

# **STATE OF NORTH CAROLINA**

## **INVESTIGATIVE REPORT**

**NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**WHERE DREAMS COME TRUE, LLC**

**BREVARD, NORTH CAROLINA**

**SEPTEMBER 2013**

**OFFICE OF THE STATE AUDITOR**

**BETH A. WOOD, CPA**

**STATE AUDITOR**

## **EXECUTIVE SUMMARY**

### **PURPOSE**

The Office of the State Auditor received allegations that Where Dreams Come True, a child care center in Brevard, N.C., attempted to avoid state sanctions by changing the ownership of the business while remaining in control of it.

### **BACKGROUND**

Where Dreams Come True opened in 2001 and offered daytime and after-school care for infants and children through age 12. The original owner of the business seemingly relinquished ownership in May 2011. A teacher listed as the New Owner gave up her license for the business in February 2013 after meeting with state auditors. From 2005 until the closing of the business, Where Dreams Come True received more than \$3.7 million in state and federal funds.

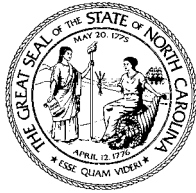
### **KEY FINDINGS**

- The day care owner changed ownership of her business and concealed her involvement to prevent sanctions from state regulators.
- The Former Owner and her husband provided false information to state officials.
- Subsidy Program policy is inconsistent with North Carolina Administrative Code regulations.
- Local officials did not seek repayment of roughly \$7,400 in subsidies improperly paid to the business for child care.

### **KEY RECOMMENDATIONS**

- The State's Subsidized Child Care Program should consider seeking additional information about change of ownership requests, especially for those businesses facing sanctions.
- Child and Adult Care Food Program management should cite the Former Owner of the business, her husband, and the New Owner for violating federal regulations.
- Local program officials should take legal action to recover overpaid subsidy funds from the Former Owner of Where Dreams Come True.
- DHHS management should revise its policy related to incidences of intentional misrepresentation to be consistent with North Carolina Administrative Code.

The key findings and recommendations in this summary are not inclusive of all the findings and recommendations in the report.



**Beth A. Wood, CPA**  
State Auditor

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**AUDITOR'S TRANSMITTAL**

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The Honorable Pat McCrory, Governor  
Members of the North Carolina General Assembly  
Dr. Aldona Zofia Wos, Secretary, North Carolina Department of Health and Human Services  
Mr. Stoney Blevins, Director, Transylvania County Department of Social Services

Ladies and Gentlemen:

Pursuant to *North Carolina General Statute §147-64.6(c)(16)*, we have completed an investigation of allegations concerning the operations of Where Dreams Come True, LLC, a child care provider that receives subsidy payments through the North Carolina Department of Health and Human Services, Division of Child Development and Early Education and the Division of Public Health. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General, and other appropriate officials in accordance with *N.C.G.S. §147-64.6(c)(12)*. We appreciate the cooperation received from the management and employees of the North Carolina Department of Health and Human Services during our investigation.

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA  
State Auditor

September 19, 2013

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## INTRODUCTION

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The Office of the State Auditor received allegations through the *State Auditor's Hotline* concerning a child care facility located in Brevard, North Carolina. The initial allegations related to the submission of falsified attendance sheets that were used to request payments from the North Carolina Department of Health and Human Services, Division of Child Development and Early Education as well as the Division of Public Health.

In addition, state and local officials questioned whether the owner of the child care facility attempted to avoid state sanctions by changing the ownership of the business while remaining in control of it.

The investigation of these allegations included the following procedures:

- Review of applicable program policies and procedures, *North Carolina General Statutes*, and federal laws related to child care programs
- Interviews with various state and county officials and employees charged with overseeing child care programs
- Interviews with the owners and employees of the child care facility
- Examination of relevant documents and records related to the allegations

This report presents the results of our investigation. The investigation was conducted pursuant to *North Carolina General Statute §147-64.6(c)(16)*.

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## **ORGANIZATION AND PROGRAM OVERVIEW**

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### **North Carolina Department of Health and Human Services**

The North Carolina Department of Health and Human Services (DHHS) is responsible for ensuring the health, safety, and well-being of all North Carolinians. The agency provides health and human services for special populations, including individuals who are deaf, blind, developmentally disabled, or mentally ill, and helps low-income North Carolinians achieve economic independence. DHHS employs over 16,000 people. The agency structure includes 30 divisions that work to serve areas in health, human services, administration, and support functions.

