Executive Summary
Attestation Report of the Nebraska Department of Health and Human Services
Child Welfare Reform (Families Matter) Contract Expenditures
July 1, 2009 through March 31, 2011

The Auditor of Public Accounts (APA) recognizes and thanks the audit staff who worked diligently on the demanding and complicated task of examining expenditures for child welfare services under the Families Matter reform implemented by the Department of Health and Human Service (DHHS) in 2009. Due to its complexity, such an examination would be difficult under even the best of circumstances; however, an already trying task was made all the more frustrating by a pronounced lack of cooperation on the part of DHHS. Thus, the audit staff deserves special appreciation for their remarkable forbearance and tenacity in the face of such consistent obstruction. This lack of cooperation by DHHS, which is among the worst ever encountered by my office, will be addressed again at the conclusion of this summary.

From the outset, DHHS touted the Families Matter reform as a way of enhancing the efficiency and accountability of child welfare services – and doing so "within existing resources." The audit report concludes, however, that DHHS failed to realize its stated goal of containing expenditures. Instead, the costs of child welfare services have skyrocketed during the past two years. More disturbing yet, the audit report points to a critical lack of accountability, primarily in the form of missing documentation, regarding how these public funds have been spent.

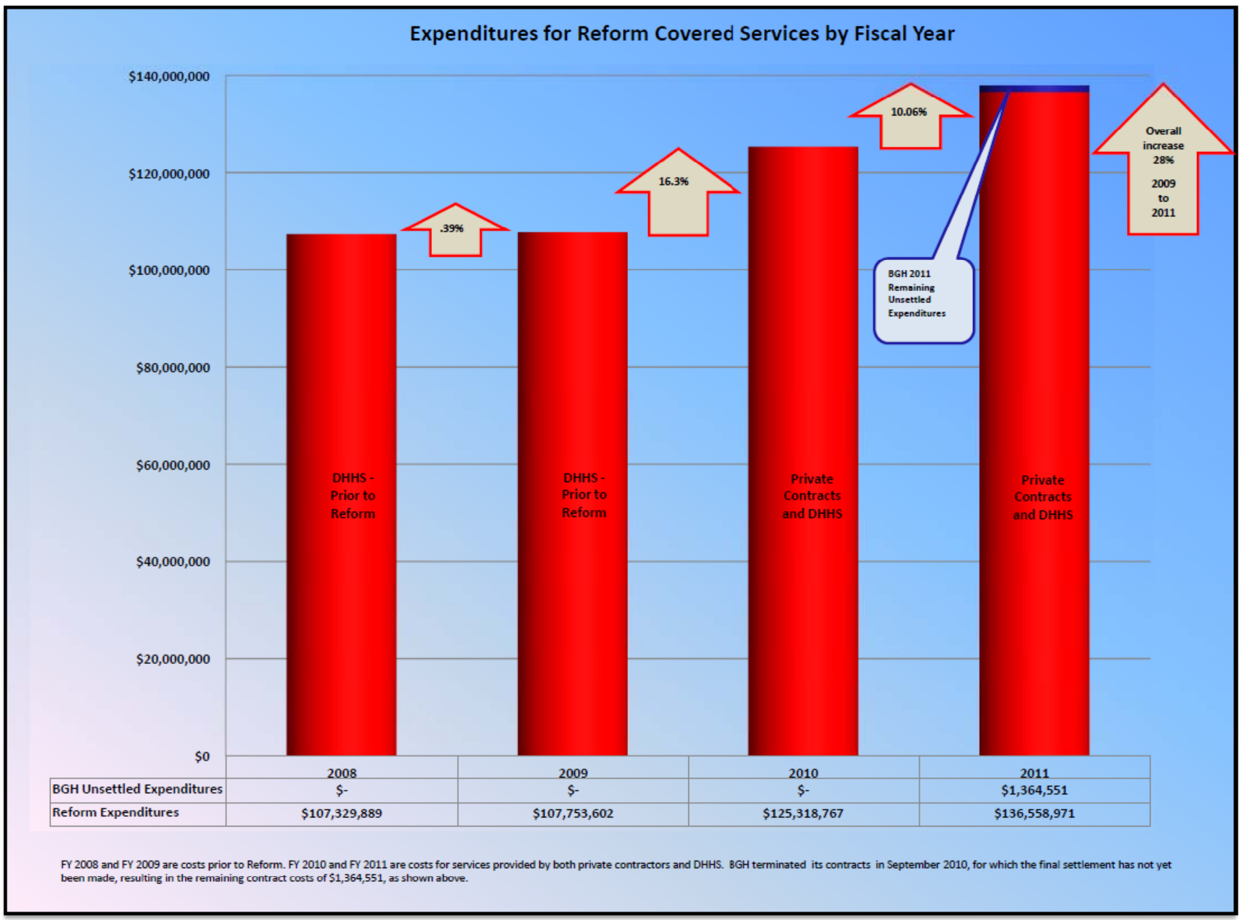
The 152-page audit report addresses in great detail numerous findings regarding both increased costs and a lack of financial accountability under the Families Matter reform. Some of the most striking of those findings, which are presented briefly herein, are:

