

Chapter 2

Department of Family and Community Services

Child Day Care Facilities

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Department of Family and Community Services Child Day Care Facilities

Background

2.1 “Our children are our greatest hope and our most important obligation.” These are the words of Premier Bernard Lord in his *State of the Province Address* on 30 January 2003, and it is a statement with which most people of New Brunswick would agree. The government has several programs for children. Interested in determining the government’s involvement with day care facilities for children, we learned the following.

2.2 The authority for the government’s involvement in child day care facilities is the *Family Services Act*.

- The Act gives the Minister of the Department of Family and Community Services the authority and the responsibility to: approve day care facilities; make standards; perform inspections; direct the operator to make changes; suspend or terminate operations; and enforce the legislation.
- The *Day Care Regulation - Family Services Act* (Regulation) specifies the responsibilities of the parties involved with approving day care facilities.
- The Regulation and the *Child Day Care Facilities Operator Standards* (standards) specify the conditions that day care facilities must follow.

2.3 The Department of Family and Community Services (Department) is responsible for the Day Care Services Program (program). The purpose of the program is to approve and monitor day care facilities to ensure that children who attend are safe and receive quality care. Eleven staff members are directly involved with the program. There are ten Early Childhood Services Coordinators (coordinators) who work in the Department’s regional offices. There is also a Provincial Program Consultant who works in the central office. All eleven of these individuals have other program responsibilities in addition to the Day Care Services Program.

2.4 Child day care facilities are operated by individuals, corporations or not-for-profit groups. Child day care facilities include “day care centers” and “community day care homes”. Typically, a “day care center” is a location, other than someone’s home, where parents take their children for care. (The size may range from six to over sixty children.) And typically, a “community day care home” is where an adult uses their personal residence to take care of children. (The group size is smaller with a maximum of nine school-aged children, fewer if they are younger, including those living at the residence.)

2.5 On 31 March 2002, there were 359 approved day care facilities in the Province, providing 11,193 spaces. Most of the day care facilities are “day care centers”. There are only approximately 25 “community day care homes”. The number of approved day care facilities and spaces has been increasing at a slow but steady rate over the past ten years.

2.6 Day care facilities are inspected to ensure that they meet the requirements of the *Family Services Act*, the *Day Care Regulation* and the *Child Day Care Facilities Operator Standards* before they are “approved” by the Department. Annual inspections are performed by:

- the Public Health Regional Offices - Department of Health and Wellness (Public Health);
- the Office of the Fire Marshal - Department of Public Safety; and
- the Department. There are over one hundred standards that are to be verified through the Department’s inspection.

2.7 While three government departments have responsibility for inspecting day care facilities, the Department of Family and Community Services has sole responsibility for approving the facilities. Certificates are to be issued annually to each facility indicating that it is “approved”.

2.8 As an Office, we are interested in issues related to public safety and we have attempted to provide information that will assist in holding the government accountable for legislation it created to ensure the safety of the people of New Brunswick. Over the past six years, we have performed audits involving the Office of the Fire Marshal, pupil transportation, high-risk drivers, domestic well water quality, food safety and ambulance services. It is our interest in pursuing government accountability for safety legislation that led us to select the Day Care Services Program for audit. This program is responsible for the safety of a group who cannot speak publicly for themselves...our children.

2.9 In December 2001, a young boy died in Saint John from complications of E coli. The boy had attended a day care center. In March 2003, a coroner’s inquest occurred as a result of the death. One of the recommendations from the inquest was, “An independent audit or review be conducted to determine how inspections are conducted by Family and Community Services of child care facilities. This audit

would recommend changes if required in the procedures being utilized during inspections of child care centers. This audit could be conducted by the Auditor General's Office or another qualified independent organization.”

2.10 This chapter of our Report is in no way associated with these events. Preliminary planning for this audit took place in 2001, long before any of these events. The decision to proceed with this audit was communicated to the Department in January 2003. Most of the audit fieldwork was completed prior to the coroner's inquest. However, the Department did contact us to ask our opinion on whether our audit meets “the spirit and the intent” of the coroner's recommendation set out above. Our response was that it does to a point. The recommendations we made were directed towards bringing consistency between current practice and the current standards and legislation. The audit we conducted was not intended to question the adequacy or appropriateness of the current legislation or standards.

Scope

2.11 The objective for this audit was:

To determine if the Department of Family and Community Services has appropriate policies and practices to ensure compliance with the Province's legislation and standards for child day care facilities.

2.12 To provide further focus to our audit efforts, we developed four audit criteria to use as the basis or standards for our audit. These were discussed with the Department and it was agreed that they were reasonable. The criteria addressed the following:

- the process of approving day care facilities;
- planning, conducting and using the results of inspections;
- policies and procedures for the program; and
- monitoring and reporting on the program.

2.13 Our work included the following:

- reviewing relevant documents;
- interviewing program staff in central office and the regional offices;
- testing a sample of day care files; and
- performing analytical review procedures on program information.

2.14 We compared the audit evidence against the audit criteria in order to develop the findings, conclusions and recommendations that are presented in this chapter.

2.15 The audit was not directed towards verifying that all day care service providers were approved or evaluating the quality of the standards.

Results in brief

2.16 While there is an established process for approving the operation of day care facilities, it is not always followed and it does

not incorporate all of the regulatory requirements. We found cases where Certificates of Approval were issued without verification of compliance with the *Day Care Regulation* and Child Day Care Facilities Operator Standards. We found evidence that approvals are not being issued consistently by all of the regional offices due to differing requirements. And, we found that some requirements of the *Day Care Regulation* are not incorporated into the Department's process of approving day care facilities.

2.17 The Department has a standard form that, when used properly, would result in effective inspections being performed efficiently. However, the Department does not have established processes for prioritizing and performing inspections and for enforcing the standards. As a result, we found that inspection coverage is not adequate; inspections are being effectively performed at some day care facilities but not completely performed in others; and inspection results are not always linked to the approval process or enforcement actions.

2.18 The Department has not established formal policies and procedures for the Day Care Services Program.

2.19 The Department does not have appropriate procedures to measure and report on the effectiveness of their program for approving and monitoring child day care facilities.

2.20 We believe there are two key challenges to the Day Care Services Program. A proper decentralized program structure needs to be developed and the program's growth needs to be addressed.

The approval process

2.21 To enhance interpretation of this chapter, we would like to explain our usage of the following terms.

- “Certificate” refers to the Minister's approval of a day care facility, which could take the form of a first-time approval, a renewal or a temporary certificate.
- “Approval” is synonymous with Certificate, indicating the day care facility would receive a Certificate. It could be a first-time approval or a renewal.
- “First-time approval” refers to a new day care facility.
- “Renewal” refers to the annual approval for an established day care facility.
- “Infraction” refers to non-compliance with a standard; a standard that has not been met.

2.22 The legislation requires that all day care facilities obtain the Minister's approval to operate. The approval process involves the day care facility applying for an approval, paying the fee and meeting the legislative requirements, and the Department ensuring that the requirements are satisfied and then issuing the Certificate of Approval. While the process is the same for both "day care centers" and "community day care homes", the requirements differ. For example, annual inspections by Public Health and the Office of the Fire Marshal are requirements for "day care centers", but they are not requirements for "community day care homes".