### **Division of Child Development and Early Education**

The DHHS Division of Child Development and Early Education (the Division) was created in 1993 to ensure quality standards and provide access for families to child care services. The mission of the Division is carried out by various organizational units including the Subsidy Services Section which provides subsidized<sup>1</sup> child care services for low-income and other eligible families. Child care facilities are paid based on eligible child enrollment and attendance.

### ***Subsidized Child Care Program***

The Subsidized Child Care Program (Subsidy Program) is governed by the North Carolina Social Services Commission and is responsible for establishing and adopting standards consistent with the *North Carolina General Statutes*. County departments of social services administer Subsidy Program funding on a reimbursement basis and program payments are made directly to the child care facilities.

### **Division of Public Health**

The DHHS Division of Public Health (Public Health) provides services to the public and local health agencies. Public Health consists of 11 sections including Women's and Children's Health (which includes Nutrition Services) which is responsible for promoting and protecting the health and development of families.

### ***Child and Adult Care Food Program***

The Child and Adult Care Food Program (Food Program) is a federally funded program administered by the United States Department of Agriculture, Food and Nutrition Service (USDA). While regulations and policy governing the Food Program are established by the USDA, the Special Nutrition Programs Unit within Public Health is responsible for administering the Food Program at the state level.

Participating child care facilities are reimbursed for qualified meals and snacks served to eligible children. In fiscal year 2012, North Carolina served 68.4 million meals to Food Program participants, totaling \$80 million in cash payments. Food served must meet the federal nutrition guidelines defined by the USDA to qualify as a reimbursable meal. The amount reimbursed is based on each child's "eligibility under the Income Eligibility Guidelines for free, reduced price, or paid meals." In addition, the USDA provides additional funds to cover administrative expenses.

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<sup>1</sup> Paying a portion of the cost of child care

## **ORGANIZATION AND PROGRAM OVERVIEW (CONCLUDED)**

### **Where Dreams Come True**

Where Dreams Come True was a for-profit, child care facility that offered daytime and after-school care for infants and children through 12 years of age. The business began operation in July 2001 in Transylvania County as a sole proprietorship. By April 2009, the business expanded to three child care facilities in Transylvania and Henderson counties. The two facilities located in Transylvania County were licensed by the Division with maximum capacities of 92 and 42 children, respectively, and the facility located in Henderson County was licensed at a maximum capacity of 43 children.

The owner of Where Dreams Come True owned the two buildings that contained the day care in Transylvania County and leased the facility in Henderson County. The business received state and federal assistance through its participation in the Subsidy Program as well as the Food Program. The owner of Where Dreams Come True maintained ownership until she closed the Henderson County facility in April 2011 and seemingly relinquished ownership of the two facilities in Transylvania County in May 2011.

### **Where Dreams Come True, LLC**

On May 2, 2011, Where Dreams Come True became Where Dreams Come True, LLC (LLC), a for-profit limited liability corporation. According to North Carolina Secretary of State records, the LLC was created on April 4, 2011, listing a teacher at Where Dreams Come True as the registered agent<sup>2</sup> and Legalzoom, Inc., as the organizer.<sup>3</sup>

The new entity continued to receive state and federal funds through its participation in the Subsidy Program as well as the Food Program. The LLC served infants and children through 12 years of age, offering daytime as well as after-school care. The childcare facilities were licensed by the Division at a maximum capacity of 89 and 42 children, respectively.

On February 15, 2013, shortly after meeting with investigators from the Office of the State Auditor, the teacher identified in Secretary of State records as the registered agent of the LLC relinquished her license for both facilities to Division officials. From 2005<sup>4</sup> until the closing of the business, Where Dreams Come True and the LLC received more than \$3.7 million from the Subsidy and Food Programs.

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<sup>2</sup> A “registered agent” is defined as “The person named in the organizational documents of a company upon whom service of legal process is deemed binding upon the company” according to *N.C.G.S. §53C-1-4*. According to *N.C.G.S. §55D-30(b)*, “The sole duty of the registered agent to the entity is to forward to the entity at its last known address any notice, process, or demand that is served on the registered agent.”

<sup>3</sup> An “organizer” is “A person who executes the articles of organization of a limited liability company in the capacity of an organizer” according to *N.C.G.S. §57C-1-03(16a)*.

<sup>4</sup> Even though the companies were in existence since 2001, records were only available to review from 2005 to present.



## **FINDINGS AND RECOMMENDATIONS**

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### **1. FORMER OWNER CONCEALED INVOLVEMENT IN COMPANY TO AVOID PROGRAM SANCTIONS**

The owner of Where Dreams Come True (Former Owner) created a *front*<sup>5</sup> company named Where Dreams Come True, LLC, (LLC) to avoid state sanctions that could have permanently disqualified the company from the Subsidized Child Care Program (Subsidy Program). As a result, the LLC received \$68,239 for new enrollments from the Subsidy Program to which the Former Owner would not have been entitled. In total, the LLC received more than \$400,000 after the apparent change in ownership.

