1) quickly incorporate recommended improvements for minimum required state controls over fraud and abuse into its regulations and (2) systematically monitor states efforts to prevent and detect fraud and abuse. Furthermore, FNS has rarely used the one sanction available to ensure the states comply with its minimum controls and has not sought the authority to use other forms of sanction. FNS is taking actions that could, if properly implemented, help send a clearer message to the states that fraud and abuse is a serious problem. However, it has no comprehensive plan to guide these actions nor a means of evaluating their success. As a result, FNS has little assurance that its corrective actions are anything more than a band-aid approach.

## Recommendation

To reduce the Child and Adult Care Food Program's vulnerability to fraud and abuse, we recommend that the Secretary of Agriculture direct the Administrator of the Food and Nutrition Service to develop and implement a comprehensive plan for strengthening state controls for detecting and preventing fraud and abuse. The plan should identify actions that the agency needs to take and include measurable goals and objectives for each action. These actions should include, but not be limited to, (1) expediting the issuance of regulations strengthening the minimum requirements for the states' controls over fraud and abuse, (2) developing a systematic means of monitoring the states' compliance with minimum requirements, (3) examining ways to address difficulties the states face in implementing strong program controls (such as unclear federal guidance and inadequate training), and (4) exploring alternative types of sanctions that could be invoked in cases of noncompliance. Furthermore, as part of the plan, the Food and Nutrition Service should examine measures for evaluating the success or failure of the combined actions it carries out in terms of their ultimate impact on the level of fraud and abuse in the program.

## Agency Comments

We provided USDA with a draft of this report for its review and comment. We met with officials from the Food and Nutrition Service, including the Director of the Child Nutrition Division, and officials from the Grants Management Division and the Office of Analysis, Nutrition, and Evaluation.

USDA generally agreed with our report and recommendation. Even so, USDA told us that it has initiated a comprehensive approach to correcting the problems in the food program, pointing out that it has issued two guidance manuals and is providing national training for state agencies as well as drafting revised regulations designed to improve program management at all levels. We agree that such actions are important and believe they would be further bolstered by a written plan with measurable goals and objectives. Such a plan would better enable the agency to evaluate its progress in implementing planned actions and to evaluate the impact that these or other actions may have on the level of fraud and abuse in the program.

Additionally, USDA believes that because many states do not perceive fraud and abuse as a significant problem, it is hindered in its efforts to encourage states to make concerted efforts to institute stronger controls over fraud and abuse. However, USDA believes that its improved guidance materials, the training it has under way, and its strengthened oversight activities will have a significant effect on states' efforts to combat fraud and abuse. USDA also provided a number of technical changes and clarifications to the report, which we incorporated as appropriate.

We conducted our work from January 1999 through October 1999 in accordance with generally accepted government auditing standards.

Copies of this report will be sent to the congressional committees responsible for the Child and Adult Care Food Program; the Honorable Dan Glickman, Secretary of Agriculture; the Honorable Shirley Watkins, Under Secretary for Food, Nutrition, and Consumer Services, USDA; the Honorable Samuel Chambers, Administrator, Food and Nutrition Service, USDA; and the Honorable Roger Viadero, Inspector General, USDA. We will also make copies available on request.

If you or your staff have any questions about this report, please contact me or Cathy Helm, Assistant Director, at (202) 512-5138. Key contributors to this report are listed in appendix II.

Sincerely yours,

Robert Robertson

Robert E. Robertson
Associate Director, Food
and Agriculture Issues

List of Recipients

The Honorable Richard G. Lugar
Chairman
The Honorable Tom Harkin
Ranking Minority Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

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Committee on Appropriations
House of Representatives

The Honorable John R. Kasich
Chairman
The Honorable John M. Spratt, Jr.
Ranking Minority Member
Committee on the Budget
House of Representatives

# Contents



**Abbreviations**

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| FNS | Food and Nutrition Service |
| USDA | U.S. Department of Agriculture |

# Scope and Methodology

To examine the extent to which state agencies have implemented required and recommended controls to prevent and detect fraud and abuse, we conducted a mail survey of all 54 state agencies administering the Child and Adult Care Food Program, including agencies in the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the U.S. Virgin Islands. Our survey asked the state directors to provide information on program and financial management, state agencies' internal controls, administrative review activities, areas of fraud and abuse in sponsoring organizations and child care providers, and their opinions about fraud and abuse. We received survey responses from all 54 state agencies. In addition, we interviewed staff at agencies in four states—Florida, Georgia, Maryland, and Texas—to better understand activities, problems, and limitations affecting the states' efforts to identify fraud and abuse. We visited Florida and Texas because of their unique approaches to combating fraud and abuse. At the four state agencies, we also reviewed and analyzed relevant program documentation, including their regulations, policies, and procedures; application and renewal files; administrative reviews; and financial audits. These four states accounted for about 15 percent of the total monthly participation for fiscal year 1998.

To review the Food and Nutrition Service's (FNS) effectiveness in directing the states' efforts to implement these required and recommended controls, we interviewed FNS officials at headquarters and four FNS regional offices–the Southeast Region in Atlanta, Georgia; the Southwest Region in Dallas, Texas; the Mountain Plains Region in Denver, Colorado; and the Mid-Atlantic Region in Robbinsville, New Jersey. We also reviewed and analyzed relevant program documentation, such as regulations, guidance, training manuals, OMB circulars, Federal Managers' Financial Integrity Act reports, and over 40 management evaluation reports. In addition, we met with OIG officials and reviewed their reports on this program. We conducted our work from January 1999 through October 1999 in accordance with generally accepted government auditing standards.

# Key Contacts and Staff Acknowledgements

## GAO Contacts

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Cathy Helm, (202) 512-5138

## Acknowledgements

In addition to those named above, Galen Barnett, Jacqueline Cook, Don Ficklin, Patricia Gleason, Fred Mayo, Luann Moy, Renee McGhee-Lenart, Carol Herrnstadt Shulman, John C. Smith, and Janice Turner made key contributions to this report.

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