2.23 Certificates are valid for one year and the expiry date is clearly shown on the Certificate. Each year the day care facility must apply for a renewal. The renewal process is the same as the process for obtaining a first-time approval and the requirements are the same. Hence, references to "the approval process" include both first-time approvals and annual renewals.

2.24 Our first criterion was:

The approval to operate a child day care facility should be issued in compliance with legislation.

2.25 To determine whether this criterion was met, we reviewed the relevant legislation, we examined the Department's policies and practices, we tested a sample of day care files, we performed some analytical review and we talked with staff. Our findings include the following.

- the requirements are not always met prior to the Department approving a day care facility;
- not all of the approved day care facilities received the required inspections during 2002;
- the Department is not complying with other sections of the Regulation; and
- Certificates are not always renewed on a timely basis.

The requirements are not always met prior to the Department approving a day care facility

2.26 Section 3(2) of the Regulation sets out the requirements for obtaining an approval, or renewal of an approval, for a day care center. The requirements are:

- an application has been received;
- the appropriate fee has been paid;
- Public Health has given a written statement of compliance stating that the sanitation, lighting, ventilation and other general health standards in the day care center meet the standards;

- the Office of the Fire Marshal has given a written statement of compliance stating that the day care center meets fire prevention standards and building standards;
- the Minister is satisfied that the day care center complies with the criteria prescribed by the Regulation and any standards prescribed by the Minister; and
- the Minister is satisfied that the operator of the day care center will meet specified conditions.

2.27 We selected a sample of forty Certificates issued to day care facilities for testing. The sample included day care facilities from each of the eight regional offices. It was comprised of six first-time approval Certificates and 34 renewal Certificates. While most were day care centers, there were two community day care homes included in the sample. We did not test for all of the legislative requirements. We examined only the following documents for each day care file in the sample:

- the application form remitted by the day care facility;
- the statement of compliance from Public Health;
- the statement of compliance from the Office of the Fire Marshal; and
- the day care inspection form (and subsequent spot check forms) completed by the coordinator in the regional office.

2.28 Only two of the forty sample items had all the documentation present, indicating compliance with the regulatory requirements selected for testing, to support the issuance of the Certificate (95% did not).

- Only one of the six first-time approval sample items had the proper documentation to support the issuance of the Certificate.
- Only one of the 34 renewal sample items had the proper documentation to support the issuance of the Certificate. While 17 of the 34 renewal sample items had all of the required forms present, in several cases the forms indicated that the day care facility had infractions at the time the facility was approved. Any documented infraction is effectively a statement of non-compliance.

2.29 The following observations discuss the deficiencies that we observed.

The application form, remitted by the day care facility, was not always present and properly completed

2.30 We examined the application form, remitted by the day care facility, to determine if it was present and properly completed. We found problems in eight of the forty files. Our observations included the following.

- The form was absent from four files. For one of these files, the renewal Certificate was dated August 2002 and as of March 2003,

the coordinator indicated the application form had still not been received.

- The form was dated after the Certificate date in two files. Since it is the day care facility's responsibility to apply for approval, no day care facility should be issued a renewal Certificate without first applying.
- The wrong form was used in two files. Since each form requires different information, it is important that the proper form be completed.

A statement of compliance from Public Health, within the previous twelve months, was not always present

2.31 We examined the statement of compliance from Public Health to determine if it was present, if an inspection had been conducted within the previous twelve months and if the inspector had recommended the day care center for approval. Since a public health inspection is not required for "community day care homes", our sample size was reduced to 38 items. We observed deficiencies in eleven of the 38 items tested. Our observations included the following.

- Documentation regarding a public health inspection, within the previous twelve months of the Certificate date, was not present for nine of the 38 items. One of these nine was a first-time approval.
- Of the remaining 29 items, two of the files had a public health inspection form indicating that the facility had infractions. In one file, the inspection form indicated that the indoor temperature was below the standard. In the second file, the inspection form had three remarks requiring immediate corrective action: completing a daily cleaning schedule, replacing floor tiles around toilets and keeping the floor swept free of sand that was slippery. In both files, there was no recommendation from the Public Health Inspector that the day care be approved. There was no further documentation indicating that these infractions had been corrected. We believe that an inspection form with infractions or orders for corrective action is insufficient documentation. Either a written statement of compliance or a written recommendation for approval should be required from the Public Health Inspector prior to issuing a Certificate to a day care facility.

A statement of compliance from the Office of the Fire Marshal, within the previous twelve months, was not always present

2.32 We examined the statement of compliance from the Fire Prevention Inspector to determine if it was present, if an inspection had been conducted within the previous twelve months and if the inspector had recommended the day care for approval. Since a fire prevention inspection is not required for "community day care homes", our sample size was 38 items. We observed deficiencies in 16 of the 38 items tested. Our observations included the following.

- Documentation regarding a fire prevention inspection, within the previous twelve months of the Certificate date, was not present for thirteen of the 38 items.
- Of the remaining 25 items, three of the files had a fire prevention inspection form indicating that the facility had some infractions. In one file, the inspection form indicated that the fire closures were unsatisfactory and issued an order to “ensure all fire doors close and latch properly”. In the second file, the inspection form had five orders that included: removing electrical extension cords, changing the sleeping area, cleaning the storage room, installing an exit and changing door locks. In the third file, the inspection form required the replacement of the bulbs in the exit lights. In each file, there was no recommendation from the Fire Prevention Inspector that the day care be approved. There was no further documentation indicating that these infractions had been corrected. We believe that either a written statement of compliance or a written recommendation for approval should be required from the Fire Prevention Inspector prior to issuing a Certificate to a day care facility.

Requirements need to be formalized for inspection documentation, follow-up and communication with both Public Health and the Office of the Fire Marshal

2.33 There were significant inconsistencies in the documentation received from both Public Health and the Office of the Fire Marshal. Documentation ranged from a simple e-mail, stating that an inspection was done and the day care center had met the standards, to an inspection form indicating non-compliance. We found that it was sometimes difficult to determine whether or not the Public Health Inspector or the Fire Prevention Inspector was recommending that the day care center be approved.

2.34 In the sample of 38 items, we encountered eleven different types of inspection forms from the Public Health Inspectors and nine different types of inspection forms from the Fire Prevention Inspectors. The inconsistency in the inspection forms introduces the risk that different characteristics are being examined for compliance in different areas of the Province.

2.35 While the requirement to perform inspections is clearly assigned in the Regulation to Public Health, the Office of the Fire Marshal and the Department, specific inspection responsibilities are not clearly defined. The Department has developed a standard form for performing day care inspections; however, this is not the case for the other offices that are assigned inspection responsibilities.

2.36 We understand that the responsibility for doing follow-up of the public health and fire prevention inspections has not been clearly assigned. We observed several inspection reports from the Public Health Inspectors and one from the Fire Prevention Inspector where the inspection report indicated that there were orders for corrective action, yet the day care facility was still recommended for approval. Some of the comments on the public health inspection forms included:

disinfecting the kitchen, toys and the diaper-change area; putting a thermometer in the refrigerator; cleaning areas; supplying liquid soap; and storing food in plastic containers. There was only one file in the sample with outstanding comments from the Fire Prevention Inspector. It was a first-time approval. The comments involved: placing a portable fire extinguisher on the wall, installing an emergency light and finishing the wall around the electrical panel.