#### **Sanctions Motivate Former Owner to Create Front Company**

According to program records, between June 2007 and April 2011, Where Dreams Come True was cited for 85 violations resulting from direct complaint investigations and/or routine program reviews. These violations were related to various matters such as record keeping as well as direct child care issues.

On November 1, 2010, Where Dreams Come True received a one-year sanction by the Subsidy Program for fraudulently misrepresenting attendance reports that resulted in a \$5,280 overpayment of subsidy funds. Terms of the sanction precluded Where Dreams Come True from accepting any new children into the Subsidy Program for one year.<sup>6</sup>

Subsidy Program records show that less than a week later, on November 7, 2010, the Former Owner began discussing with program officials the possibility of changing ownership of the business to her husband to have the sanction removed or transferring children from one facility to another to receive a higher payment rate. Program officials told the Former Owner that a change of ownership to a close relative would not remove the sanction and a transfer of children would be viewed as a new enrollment, which was prohibited under the sanction.

During the subsequent months, Subsidy Program officials repeatedly cited the facility for numerous discrepancies related to attendance reports and continued to provide technical assistance while reiterating the need for reporting accurate attendance.

In March 2011, Subsidy Program officials investigated and confirmed a complaint that the owner attempted to conceal the transfer of a child between facilities that resulted in a \$572.40 subsidy overpayment after being directly advised that the transfer was prohibited. On March 30, 2011, Subsidy Program officials submitted a request to the Division of Child Development and Early Education (Division) for a second sanction because, “Provider continues to willfully disregard the policies set forth for the Child Care Subsidy program

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<sup>5</sup> An organization created or person serving to conceal the true activity and/or identity of person(s) in control. *BusinessDictionary.com*

<sup>6</sup> *North Carolina Administrative Code 10.308 (b)(4)* states: “After the first incidence of fraudulent misrepresentation by a provider, the provider shall not be paid with subsidized child care funds for any new children who enroll in the provider’s program for 12 months...”

## FINDINGS AND RECOMMENDATIONS (CONTINUED)

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and continues to commit acts of intentional fraud.” A second sanction would have permanently disqualified the facility from participating in the Subsidy Program under the *North Carolina Administrative Code*.<sup>7</sup>

However, after receiving notice of a possible second sanction, the Former Owner (who had owned the child care facility from its inception) informed program officials that Where Dreams Come True would have a new owner effective May 2, 2011. The new owner was a current employee who worked as a teacher (New Owner/Teacher) at the facility for more than 10 years but had no business experience or financial resources to buy or support a business. The New Owner/Teacher told investigators that the Former Owner approached her about the possibility of losing the business and discussed reorganizing the business under the New Owner/Teacher’s name as a way to prevent that from happening.

The Former Owner completed all the paperwork to create the LLC and completed the change of ownership papers. The New Owner/Teacher signed her name as *owner*. The Teacher said she received a pay increase from \$10.66 to \$13.50 (\$2.84) per hour for agreeing to the arrangement.

Shortly after the change in ownership, the Former Owner’s husband became Director of the LLC. According to the New Owner/Teacher, the Director came in and “took over everything.” The New Owner/Teacher agreed because she “didn’t feel it was really my place to say no.”

The Director defined the New Owner/Teacher’s role. “[She] may be the owner, [she] may own this business, but in reality everything that happens still is going to come right through here,” he said as he pointed to himself. The Director said, “I am sure she thought for a while that I worked for her. No, she don’t have nothing invested in this business ... she still don’t got a dime invested in this business ... my personal stuff is tied directly to this daycare.” When investigators asked the Former Owner why she gave her business away instead of selling it, she replied, “This is our investment...that little daycare is my child.”

When investigators spoke with the New Owner/Teacher on February 12, 2013, she said she only worked at the center part-time and was seeking a new job because the Director cut her salary. The New Owner/Teacher said that she had been trying to get out of the arrangement for more than a year, but that the Director and his wife had repeatedly told her nothing was going to happen. The New Owner/Teacher said, “I don’t know what to do. I really have been used.”

Investigators encouraged the New Owner/Teacher to truthfully speak with state Subsidy Program officials about the situation. After meeting with officials on February 15, 2013, the New Owner/Teacher turned in her childcare license and officially closed the LLC.