- Child welfare costs have increased by some 27% between 2009 and 2011.
- DHHS failed to bid publicly multi-million dollar contracts with private service providers, resulting in many amendments and increased costs with no effective oversight.
- One service provider, Visinet, Inc., was overpaid by millions of dollars.
- DHHS expended thousands of dollars on both duplicate claims and payments to the wrong contractors.
- DHHS failed to secure possession of important, as well as potentially confidential, documents relating to client services following termination of its contract with a service provider.
- DHHS failed to reconcile provider billings in NFOCUS, which prevented effective agency oversight of both service expenditures and the welfare of children in State custody.
- Service providers failed to meet client service coordination and delivery benchmarks required by the service contracts with DHHS.
- DHHS failed to prevent former employees of service providers from gaining access to confidential client information in NFOCUS.
- DHHS failed to approve subcontractors utilized by service providers, as well as to ensure that such subcontractors were appropriately compensated for their services.
- DHHS failed to cooperate with the audit examination.

On June 15, 2009, DHHS initiated the Families Matter reform by entering into implementation contracts totaling $7 million with six providers. The purpose of these agreements was to lay the groundwork, through hiring and training staff and purchasing needed equipment, for the planned privatization of child welfare services in Nebraska.

Subsequently, effective November 1, 2009, DHHS entered into service contracts with five of the six contractors that had carried out the implementation stage of the Families Matter reform. Those service contracts, which initially totaled $149,515,887, have since been amended eight times. Out of the five original service providers, moreover, only two remain. As a result, DHSS employees have resumed responsibility for child welfare services left otherwise unavailable by the departure of the private contractors.

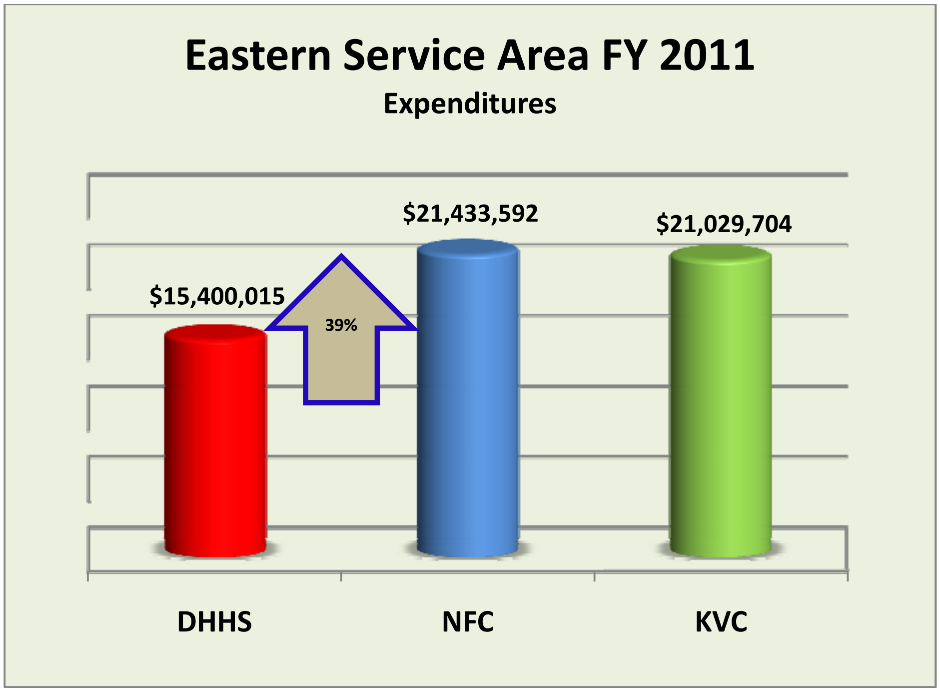
Child Welfare Costs Have Increased Significantly: Contrary to DHHS' stated goal of operating "within existing resources," child welfare costs have increased significantly under the Families Matter reform. From 2009 to 2011, DHHS expenditures for child welfare services grew from $107,753,602 to $136,558,871 – a cost hike of some 27%. Additionally, almost a year after having provided services, Boys and Girls Home (BGH), a former contractor, awaits service contract payments of some $1,364,551. Including that unpaid amount, the total increase for child welfare services would be $30,169,920 or 28%.



	2008	2009	2010	2011
BGH Unsettled Expenditures	$-	$-	$-	$1,364,551
Reform Expenditures	$107,329,889	$107,753,602	$125,318,767	$136,558,971

FY 2008 and FY 2009 are costs prior to Reform. FY 2010 and FY 2011 are costs for services provided by both private contractors and DHHS. BGH terminated its contracts in September 2010, for which the final settlement has not yet been made, resulting in the remaining contract costs of $1,364,551, as shown above.