2.37 There are no formal communications between the Department and Public Health or the Department and the Office of the Fire Marshal. While meetings have occurred to address problems, there are no regularly scheduled meetings. Formal communication channels have not been established. We believe that each party would benefit from a formalized relationship through a written agreement that describes their roles, responsibilities and means of communication.

Recommendations

2.38 In order to ensure inspections are conducted as required by legislation, the Department should formalize their relationship in written agreements with the Public Health Regional Offices - Department of Health and Wellness and the Office of the Fire Marshal - Department of Public Safety. The agreements should clarify each department's roles and responsibilities and establish expected inspection frequencies, standard reporting requirements and designated follow-up responsibilities.

2.39 The Department should establish a formal working committee with each department and meet regularly to ensure that interdepartmental issues are identified and addressed promptly.

Departmental response

2.40 *The Department agrees that such written agreements or protocols are warranted, and has initiated discussions with the Office of the Fire Marshal and the Department of Health and Wellness. In addition we are in the process of forming working committees with the Office of the Fire Marshal and the Department of Health and Wellness for the purposes of identifying and addressing common issues of concern, with the initial meeting to be held in September, 2003.*

The Department's day care inspection was not always performed prior to issuing the Certificate or prior to the expiry of the previous Certificate

2.41 We examined the Child Day Care Facilities Inspection Forms, completed by the coordinators in the regional offices, to confirm that they were present and to ensure that inspections were performed prior to the Certificate dates.

2.42 We observed deficiencies in thirty-two of the forty items tested. Our observations included the following.

- The Department's inspection form, for measuring compliance with the day care standards, was not present for three of the forty items.

- In three other files, the inspection form was present but not completed. Only the first page of the inspection form, containing information on issuing the Certificate, was used for one first-time approval. In another first-time approval file, a partial inspection had been done; however, several standards were marked with a note to verify at the next visit. The third file involved a renewal Certificate and the inspection form was only partially completed.
- In one file, where the Department was issuing a renewal Certificate, an inspection form was present. However, the day care had changed locations, the inspection had been done at the old location and only a spot check had been done at the new location. The Department confirmed that a full inspection is required when a day care changes its location.
- Five of the files had a day care inspection form indicating that the inspection had been done only after the previous Certificate had expired. In one case, the inspection was done the day after the Certificate expiry date. In two cases, the inspection was done two and one half months after the previous Certificate had expired.
- Of the remaining 28 items, twenty of the inspection forms indicated that the facility had not complied with all of the standards. One of the most common infractions in our sample was non-compliance with the standard requiring that all staff members “comply with the terms of the Prior Contact and Criminal Record Check Policy”. Other infractions that were common in our sample included the following. Day care personnel files lacked the required documentation of first-aid training and medical examination. An inspection plan for the outdoor play equipment was not present ensuring that the equipment was checked regularly. Records indicating the practice of monthly fire drills were not always maintained. Electrical receptacles did not always have protective coverings. And, indoor play equipment was not always clean and in good repair.

Not all of the approved day care facilities received the required inspections during 2002

2.43 In addition to the testing on the sample of Certificates, we also performed an analytical review of the inspections performed during 2002.

2.44 Using the inspection dates recorded in the Department’s information system, we did an analysis of 369 day care facilities that were operating as of 31 December 2002 to determine if each facility had received the three required annual inspections (Public Health, Office of the Fire Marshal and the Department’s) during the 2002 calendar year. While we did not validate the dates by reviewing file documents, we did confirm some of the older inspection dates with the coordinator in the regional office. The program’s computerized information indicated the following:

- Only 266 of the approved day care facilities received the three required annual inspections during 2002 (28% did not).
- 92 day care facilities (25%) did not receive an inspection from the Office of the Fire Marshal during 2002. For 14 of these day care facilities, the last fire prevention inspection recorded occurred in 2000, indicating that two full years had passed without inspection.
- 16 day care facilities (4%) did not receive an inspection from Public Health during 2002.
- Five day care facilities (1%) did not receive an inspection from the Department during 2002.

2.45 While it is possible that Public Health and the Office of the Fire Marshal may have done inspections in some of these facilities, the Department's records did not show this. The Regulation clearly states that the Department must have a statement of compliance from both Public Health and the Office of the Fire Marshal before approving a day care facility.

Other findings

2.46 Other significant findings related to first-time approval Certificates and one specific renewal Certificate in our sample.

Additional observations on first-time approval Certificates

2.47 While we believe that complete and thorough inspections should always be performed prior to issuing a Certificate, we consider new facilities and new locations to be higher risk since compliance with the requirements has never been verified. In our testing of the sample, we were surprised to find that only one of the six first-time approval Certificates had appropriate documentation supporting the issuance of the approval. Three were missing the Department's inspection and one had an inspection form that was only partially complete. Another inspection form indicated non-compliance with the standard requiring criminal record checks on day care staff.

2.48 Since the sample was small and did not include all of the eight regional offices, we carried out additional work on the information in the Department's computer system. We reviewed the inspection dates on 43 first-time approval Certificates that were issued during the period April 2002 to February 2003. Eight of the 43 were approvals for "community day care homes" and neither a public health inspection nor a fire prevention inspection is required for this type of day care. The program information indicated the following.

- The Department's day care inspection date was before the Certificate date for each of the eight "community day care homes". This is a positive observation indicating that the homes were inspected for compliance with the standards prior to being approved.

- Only 19 of the 35 “day care centers” had all three of the required inspections dated before the Certificate date. (46% did not.)
- The public health inspection date was after the Certificate date for ten of the 35 “day care centers”.
- The fire prevention inspection date was after the Certificate date for ten of the 35 “day care centers”.
- The Department’s day care inspection date was after the Certificate date for 15 of the 35 “day care centers”.

Additional observations on one specific renewal Certificate in our sample

2.49 We consider large facilities to be higher risk since the number of children that could be affected is greater should a fire, health or safety incident occur. In our testing of the sample, we were surprised to find that a renewal Certificate had been issued to a large facility without appropriate documentation supporting its issuance. This day care facility was issued a Certificate on 22 January 2003. It is one of the largest day care facilities in the Province.

- There was no statement of compliance from Public Health within the previous twelve months. The last public health inspection on file was dated 7 December 2000. The inspection was over two years old at the time the renewal Certificate was issued.
- There was no statement of compliance from the Office of the Fire Marshal within the previous twelve months. The last fire prevention inspection on file was dated 28 March 2001. The inspection was over twenty-one months old at the time the renewal Certificate was issued.
- The day care facility had not complied with the Child Day Care Facilities Operator Standard 9.1. This standard requires a day care facility to ensure that “prior contact and criminal record checks” are conducted on potential staff members prior to their hiring. The day care facility must forward copies of the criminal record checks to the Department. Both the application form, remitted by the day care facility, and the Department’s day care inspection form indicated that these records were missing for several staff members.
- And, the Department’s day care inspection form indicated that the day care facility had not complied with nine other Child Day Care Facilities Operator Standards. Some of the infractions involved the standards for first aid kits, administering medication and documenting reportable incidents.