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<sup>7</sup> *North Carolina Administrative Code 10.0308(b)(5)*: “After the second incidence of fraudulent misrepresentation by a provider, the provider ... shall be permanently ineligible to participate in the subsidized child care program ...”

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

### **LLC's Checking Account Used by the Former Owner and Spouse for Personal Expenses**

The Director and his wife (Former Owner) used the LLC's checking account to pay their mortgage, loans, credit cards, and living expenses. According to the Director and the Former Owner, the Former Owner did not have any involvement with the LLC other than a lease agreement for the buildings they own.<sup>8</sup> However, even though the New Owner/Teacher and the Director were the only two individuals who had signature authority on the account, investigators found a number of transactions completed by the Former Owner, including withdrawals and transfers.

The account was in the name of the LLC, a company that the Director and the Former Owner represented to Subsidy Program officials as not theirs due to a "change in ownership." Investigators identified more than \$196,000 in personal expenses paid out of the LLC bank account by the Director and the Former Owner from May 2011 through February 2013.

Investigators questioned numerous transactions, such as payments for a BMW, deposits into a credit union, credit card payments, and checks and debit memos listing the Director and/or the Former Owner as the payee. The Director said he did not draw a salary from the LLC. He explained the debit memos were either personal loan payments or withdrawals as payment for his services for "whatever I decide I should receive." According to the Director, he fully controlled the company's bank account and was responsible for paying all business expenses. The Director said that the New Owner/Teacher only had minimal access to the check book.

#### **Director and His Wife's Personal Expenses May 3, 2011 - January 31, 2013**

<b><u>Description</u></b>	<b><u>Amount</u></b>
Cash Withdrawals	\$19,229.00
Transfer to Personal Checking Account	\$38,500.00
Transfer to Mortgage Loan	\$82,254.95
Payments to Other Loans	\$11,660.23
Checks Written to the Director	\$2,425.00
Checks Written to the Former Owner	\$500.00
Transfer to Personal Savings Account	\$10,500.00
Capital One Credit Card Payments	\$14,826.94
Chase Home Finance	\$6,349.08
BMW Car Payments	\$4,521.51
BMW Car Maintenance	\$2,124.03
Payments to Personal Friend	\$3,500.00
<b><u>Total Personal Expenses</u></b>	<b><u>\$196,390.74</u></b>

The Former Owner said that prior to the "change of ownership," it was common for them to pay their personal bills out of the business account. She said they did not account for any

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<sup>8</sup> According to the Director and the Former Owner, terms of the lease agreement included payments of \$15,000 per month from the New Owner/Teacher for use of the two buildings. However, a review of the company's bank statements revealed no evidence these payments were ever made.

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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owner distributions but rather claimed what income or loss the company reported at year end on their personal tax return. Even though the checking account was now in the name of a business they allegedly no longer owned, the Director and the Former Owner continued to use the company checking account, entrusted to the Director, withdrawing more than \$196,000 for their personal use.

After being informed that they were going to be cited a second time for intentional violations and barred from participating in the Subsidy Program, the Former Owner contrived a scheme to represent a long-time employee as the new “owner” to avoid the second sanction. As a result, the Director and the Former Owner may have engaged in criminal activities such as embezzlement, conversion, false pretense, and tax evasion.

### **RECOMMENDATIONS**

State and local Subsidy Program management should consider amending their procedures to include additional verification of information provided on change of ownership requests, especially when the change in ownership involves a provider under or facing a sanction from the Subsidy Program.

Additional information such as incorporation documents identifying officers, board members, or shareholders should be requested and reviewed. In addition, other factors such as terms of the transaction resulting in the change of ownership and the qualifications of a new owner should be considered when evaluating the veracity of the purported change in ownership.

**Note: Finding referred to the Transylvania County District Attorney, North Carolina State Bureau of Investigation, North Carolina Department of Revenue, and the Internal Revenue Service.**

## **2. DIRECTOR AND FORMER OWNER PROVIDED FALSE INFORMATION TO STATE OFFICIALS**

The Director of Where Dreams Come True LLC (LLC) submitted application documents to the Child and Adult Care Food Program (Food Program) that included the alleged forged signature of the New Owner/Teacher of the LLC. In addition, the Former Owner intentionally misrepresented her identity to a Food Program official to conceal her true involvement with the Food Program. She had previously been placed on the program’s National Disqualified List<sup>9</sup> yet continued to perform administrative duties related to the Food Program in violation of program regulations.

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<sup>9</sup> According to Food Program records, a program review in July 2009 identified more than 3,700 meal reimbursement claims that were ineligible for payment. As a result, the facility had to repay more than \$11,000 and received a Serious Deficiency notification and termination from the program. As of April 2013, the Former Owner remained on the National Disqualified List.

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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### **Director Allegedly Forged Signature of New Owner/Teacher**

The Director of the LLC submitted an application for participation in the Food Program that included an alleged forged signature of the New Owner/Teacher. Attachment D of the submitted application contained a sworn statement that was supposedly signed by the New Owner/Teacher and notarized.

In January 2012, the Director of the LLC submitted an application for participation in the Food Program and the LLC entered into a provider agreement. The application included a notarized, sworn statement that was supposedly signed by the New Owner/Teacher. However, the New Owner/Teacher provided a written and notarized statement to investigators that she did not sign any of the documents contained in the application. When investigators questioned the New Owner/Teacher about the application, she stated “I have not filled out one paper (related to the Food Program); I have not signed my name to one thing. And if my name has had to be signed, that means somebody forged my name.”

### **Former Owner Performed Administrative Duties related to the Food Program**

Shortly after the change in ownership, the Former Owner’s husband became the Director of the business. According to both the Director and the Former Owner, the Former Owner did not have any involvement with the child care facility after the change in ownership other than a lease agreement for the day care’s buildings that the couple own. When asked about his responsibilities related to the Food Program, the Director said, “I control all of that.” According to Food Program records, the Director is the only person listed as an authorized user of the reporting system.

When investigators asked the Director to describe how he maintains Food Program documents and records, he could not provide detailed and consistent answers. It was quickly apparent that the Director had little knowledge of the Food Program. However, the Former Owner was able to describe in great detail how the Food Program was operated, how the records were maintained, and how records were submitted for payment.

Because the Former Owner continued to perform Food Program activities, the LLC violated federal program rules. *Section 7 CFR Ch. II (iv)* states, “A participating institution is prohibited from permitting an individual who is on the National Disqualified List to serve in a principal capacity with the institution....”

### **Former Owner Misidentifies Herself to Program Officials**

In February 2013, Food Program officials performed an on-site program compliance review. According to the consultant who performed the review, during the meeting with the Director, “a lady came by to assist with the expense portion...of the agreement” and the Director introduced the lady as “Jennifer.” The lady told the consultant that she inputs the monthly claims into the Food Program database.

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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The consultant visited another day care, at which the Former Owner is employed, in a neighboring town the following day to conduct a similar review. When the consultant arrived, she was met by the same individual who the day before was identified as “Jennifer.” According to the consultant’s report, she obtained the full name of the individual and it was the Former Owner of Where Dreams Come True.

Participation documents submitted to the Food Program named the Director as the Principal<sup>10</sup> **responsible for administering the program** (emphasis added) even though he had very limited knowledge of its operations. The *Truth in Application and Names and Addresses* form included with the Food Program application states, “All information submitted to the State agency with this application is true and correct to the best of my knowledge. I understand that these representations are being made in connection with the receipt of federal funds and that deliberate misrepresentation may subject me to prosecution under applicable state and federal criminal statutes.”

The Former Owner continued to participate as a principal even though she was included on the National Disqualified List. Her involvement also violated Food Program regulations which prohibits individuals included on the National Disqualified List to serve in that capacity.

### **RECOMMENDATION**

Child and Adult Care Food Program management should take action to cite the Former Owner of Where Dreams Come True, her husband who is the Director of the LLC, the New Owner/Teacher, and the LLC for serious deficiencies in accordance with federal regulations.

**Note: Finding referred to the Transylvania County District Attorney, North Carolina State Bureau of Investigation, and the Federal Bureau of Investigation.**

### **3. SUBSIDY PROGRAM POLICY INCONSISTENT WITH STATE RULES**

Existing policy in 2011 effectively allowed child care providers who participated in the Subsidized Child Care Program (Subsidy Program) to repeatedly commit fraud if the dollar amount involved was less than \$1,000. However, this policy was not consistent with program regulations contained in the *North Carolina Administrative Code*. This inconsistency effectively allowed child care providers to commit potential criminal acts while continuing to receive subsidy funding.

In November 2010, Where Dreams Come True was initially sanctioned by the Subsidy Program for fraudulent misrepresentation due to the intentional submission of false attendance reports that resulted in a \$5,280 overpayment. The sanction was imposed in

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<sup>10</sup> *Principal* means any individual who holds a management position within, or is an officer of, an institution or a sponsored center, including all members of the institution’s board of directors or the sponsored center’s board of directors. 7 CFR Ch. II A .226.2

## FINDINGS AND RECOMMENDATIONS (CONTINUED)

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accordance with the *North Carolina Administrative Code* and the *Subsidized Child Care Services Manual* which required “repayment of the overpaid amount and the provider cannot receive subsidy funds from any county for any new children who enroll in the provider’s program for 12 months.”