Recommendation

2.50 The Department should ensure compliance with all regulatory requirements prior to approving a day care facility.

Departmental response

2.51 Although procedures are in place in memo format, it appears from your findings that we can do a better job at consistent application. To that end, the Department will begin the development of a Day Care Services Program Policy and Procedures Manual in the fall of 2003, in order to provide clear procedures for staff to follow prior to approving a day care facility. This manual will be further enhanced by the creation of procedures for the Quality Inspection Scheduling tool as they become available, as well as recommended revisions to the Day Care Regulation 83-85 respecting the issuance of temporary approvals.

The Department is not complying with other sections of the Regulation

2.52 Our observations from testing the sample of forty items clearly indicated that the Department is not always complying with section 3(2) of the Regulation because the requirements of receiving an application from the day care facility, receiving statements of compliance from both Public Health and the Office of the Fire Marshal and ensuring that the day care facility complies with the standards are not always met prior to the Department issuing a Certificate to a day care facility. The following observations involve other sections of the Regulation with which the Department is not complying.

The Department is not verifying that the operator meets the requirements listed in Section 3(2)(f) prior to issuing a Certificate

2.53 Section 3(2)(f) lists six attributes the operator must meet.

3(2) Subject to subsection (3) and section 4, the Minister shall issue an approval or renew the approval of a day care center where...

(f) the Minister is satisfied that the operator of the day care center

(i) will operate the day care center in a manner that will maintain a spirit that is conducive to the development of a child;

(ii) will be willing to participate in training programs or workshops that are determined by the Minister to be advantageous;

(iii) will provide an atmosphere that is safe but non-restrictive to a child's development;

(iv) is aware of local community services that may be used to enhance the quality of programs and services available in the day care center;

(v) will maintain a working relationship with the officials of the department who provide consultation to day care centers; and

(vi) meets any other requirements respecting qualifications of an operator which the Minister may prescribe.

2.54 Through our review of the approval process, we could find no means by which the Minister obtained assurance that the operator met these requirements. The application form does not address these operator attributes. And, there are no guidelines that would aid the coordinators in determining if these requirements are met. Program staff agreed that the operator requirements in the Regulation are not well defined, have no supporting guidelines, are difficult to measure and are not formally verified as part of the approval process.

The Department is not verifying that the organizational requirements, listed in Section 3(3), are met prior to approving a day care centre

2.55 While Section 3(2) states the requirements for obtaining an approval, section 3(3) states conditions when the Minister shall not issue an approval of a day care center. It states:

The Minister shall not issue an approval of a day care center or a renewal thereof unless

(a) the operator is a body corporate, and

(b) the Board of Directors of a day care center which is non-profit in nature consists of not less than seven members who are elected at an annual public meeting.

2.56 Only requirement (b) is incorporated into the standards. Requirement (a) has not been incorporated into the standards and is not part of the Department's approval process. Discussions with coordinators in the three largest regions confirmed that neither of these requirements was being verified.

The Department's policy regarding which day care providers require a Certificate of Approval is not consistent with the Regulation

2.57 The *Family Services Act* requires that any facility providing day care services, center or home, obtain the Minister's approval. Section 2 of the Regulation defines several terms including the following.

- It states, "*day care services* means the care and supervision of a child for a period of less than twenty-four hours in a day care facility." The Regulation defines a *day care facility* as a day care center or a community day care home.

- It states,

"community day care home" means a home in which day care services are provided for a maximum of

(a) three infants,

(b) five children of the ages two to five,

(c) nine children who are of the age six and over, or

(d) six children where the children are of the ages five and under and six and over,

including those of the operator;

"day care center" means a facility in which day care services are provided for

- (a) four or more infants,
 - (b) six or more children of the ages two to five,
 - (c) ten or more children of the age six and over, or
 - (d) seven or more children where the children are of the age of five and under and six and over,
- including those of the operator;

2.58 The definitions for “day care services” and “community day care home” are very general. Our interpretation of the definitions is that they apply to most child care situations because what is commonly referred to as “babysitting” fits the Regulation’s definition of “day care services”. For example, our interpretation of the definitions would mean that a non live-in “nanny” caring for a child in the child’s home is providing “day care services”. And, our interpretation of the definitions would mean that a neighbour caring for even one child fits the definition of “day care services” and would need to be approved as a “community day care home”.

2.59 There are no provisions in the legislation allowing day care services without the Minister’s approval. However, the Department’s *Policy Direction: Number of Children Permitted Without a Certificate of Approval* dated 18 August 1997 sets a “floor” below which approval is not required. It states:

The number of children for whom an individual may provide day care services without requiring a certificate of approval shall be in accordance with the following, that is,: i) two infants, ii) four children ages two to five, iii) eight children aged six and over, or iv) five children where the children are of the age five and under and six and over, including those of the operator.

2.60 This *Policy Direction* is not consistent with the definition in the Regulation.

2.61 The impact of the Department’s *Policy Direction* being different from the Regulation is that, in some cases, child care services that meet the definition in the Regulation, and hence require approval, do not require approval according to the Department’s *Policy Direction*. Using the Department’s *Policy Direction* results in fewer approved “community day care homes”.

2.62 The general definitions in the Regulation are not precise and the Department’s current approval process is not consistent with all of the definitions in the Regulation. The *Day Care Regulation* was established in 1983. It is our understanding that while there have been two additions to the Regulation, the original terms have remained unchanged. In 1987,

the Office of the Comptroller reviewed this program and noted the need for legislation amendments.

2.63 Through our review, we found regulatory terms that were not being followed, Department practices that were not consistent with the Regulation and sections of the Regulation that were not being complied with. Given that twenty years have passed and there has been tremendous growth in the program due to society's changing needs for day care services, we conclude that the Regulation should be reviewed. The Department agreed that the Regulation is in need of review and likely in need of amendment.

Recommendation

2.64 The Department should review the *Day Care Regulation - Family Services Act* and current practices. Differences should be identified and appropriate changes made to the practices, the Regulation or both.

Departmental response

2.65 *The Department commits to reviewing the Day Care Regulation 83-85 against current practices and will immediately undertake discussions with the Department of Justice to request assistance with this task.*

Certificates are not always renewed on a timely basis

2.66 Section 26(2) of the *Family Services Act* states that the Minister's approval to operate a day care facility is required. And section 26(3) states, "Any person who contravenes subsection (2) commits an offence."

2.67 Certificates of Approval are issued for a one-year period. While day care facilities can have differing Certificate expiry dates, the expiry date remains the same each year for a facility. Interested in determining whether the Department had a timely renewal process, we looked for information that would show if there were any expired Certificates.

2.68 Our review showed that 23 operating day care facilities had expired Certificates at 31 December 2002.

2.69 We also did an analysis of "Past Due Approvals". We examined the number of approvals that were past due each month for the regional offices for the period 1 April 2002 to 31 December 2002. Observations from the analysis included the following:

- Four of the eight regions had at least one month during 2002 when there were no "Past Due Approvals". The other four regions had some "Past Due Approvals" each month during the year.
- The region with the most day care facilities (113) had the lowest percentage of "Past Due Approvals".
- The remaining seven regions each had at least 10% of their day care facilities with "Past Due Approvals" during at least one month during 2002.

- One of the seven regions had five of their fourteen day care facilities (36%) with “Past Due Approvals” for three consecutive months.
- Another one of the seven regions had nine of their twenty-one day care facilities (43%) with “Past Due Approvals” during one month.
- And yet another one of the seven regions had 11 of their 23 day care facilities (48%) with “Past Due Approvals” for two consecutive months. (Surprisingly, this region had the lowest average number of facilities per coordinator position.)

2.70 From these observations, we conclude that day care renewal Certificates are not always issued on a timely basis. By allowing day care facilities to operate without an approval, the Department is not enforcing section 26 of the *Family Services Act*.

Recommendation

2.71 The Department should determine why Certificates of Approval are not being renewed prior to their expiry dates and implement corrective actions to ensure their timely renewal.

Departmental response

2.72 *The Department will review this practice to ensure that renewals are completed prior to expiration of certificates of approval. The implementation of corrective actions will be clarified through the risk management approach of the Quality Inspection Scheduling tool and will also be set out in the Day Care Services Program Policy and Procedures Manual.*

Conclusion

2.73 This criterion is not met. The established approval process is not always followed and it does not incorporate all of the regulatory requirements. We found cases where Certificates of Approval were issued without verification of compliance with the *Day Care Regulation* and Child Day Care Facilities Operator Standards. We found evidence that approvals are not being issued consistently by all of the regional offices due to differing requirements. And, we found that some requirements of the *Day Care Regulation* are not incorporated into the Department’s process of approving day care facilities.

Planning, conducting and using the results of inspections

2.74 While our first audit criterion involved the approval process, our second audit criterion involved the inspection process. Performing inspections to ensure day care facilities are complying with the Department’s day care standards is a process that is critical to the approval process.

2.75 Our second criterion was:

Inspections of child day care facilities should be performed to measure compliance with legislation and the Child Day Care Facilities Operator Standards.

2.76 In assessing the effectiveness of the Department’s inspection of day care facilities, we examined:

- the planning of inspections (how they are prioritized and scheduled);
- how inspections are conducted (the inspection form and how it is used); and
- how inspection results are used.

Planning - how inspection work is prioritized and scheduled

2.77 We were pleased to find that the Department maintains a master list of all approved day care facilities. We were also pleased to find that responsibility for all day care facilities has been assigned to the ten coordinators. Therefore, all approved day care facilities requiring inspection have been assigned to staff members who are responsible for their inspection and monitoring.

2.78 The approval requirements and standards differ for a “day care center” and a “community day care home”. The risks also differ between different facilities. However, the Department’s inspection process does not incorporate the differing risks. The Department does not use a risk management approach or have a standard method of prioritizing inspection work for the program. The inspection requirements are the same for all day care facilities. The inspection frequency is the same and the same inspection form is used.

2.79 The Department recognizes the benefits of having a risk management approach and has been looking at ways to improve inspection scheduling since the mid 1990s. In 2001, the Department performed a pilot project called Quality Risk Based Assessment in one regional office.

2.80 The Department’s information system serves as a scheduling tool. It is programmed to notify the coordinators in advance of when inspections are due. While all coordinators use the system for recording day care information, they do not use it as a scheduling tool. Coordinators do not have inspection schedules to guide their work.

2.81 We believe the following audit observations are the result of inadequate scheduling of inspections.

Not all day care facilities were inspected during 2002

2.82 As noted earlier, our analytical review of inspection dates recorded in the information system indicated that five of the 369 approved day care facilities did not receive an inspection from the Department during 2002.

2.83 Proper scheduling of inspections could ensure that all approved day care facilities are inspected annually.

Inspections were not always complete

2.84 When examining the Child Day Care Facilities Inspection Forms completed by the coordinators in the regional offices, we found that 14 of the 36 inspections were not complete.

2.85 In some situations there are valid reasons why a complete inspection may not be possible in one visit. For example, the annual inspection is not complete when it is performed during the winter months, when snow prevents inspection of the outside play area. While it may be the intent that a spot check done at a later date would include these uninspected areas, this is not always the case. In many cases in our sample, there was no documented evidence that the uncompleted portions of the inspection had been verified afterwards.

2.86 Proper scheduling of inspections and spot checks could ensure that all standards get verified annually at each approved day care facility.

The timing of the annual inspection is predictable

2.87 Normally inspections are more effective when notification is not given prior to inspection. The element of surprise is important when performing inspections in order to obtain a true representation of operations. While day care inspections are unannounced, their timing is predictable. Annual inspections almost always take place during the month that the day care's Certificate expires. The annual expiry date is fixed. This reduces the element of surprise because day care facilities can expect the inspection during the month that their Certificate expires.

2.88 It is our opinion that inspections could be performed during any of the three months prior to the Certificate's expiry. Inspections during the last quarter would still provide timely and relevant verification of compliance with the standards. And, by making the timing of the inspection less predictable, the inspection results should be more reliable.

Some inspections were performed after the Certificate expired

2.89 As we reported earlier, five of forty items tested had a day care inspection form indicating that the inspection had been done after the previous Certificate had expired.

2.90 Proper scheduling of inspections could ensure that each approved day care facility is inspected prior to the expiry of its Certificate.

The actual inspection frequency did not meet the Department's requirement

2.91 The Department's requirement is that every day care facility will receive one annual inspection and three spot checks throughout the year. A spot check is a planned, but unannounced, visit to a day care facility to verify the staff to child ratio and to quickly make observations regarding compliance with the standards. There is a standard form for documenting the spot check visit. We were pleased to see that the Department had developed the practice of performing and documenting spot checks. We believe that spot checks provide the opportunity for better monitoring of a day care facility's performance.

2.92 We performed an analysis of the number of day care facilities receiving spot checks and the number of spot checks performed at each

day care facility during the calendar year 2002. Our observations included the following.

- None of the regional offices are meeting the Department's requirement of having three spot checks performed annually at each day care facility. The region with the highest coverage had 74% of the day care facilities receiving three or more spot checks during 2002. The region with the second highest coverage had 43% of the day care facilities receiving three or more spot checks during 2002. And, the region with the third highest coverage had 15% of the day care facilities receiving three or more spot checks during 2002. There were four regions that had no day care facilities receiving the required three spot checks during 2002.
- Over 90% of the day care facilities in the Fredericton, Moncton and Saint John regions received at least one spot check during 2002.
- More than 60% of the day care facilities in the Chaleur, Miramichi and Acadian Peninsula regions did not receive any spot checks during 2002.
- All but one region had some day care facilities that received more than one spot check. (In one region, no facility received more than one spot check in 2002.)
- In the region with the greatest frequency of spot checks, 49% of the day care facilities received four or more spot checks in 2002.

2.93 In the 1987 Office of the Comptroller's program review, a deficiency in performing spot checks was reported. The Department's response indicated that a computerized system would improve the timing of spot checks and Certificate issuance. Since the Comptroller's report, the system was implemented. However, the required number of spot checks is still not being done.

Recommendations

2.94 The Department should use a risk management approach or have a standard method of prioritizing inspection work for the Day Care Services Program.