During the subsequent months, local program officials repeatedly cited Where Dreams Come True for numerous discrepancies related to attendance reports. Because these discrepancies could not be confirmed as “intentional,” program officials continued to provide technical assistance while reiterating the need for reporting accurate attendance. However, in March 2011, local program officials received a complaint related to false reporting by Where Dreams Come True which they investigated and confirmed.

According to program records, the operators purposely attempted to conceal the transfer of a child between facilities after being directly advised that the transfer was prohibited. As a result, Where Dreams Come True received \$572.40 in subsidy overpayment. Due to the blatant nature of false reporting, on March 30, 2011, local program officials submitted a request to the Division of Child Development and Early Education for a second sanction because, “Provider continues to willfully disregard the policies set forth for the Child Care Subsidy Program and continues to commit acts of intentional fraud.”

According to local program officials, a request for a second sanction was submitted to the state Subsidy Program office but it was denied because the amount in question was less than \$1,000. The *Subsidized Child Care Services Manual* stated “the following sanctions may be applied to a recipient or provider when local program officials determines that there has been one or more instances of fraud. The sanctions apply to cases in which the amount of fraud is **more than one thousand dollars (\$1,000).**”

However, the *North Carolina Administrative Code* does not specify a dollar threshold in regards to incidents of fraudulent misrepresentation. According to *10A NCAC 10.0308(b)(5)*: “After the second incidence of fraudulent misrepresentation by a provider, the provider **shall** [emphasis added] repay the overpayment in full, **shall** [emphasis added] be permanently ineligible to participate in the subsidized child care program, and **shall not be** [emphasis added] reimbursed for any services provided to children enrolled in the program from the date of notification of sanction in accordance with N.C.G.S. 150B-23(c).”

*North Carolina General Statutes* reference a \$1,000 threshold but it is used to differentiate between a misdemeanor and a felony act. *N.C.G.S. §110-107(b)* states, “If the child care subsidy is not more than one thousand dollars (\$1,000), the person is guilty of a Class I misdemeanor. If the child care subsidy is more than one thousand dollars (\$1,000), the person is guilty of a Class I felony.”

The *Subsidized Child Care Services Manual* stated, “Both the State and the local purchasing agencies (LPA) have a responsibility to assure proper administration of state and federal funds that pay for child care services for children and take steps to prevent and deter fraudulent misrepresentation.” However, the program policy effectively allowed child care providers who participate in the Subsidy Program to repeatedly commit acts deemed to be

## **FINDINGS AND RECOMMENDATIONS (CONCLUDED)**

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fraudulent misrepresentations (and by *North Carolina General Statute* considered as criminal acts) if the dollar amount involved was less than \$1,000. This policy was not supported by the *North Carolina Administrative Code* that requires that, after a second instance of fraudulent misrepresentation, the provider shall be deemed permanently ineligible to participate in the Subsidy Program regardless of the amount involved.

### **RECOMMENDATION**

The North Carolina Department of Health and Human Services management should revise its policy related to incidents of intentional misrepresentation to deter future acts and to ensure compliance with provisions of the *North Carolina Administrative Code*.

#### **4. LOCAL PROGRAM OFFICIALS DID NOT SEEK REPAYMENT OF SUBSIDY FUNDS**

After the Former Owner of Where Dreams Come True submitted a change of ownership request, local Subsidized Child Care Program (Subsidy Program) officials discovered \$7,433.70 in funds that had been overpaid to Where Dreams Come True. Local program officials never recovered these funds because they did not believe they had the authority to request repayment from the Former Owner because she no longer “owned” the business.

However, the investigation revealed that the Former Owner maintained involvement and control of the business, and any debts and sanctions resulting from the provider’s participation in the Subsidy Program should remain in effect pending repayment of any overpaid subsidy funds.

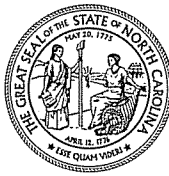
*North Carolina Administrative Code (10A NCAC 10.0308)* requires that “providers shall repay the amount of child care subsidy for which he or she is ineligible to receive.” The *North Carolina Administrative Code* does not indicate that a provider must be an active participant in the program.

### **RECOMMENDATION**

Local program officials should take whatever legal action needed to recover the overpaid subsidy funds from the Former Owner of Where Dreams Come True.

In addition, because the Former Owner maintained involvement and control of the business, the sanctions imposed on the Former Owner of Where Dreams Come True should remain in effect pending repayment of any overpaid subsidy funds.