2.95 The Department should ensure that coordinators have an inspection schedule to guide their work. The inspection schedule should ensure that:

- all day care facilities are inspected regularly;
- all required components of inspections are completed;
- the timing of the inspection is not predictable;
- inspections are performed before the Certificate expires; and
- the inspection frequency meets the Department's requirement.

2.96 The inspection schedule should include both routine annual inspections, and spot checks, and non-routine inspections arising from public complaints and follow-up of identified deficiencies.

2.97 The Department should ensure that the required number of inspections and spot checks is performed annually for each approved day care facility.

Departmental response

2.98 *The Department is currently developing a risk management approach for the inspection and monitoring of day care facilities, which will be implemented province-wide by March 2004. This Quality Inspection Scheduling tool will ensure that coordinators have an inspection schedule to guide their work, and the tool has already been piloted and validated in one the Department's regions.*

2.99 *The Department will have the capacity within its new NB Families computer system to generate timely reminders to staff as to when inspections and spot checks and renewals are required and will track their completion via monitoring reports. The new system will automatically generate a "task" to the staff reminding them of the date that all approvals, inspections and spot checks are due. If not acted upon, another "task" will automatically be generated for the supervisor indicating that an inspection or spot check is "overdue".*

Conducting - the inspection form and how it is used

2.100 We were pleased to find that the Department has a consistent method for documenting inspections. Inspections are documented using a form that combines a checklist with areas for comment. We were also pleased that the inspection form indicates results that are in compliance, as well as those that are non-compliant. Documenting all of the attributes where compliance is measured provides better evidence that a thorough inspection was performed. The inspection form is understandable, relevant and substantially complete when compared to the standards. It serves as an efficient and effective tool.

2.101 However, while we found that all regions use the inspection form, we were disappointed to find that only eleven of the 36 inspection forms that we examined were properly completed. Inconsistencies in the completion of the inspection forms impair the usefulness of both the information and the work performed. The major deficiency that we observed was that the compliance schedule was not used properly. The compliance schedule provides space to concisely document the standards that were not met, the required actions, the compliance date, the date the correction was verified and additional comments. None of the 36 inspection forms that we examined had used the compliance schedule for follow-up (verification of corrections made by the day care facilities).

Recommendation

2.102 The Department should ensure that the inspection form is properly completed for every annual inspection performed at each day care facility.

Departmental response

2.103 A directive will be sent to regional staff by fall, 2003 that will request the proper completion of the inspection form. This directive will then be incorporated into the Day Care Services Program Policy and Procedures Manual.

Using the results of inspections

2.104 We were disappointed to find that inspection results are not always linked to the approval process or enforcement actions. While positive inspection results do indicate compliance with the Province's Regulation and standards and do contribute to the approval process, negative inspection results are not always pursued. We found evidence that Certificates are issued regardless of the inspection results and enforcement actions on negative inspection results are rare.

Certificates are issued regardless of the inspection results

2.105 Legislation integrates the inspection function with the approval process by requiring a day care facility's compliance with the Regulation and standards prior to the Minister approving the day care facility. However, our audit observations indicated that compliance was not always required prior to issuing the Certificate. While performing the annual inspection is definitely considered an important step in the approval process, it appears that the next step is to issue the Certificate, regardless of the inspection results.

2.106 In our review of 36 inspection forms supporting Certificates that had been issued within the past year, we made the following observations relating to non-compliance with the standards.

- Twenty-three day care facilities had not complied with the terms of the Prior Contact and Criminal Record Check Policy.
- There were four files where 20-25 infractions were recorded, yet a regular renewal Certificate was issued.

2.107 One day care facility, with 20 infractions noted on the inspection form, was not complying with the standards relating to: health (hand washing, diapering, first aid); fire safety (emergency procedures, fire drills, protective coverings on electrical receptacles); play equipment (inspection plan for outdoor play equipment); and administration (posting of the daily schedule and evacuation procedures; having statements of service regarding child illness, child guidance, parental involvement and complaints).

2.108 Another day care facility, with 23 infractions noted on the inspection form, was not complying with the standards relating to: staff employment criteria (medicals, first aid, criminal record checks); the program (written weekly plan, outdoor play); health (hand washing, first aid); fire safety (emergency procedures, protective coverings on electrical receptacles); play equipment (inspection plan for outdoor play equipment); and administration (child records; personnel records; posting requirements for the daily schedule and the individual in charge; statements of service regarding child abuse and complaints).

2.109 Another day care facility with 25 infractions noted on the inspection form was not complying with many of the same standards as the previous example. The inspection form also indicated non-compliance with three other standards relating to effective supervision, the indoor play equipment and the arrangement of the play environment.

2.110 The fourth day care facility had 22 infractions noted on the inspection form. It was not complying with the standards relating to: staff employment criteria (medicals, first aid, criminal record checks); health (diapering, medication documentation); general safety (emergency lights, exit doors); potty chairs; play environment (indoor play equipment; outdoor play equipment); and personnel records.

2.111 The Department is not complying with the legislation when it issues a Certificate without ensuring that the day care facility is complying with the standards. Inspections should contribute more toward the enforcement of the legislation.

Negative inspection results are not always pursued

2.112 While there was evidence of follow-up on negative inspection results in some files in the sample of 36 inspection forms tested, there was not in others. Since none had used the compliance schedule, we reviewed subsequent spot check forms to determine whether follow-up had been done. We found several files where there was no evidence of follow-up of infractions that we felt should have been followed-up based on the importance of the non-compliance. Examples included the following:

- missing evidence of staff employment criteria including criminal record checks, medicals and first aid training;
- the indoor play equipment not being safe, clean and in good repair;
- program plans not being developmentally appropriate;
- diapering equipment, disposal and changing procedures being inappropriate; and
- missing protective coverings on electrical receptacles and other standards relating to safety.

Enforcement actions are rare

2.113 There have been only three closures of day care facilities by the Department in over twenty years of the program. Because the program is decentralized, enforcement responsibilities are with the regional office; however, closing a day care facility requires the Minister's authority and thus involves central office. We found that the Department has not established and documented a process for enforcement of the standards and legislation. Therefore, the coordinators in the regional offices have little guidance on when to proceed with an investigation or closure.

2.114 The Regulation provides for the issuance of a Temporary Certificate to a day care center when the Minister is satisfied that the

approval requirements will be met within a designated period of time, not to exceed six months.

2.115 A Temporary Certificate can be used as an enforcement tool. It serves as a “conditional certificate” allowing the day care facility time to correct performance and comply with the standards.

2.116 We were pleased to find that the Department has developed a process for issuing Temporary Certificates and the information system has the capability of recording, identifying and tracking Temporary Certificates. However, we found that there was very limited use of Temporary Certificates, there was inconsistency in the coordinators’ understanding of their use, and, we saw two cases where we believe their use was inappropriate. In the following two cases a Temporary Certificate was issued; however, we believe proceeding with more aggressive enforcement actions would have been more appropriate.

2.117 In the first file, we believe more aggressive enforcement actions would have been appropriate because of the following.

- No application form had been received. Remitting an application form is a legislative requirement for the approval process.
- The fire prevention inspection on file was ten months old. It indicated that there were infractions and did not have a recommendation for the day care center’s approval.
- The Department’s day care inspection form indicated that 23 standards were not being fully met and it indicated that corrective action was required. The infractions involved the standards relating to: staff employment criteria (medicals, first aid, criminal record checks); safety (keeping toxic products in the original labelled containers, practicing fire drills monthly, protective coverings on electrical receptacles); play equipment (inspection plan for outdoor play equipment); bathrooms; mattresses; and administration (child records; personnel records; statements of service regarding child abuse and complaints).

2.118 In a second file, we observed that the coordinator had re-issued Temporary Certificates repeatedly, and the day care had been issued a Temporary Certificate for the third time. The first Temporary Certificate was for one month. The second was for a two-month period. And the third was still active during the time of our review. The reason for the Temporary Certificate was to give the facility time to comply with a public health infraction. We believe that once a Temporary Certificate expires, the Department should either issue the renewal Certificate (if the day care is now complying) or proceed with enforcement actions (if the day care is still not complying).

2.119 We also reviewed files where a Temporary Certificate was not used and we thought it should have been. For example, we reviewed files where the day care inspection form indicated that there were several infractions, yet a regular renewal Certificate was given. A Temporary Certificate would have been appropriate until verification of the necessary changes at the day care facility took place. Also, we reviewed files where no Certificate was issued as the coordinator awaited a statement of compliance from Public Health or the Office of the Fire Marshal. Then, once the statement of compliance was received, the Certificate was backdated and issued. A Temporary Certificate could have been issued instead of waiting and backdating a Certificate.

2.120 The current process of inspecting day care facilities only verifies whether or not the standards are being met. It does not enforce compliance. The follow-up of infractions and the enforcement of the standards and legislation are two other important components of ensuring compliance. In 1987, the Office of the Comptroller's review of this program reported, "There is no application of sanctions in respect of non-compliance with the Act, Regulations and Standards. Day Care facilities are licensed regardless of the findings." Our findings indicated that this statement still holds true.

Recommendations

2.121 The Department should ensure appropriate follow-up is done when inspections are incomplete or when infractions are detected.

2.122 The Department should establish a process for enforcement of the standards and legislation. The process should be documented and clearly communicated to the coordinators.

2.123 The Department should update the guidance on when to use a Temporary Certificate and monitor their usage to ensure that all the coordinators use Temporary Certificates appropriately.

Departmental response

2.124 *The Department agrees with these recommendations and will address them through the development of the Day Care Services Program Policy and Procedures Manual to be completed within the fiscal year 2003-2004.*

Conclusion

2.125 This criterion is partially met. While the program has a standard form that, when used properly, would result in effective inspections being performed efficiently, the Department does not have established processes for prioritizing and performing inspections and for enforcing the standards. As a result, we found that inspection coverage is not adequate; inspections are being effectively performed at some day care facilities but not completely performed in others; and inspection results are not always linked to the approval process or enforcement actions.

Policies and procedures

2.126 Policies and procedures establish rules to help ensure that a program is provided in accordance with legislation and that the program is delivered consistently throughout the Province.

2.127 Our third criterion was:

Policies and procedures for approving child day care facilities, monitoring the facilities and enforcing the legislation should be documented and easily accessible by staff. There should be quality control practices to ensure that the policies and procedures are followed and updated as needed.

2.128 The Department does not have a policies and procedures manual for the Day Care Services Program. Hence, coordinators are not guided by documented procedures for approving and inspecting child day care facilities and enforcing the legislation. The Department recognizes the need for these.

2.129 The Department has issued a number of Policy Direction memos to staff. These cover such topics as issuing Certificates and their covering letter, issuing Temporary Certificates and collecting approval fees. These memos could serve as a useful reference for specific issues. However, their usefulness is limited since they have not been collected and organized for the coordinators. They have been given to staff via inter-office memo in the past, as the need arose, without guidance on their retention. The coordinators may not be aware of all of the Policy Directions because they have been issued over time and several are old, some dating back to 1986. During this time, the number of coordinator positions has increased and there has been turnover in the position in some regions.

2.130 There is a higher risk for inconsistencies in program delivery without formal policies. This risk is further increased with a decentralized program, such as Day Care Services. We observed the following inconsistencies during our review.

- Some of the coordinators believe that a fire prevention inspection is required every twenty-four months, rather than the actual twelve-month requirement.
- One of the coordinators believes that their inspection of a first-time approval is required sometime during the twelve months following the issuance of the Certificate. The actual requirement is that the Department's inspection be performed before the day care facility is approved.
- Other inconsistencies that we described earlier include: timeliness of issuing Certificates; spot check frequency; completeness of inspections; follow-up of non-compliance with the standards; and the use of Temporary Certificates.

2.131 We believe that these differing interpretations and inconsistencies indicate the need for formal policies and procedures.

2.132 In 1987, the Office of the Comptroller reviewed this program and reported the need for a policies and procedures manual. Our findings indicated that this need is still present. In addition to developing a policies and procedures manual, it is imperative that it is properly delivered to staff with training where necessary. And, to ensure that the policies and procedures are followed and updated as needed, quality control practices need to be implemented.

Recommendations

2.133 The Department should develop documented policies and procedures for approving child day care facilities, monitoring the facilities and enforcing the legislation. The policies and procedures should be easily accessible by staff.

2.134 The Department should train staff, as necessary, to help ensure the policies and procedures are understood and followed.

2.135 The Department should develop and implement quality control practices to ensure that the policies and procedures are followed and updated as needed.

Departmental response

2.136 *Although there have been a series of previous memos sent to inform relevant staff about policies and procedures, the Department agrees to formalize these through the development of a Day Care Services Program Policy and Procedures Manual and will begin development of such a manual in fall, 2003. Training of staff will be a large component of the roll-out of the policy and procedures manual. Monitoring of the Day Care Services Program will include reviewing the implementation of the new policy and procedures manual, as well as the development of quality control practices to ensure that the manual is updated as required.*

Conclusion

2.137 This criterion is not met. The Department has not established formal policies and procedures for the Day Care Services Program.

**Being accountable -
Monitoring and
reporting on the
program**

2.138 Appropriate monitoring and reporting procedures provide information for determining whether a program is meeting its objectives.

2.139 Our fourth criterion was:

The Department should have appropriate procedures in place to measure and report on the effectiveness of the program for approving and monitoring child day care facilities.

2.140 Any government program should have program goals and performance monitoring procedures, and government should report on the effectiveness of the program. We assessed each of these in determining whether this criterion was met.