## **North Carolina Department of Health and Human Services**

Pat McCrory  
Governor

Aldona Z. Wos, M.D.  
Ambassador (Ret.)  
Secretary DHHS

September 10, 2013

The Honorable Beth Wood, State Auditor  
North Carolina Office of the State Auditor  
20601 Mail Service Center  
Raleigh, NC 27699-0601

Dear Auditor Wood:

The North Carolina Department of Health and Human Services' (DHHS) Division of Child Development and Early Education (DCDEE) and Division of Public Health (DPH) provide the following responses to the DRAFT Investigative Report of the Office of the State Auditor (OSA) dated September 2013 regarding Where Dreams Come True, LLC's activities from April 4, 2011 to February 15, 2013.

### **1. FORMER OWNER CONCEALED INVOLVEMENT IN COMPANY TO AVOID PROGRAM SANCTIONS**

OSA recommends that State and local Subsidy Program management amend their procedures to include additional verification of information provided for change of ownership requests, especially when the provider is under sanction from the Subsidy program.

DCDEE Response: DCDEE currently reviews change of ownership information for licensing purposes in order to determine the potential applicability of 10A NCAC 09 .0302(g) to deny a new license. DCDEE will make the following policy changes to assist in identifying changes of ownership that may be suspect; however, DCDEE will not deny a license when the transfer of ownership is facially valid.

DCDEE proposes the following policy and rule changes:

1. DCDEE will revise its Subsidy Program policy to require local purchasing agencies (LPAs) to notify DCDEE of any local investigations initiated for suspected fraud or misuse of funds. (Current policy does not require DCDEE notification unless there are questions about determining the amount of overpayment or applying a sanction.)
2. Upon notification by the LPA, DCDEE Subsidy staff will notify DCDEE Regulatory staff of the investigation so that any requests for changes in ownership for that facility may be flagged for heightened review.
3. DCDEE Regulatory staff will monitor any requests for changes in ownership for facilities that are being investigated for suspected fraud or misuse of funds in the Subsidy Program.
4. If the facility notifies DCDEE of a change of ownership, DCDEE will search the North Carolina Secretary of State's Corporate Filings to confirm the change. If the facility is a sole proprietorship or partnership, DCDEE will request and review documentation of the change in ownership from the facility, including any sales agreement.

[www.ncdhhs.gov](http://www.ncdhhs.gov)

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In addition, DCDEE will pursue a Subsidy Program rule change with the Social Services Commission (10A NCAC 10.0308) that would apply the sanction to the facility, as well as to the owner/provider. The result of this change is there would be no advantage for an owner/provider to change ownership if the sanction continues for the facility regardless of the owner. DCDEE will also pursue a Licensing rule change to the Child Care Commission (10A NCAC 09.0302) that would add sanctions from the Subsidy Program against a previous facility to the reasons why a new license may be denied to an owner.

## **2. DIRECTOR AND FORMER OWNER PROVIDED FALSE INFORMATION TO STATE OFFICIALS**

OSA recommends that Child and Adult Care Food Program (CACFP) management take action to cite the Former Owner of Where Dreams Come True, her husband who is the Director of the LLC, the New Owner/Teacher, and the LLC for serious deficiencies in accordance with federal regulations.

DPH Response: Based on the information provided to DPH by the OSA in the course of its investigation of Where Dreams Come True, LLC, the CACFP implemented the OSA's recommendations to cite the Director, Former Owner, and the LLC for serious deficiencies in accordance with CACFP federal regulations as of April 4, 2013. In addition, DPH-CACFP terminated and disqualified Where Dreams Come True, LLC from the CACFP program.

Upon receipt of the July 2013 Investigative Report, CACFP became aware of OSA's recommendation to take action to cite the New Owner/Teacher for serious deficiencies in accordance with federal regulations. DPH-CACFP has evaluated possible actions that may be taken against the New Owner/Teacher. Based on the information provided by the OSA report, it is not clear that there are grounds to cite the New Owner/Teacher for serious deficiencies in accordance with the CACFP federal regulations. The head of the CACFP program will work with OSA staff at their earliest convenience to determine if any actions of the New Owner/Teacher warrant further action by the CACFP.

## **3. SUBSIDY PROGRAM POLICY INCONSISTENT WITH STATE RULES**

OSA recommends that DHHS management should revise its policy related to incidents of intentional misrepresentation to deter future acts and to ensure compliance with the provisions of the North Carolina Administrative Code.

DCDEE Response: Since the activity that is the subject of the report occurred, the rules governing the sanction process and the accompanying policies have been amended.