Program goals

2.141 The Department does not have goals or targets for the program, against which they can measure results.

Recommendation	2.142 The Department should establish goals and targets for the Day Care Services Program, against which they can measure results.
Departmental response	2.143 <i>The Department will begin to develop goals and targets for the Day Care Services Program within the current Program Standards within the next twelve months.</i>
Performance monitoring	2.144 An adequate monitoring system has not been established for the program, monitoring responsibilities have not been assigned and regular monitoring procedures are not being performed. 2.145 Without monitoring of the program, problems may not be identified (and hence not corrected) in a timely fashion. We believe that the following problem areas may have been avoided with proper program monitoring: <ul style="list-style-type: none">• program delivery is not fully complying with the legislation;• there are inconsistencies in program delivery between the regional offices; and• incomplete inspection reports indicate a quality control issue. 2.146 In 1987, the Office of the Comptroller reviewed this program and reported a deficiency in monitoring procedures for the coordinators and the approval process, including inspection reports. Our observations indicate that this weakness still exists.
Recommendation	2.147 The Department should establish a performance monitoring plan for the Day Care Services Program with specific monitoring procedures.
Departmental response	2.148 <i>The Department agrees to begin the development of a formal performance monitoring plan for the Day Care Services Program within the next twelve months. This plan will be in line with the monitoring roles and responsibilities of the Department's new Program Development and Monitoring Division.</i>
Reporting on the effectiveness of the program	2.149 With program goals and monitoring lacking, the Department does not receive relevant and accurate reporting on the effectiveness of the inspection and approval of day care facilities. 2.150 The only reporting on the program, in the Department's annual report, is very limited, stating only the number of approved day care facilities and spaces. 2.151 The government and Legislative Assembly are not being provided with information that is useful in determining whether the day care standards are being met or whether the program is meeting expectations.

2.152 We were disappointed in the lack of action on the government's 1994 Policy titled, *New Directions – Child Care Reforms* that states the following:

In order to improve the quality of child care provided by regulated child care facilities, the following enhancements are being introduced:

- *Policy to strengthen the enforcement of existing regulations and standards.*
- *Regulatory requirement for operators to post, on site, notice of infractions, in order to inform parents.*

2.153 The Department confirmed that these two enhancements have not been implemented.

2.154 By not implementing the suggested recommendations and enhancements, including those made by the Office of the Comptroller as long ago as 1987, the Department did not accept the opportunities to improve the program and report on their success.

Recommendations

2.155 **The Department should report on the effectiveness of the Day Care Services Program both internally and publicly in its annual report.**

2.156 **The Department should review the report prepared by the Office of the Comptroller in 1987 to determine which findings and recommendations are still relevant, decide what action is to be taken and establish an implementation plan.**

2.157 **The Department should review the 1994 Policy titled *New Directions – Child Care Reforms* to determine which long-term strategic directions are still relevant, decide what action is to be taken and establish an implementation plan.**

Departmental response

2.158 *The Department will review the documents as requested for relevant recommendations. The Department agrees to report on the effectiveness of the Day Care Services Program internally and publicly.*

Conclusion

2.159 This criterion is not met. The Department does not have appropriate procedures to measure and report on the effectiveness of their program for approving and monitoring child day care facilities.

Summary

2.160 The Department of Family and Community Services recognizes the importance of day care facilities providing quality care. They have developed approximately one hundred and forty standards for day care facilities to follow.

A proper decentralized program structure needs to be developed

2.161 We believe there are two key challenges to the Day Care Services Program. A proper decentralized program structure needs to be developed and the program's growth needs to be addressed.

2.162 When the program decentralized in 1985, it consisted of four regional staff members and 67 facilities. The program was small and a proper decentralized program delivery structure was not established prior to assigning the program delivery responsibility to the regional offices. The following observations summarize the weaknesses in the program's delivery structure and the problems that have resulted.

- There are no formal communications between the Department and the Public Health Regional Offices - Department of Health and Wellness or between the Department and the Office of the Fire Marshal - Department of Public Safety. Both of these other departments are responsible for inspecting day care facilities. This has resulted in inconsistencies with the frequency of inspections, the documentation received from different inspectors and the follow-up of infractions observed by the other two departments.
- The Department has not established and documented a process for enforcement of the standards and legislation. We observed cases where day care facilities were issued Certificates without complying with the standards and cases where day care facilities were operating without valid Certificates.
- The Department has not established formal policies and procedures for the program. We observed several inconsistencies in the issuance of Certificates and the inspection of day care facilities.
- There is no formal program monitoring. This has resulted in situations involving non-compliance with legislation, unaddressed training needs and inadequate quality control.
- Program reporting is lacking. As a result the government and Legislative Assembly do not know whether the day care standards are being met or whether the program is having a positive impact.
- Program delivery enhancement opportunities have been missed.

2.163 Addressing these weaknesses will undoubtedly improve the program.

The program's growth needs to be addressed

2.164 There has been substantial growth in the program since 1985 when the standards were introduced and the program was decentralized. On 31 March 2002, there were 359 approved day care facilities. This is an increase of 292 day care facilities (436%) since 1985. The following observations suggest that the Department is not properly managing the growth in the program.

- The number of day care facilities within the program is growing steadily but the human resources assigned to the program are not.

There was growth in the number of departmental staff assigned to the program until 1994; however, there have not been any increases since 1994. While the number of coordinator positions has remained the same, the number of day care facilities requiring annual renewals and ongoing monitoring has increased by 56% since 1994. Several of the coordinators with whom we spoke told us that they were overwhelmed with their caseloads. Some coordinators expressed concerns of increased risks to children due to the lack of time coordinators can spend at the facilities.

There have not been any changes to the number of central office staff assigned to the program since 1985. There is only one central office staff member for this program, and this individual has other program responsibilities in addition to the Day Care Services Program.

As already mentioned, all eleven of the individuals responsible for the Day Care Services Program have other program responsibilities as well. This means that only a portion of their work time can be assigned to inspecting day care facilities, issuing Certificates, responding to complaints, providing advice to the day care facilities and all the other tasks involved with the Day Care Services Program.

- There has been no change to either the program or the program's delivery. The legislation is unchanged.
- We did a caseload analysis comparing the number of day care facilities assigned to the coordinators in each of the eight regions. While all coordinators are assigned the same responsibilities, there are substantial differences in the number of day care facilities assigned to the coordinators.

The average number of day care facilities per coordinator position ranged from 23 to 57. (Using the provincial totals, the average number of day care facilities per coordinator position is 42.) We also observed that while both the Edmundston and Campbellton regions have approximately the same number of approved day care facilities, 23 and 21 respectively, the Edmundston region has a full position, while the Campbellton region has only a half position.

2.165 It appears that the Department is not properly managing the growth in the program since there have been no changes to the program's expectations and resources since 1994.

Recommendation

2.166 The Department should re-examine the number of day care coordinator positions needed and the basis for their allocation to the

eight regional offices. The Department should make changes as necessary to ensure that sufficient resources are effectively assigned to the regional offices.

Departmental response

2.167 *The Department will re-examine its staffing needs and allocations.*

Conclusion

2.168 While the Department of Family and Community Services does have established processes for approving and inspecting day care facilities, it is our opinion that they are not adequate and they do not always ensure compliance with the Province's legislation and standards for child day care facilities.

2.169 Legislation provides for an appropriate system to protect children in approved day care facilities. It states that all day care facilities must be approved; and, they must comply with the Regulation and standards prior to being approved. And further, it states that it is illegal to operate a day care facility without an approval. When Certificates of Approval are issued without ensuring compliance with the Regulation and standards, the system breaks down. When day care facilities are allowed to operate without a valid Certificate of Approval, the system breaks down. When the system breaks down, the public is let down as the children in day care facilities are not provided with the promised protection.

2.170 The legislation and the standards were established to ensure a certain quality of day care service. If the approval and inspection processes do not ensure compliance, then the expected and required quality will not be achieved. We have made several recommendations that we think will help the Department ensure that the legislation is followed and quality day care services are provided.