Pursuant to rule amendments that were effective in 2011, the local purchasing agency imposes sanctions for fraudulent misrepresentations in accordance with 10A NCAC 10.0308. The regulation specifies separate sanction processes that are followed for providers who commit a fraud of less than \$10,000 and fraud in excess of that amount.

The revisions to the Subsidized Child Care Policy Manual made in April of 2013 do not make a distinction in the amount of fraud required to issue a sanction. This new process is described in detail in Chapter 23 of the Policy Manual <http://info.dhhs.state.nc.us/olm/manuals/dcd/ccs/man/CCSc23.pdf>. In addition, the terms of the Provider Agreement <http://info.dhhs.state.nc.us/olm/manuals/dcd/ccs/man/DCD-0452.pdf> include a statement that the provider understands fraudulent misrepresentation to obtain child care subsidy funds is a criminal offense and the funds must be repaid. There is no minimum amount stated for repayment in any of these documents.

The Policy Manual describes the LPA responsibilities to apply sanctions to providers when there are instances of fraud. Prior to 2011, the LPA was required to request permission from DCDEE to apply sanctions and this was the case with Transylvania DSS and Where Dreams Come True. DCDEE policy no longer requires LPAs to seek DCDEE permission to apply a sanction because the Child Care Subsidy Rules were amended effective December 1, 2011 and now contemplate that counties issue the sanctions in question directly without DCDEE oversight. DCDEE will ensure that the Subsidized Child Care Policy Manual clearly states there is no minimum amount of fraud or misrepresentation that is required for a sanction to be applied; and that DCDEE approval is not required in order for the LPA to apply the sanction.

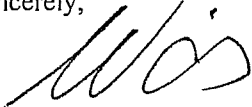
**4. LOCAL PROGRAM OFFICIALS DID NOT SEEK REPAYMENT OF SUBSIDY FUNDS**

OSA recommends that local program officials should take whatever action is needed to recover the overpayment of subsidy funds from the Former Owner of Where Dreams Come True.

DCDEE Response: Transylvania County Department of Social Services has confirmed in writing that they recouped \$7,433.70 from the provider. DCDEE has recovered at the state level the \$7,433.70 that is referenced in this section.

Thank you for your review of this matter and the opportunity to respond to recommendations set forth in the Draft Report. Please contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aldona Z. Vos'.

Aldona Z. Vos, M.D.  
Secretary

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# RESPONSE FROM TRANSYLVANIA COUNTY DEPARTMENT OF SOCIAL SERVICES

Talmadge Stone Blevins  
Director



Telephone (828) 884-3174  
Fax: (828) 884-3263

*Transylvania County*  
**Department of Social Services**  
106 East Morgan Street  
Brevard, NC 28712

August 15, 2013

Ms. Beth Wood, CPA, State Auditor  
2 South Salisbury Street  
Raleigh, NC 27699-0601

Dear Ms. Wood,

I have received the preliminary report of an investigation conducted by your office regarding a local business in our community, Where Dreams Come True. We were pleased to cooperate with your staff in this investigation, and feel they were very thorough and professional in their duties.

I am writing today in response to a recommendation concerning our agency on page 11 of the report that reads:

"Local program officials should take whatever legal action needed to recover the overpaid subsidy funds from the former owner of Where Dreams Come True."

On April 17, 2013, we issued a letter to Ms. Monica Robinson, the former owner of Where Dreams Come True, through our county attorney. The purpose of the letter was to demand repayment of \$7,433.70 in subsidized child care funds that Ms. Robinson received through fraudulent misrepresentation. We received a written response from Ms. Robinson's attorney dated May 21, 2013 stating that she would agree to repay the sums with an appropriate release of liability. On May 31, 2013, we agreed that we were willing to execute a release of liability in exchange for payment of the \$7,433.70. Ms. Robinson later stated through a separate attorney that she did not controvert the allegations leading to the overpayment of subsidy funds. The amount was paid in full on 6/18/13.

If you have any further questions, please do not hesitate to contact me at (828) 884-3174, exit. 301 or by e-mail at [stoney.blevins@transylvaniacounty.org](mailto:stoney.blevins@transylvaniacounty.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Talmadge Stone Blevins", is written over a horizontal line.

Talmadge Stone Blevins, Director  
Transylvania County Department of Social Services

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## ORDERING INFORMATION

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Copies of this report may be obtained by contacting the:

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For additional information contact:

Bill Holmes  
Director of External Affairs  
919-807-7513

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This investigation required 1,215 hours at an approximate cost of \$87,480.