The developments in one particular service area illustrate the disturbing implications of these increased costs. In the Eastern service area, child welfare cases were initially divided between three different private contractors: Visinet, Inc. (Visinet); Nebraska Families Collaborative (NFC); and KVC Behavioral Healthcare Nebraska, Inc. (KVC). Compensation for services rendered was shared among those providers. During fiscal year 2011, after the departure of Visinet, DHHS assumed that former lead contractor's case load. However, actual expenditures did not continue to correspond to the initial allotment of dollars between the private providers. As revealed in the chart below, NFC required as much as $6 million, or 39%, more than did DHHS to provide essentially the same type and number of client services.

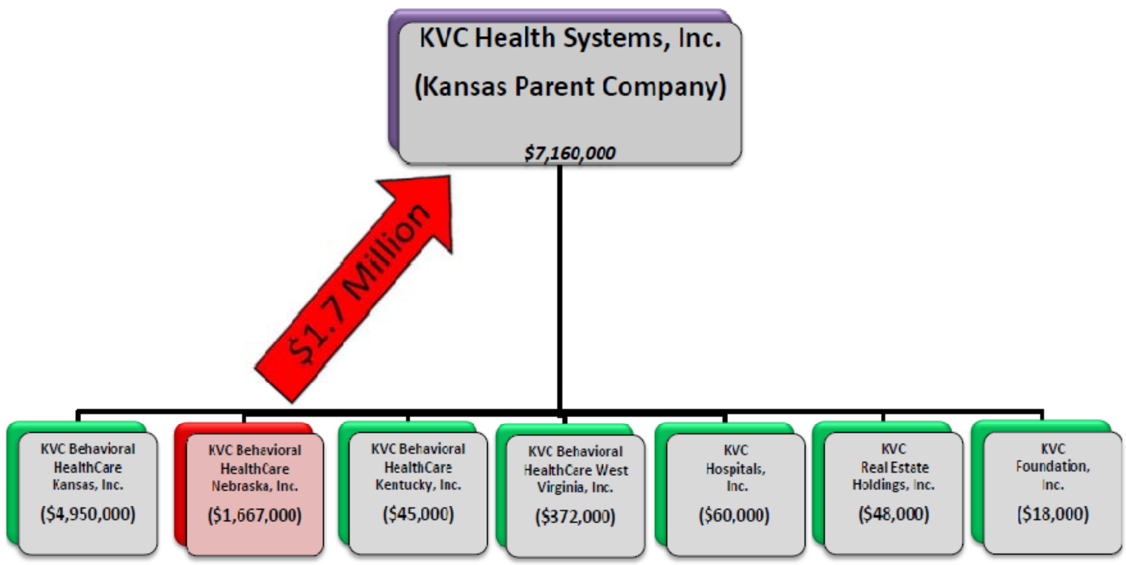


Though startling in and of themselves, the increased costs of privatization under the Families Matter reform are made more disturbing yet by the fact that DHHS lacks adequate support for them. For instance, along with the initial $7 million for the implementation contracts, there appears to be no documentation supporting the various contract amendments that have given rise to ballooning service costs – such as the total $6 million contractual increase for NFC and KVC, per Amendment 5, and a further $19 million in overall service contract increases for those same two providers, per Amendment 7.

According to DHHS, the inflated amounts paid to the service providers were the result of contract negotiations. However, DHHS could offer no documentation to show that any study was given to determining either the necessity of the dramatic growth in expenditures or a reasonable basis for the amounts paid to the private contractors for providing client services.

An additional consideration important to any discussion of the increased costs of providing child welfare services under the Families Matter reform is the fact that a significant portion of those expenditures do not necessarily further the interests of the clients whom the reform was supposed to benefit. In some cases, a not-inconsequential portion of the money received by the contractors goes, rather than to supporting enhanced client services, directly into the pockets of corporate officers. In one instance, a significant sum of money paid to the private contractors under the Families Matter reform ends up leaving this State. The chart below illustrates this point, revealing how payments received by KVC flow directly to its parent corporation, KVC Health Systems, Inc. – the corporate headquarters of which is located in Olathe, KS.

KVC Management Fees from Subsidiaries to Parent Company
Fiscal Year Ended June 30, 2010.



Source: KVC Health Systems, Inc. Audit for Fiscal Year Ended June 30, 2010.

DHHS Failed to Bid Publicly Service Contracts: DHHS chose not to place the service contracts up for public bid, contending that the agreements were exempt from statutory bidding requirements as contracts with "direct providers" of "child welfare services to an individual" under Neb. Rev. Stat. § 73-507(2)(e) (Reissue 2009). The APA believes the statutory analysis applied by DHHS to be subject to some debate. Nevertheless, by using its own staff to oversee the contract selection process, DHHS failed to take advantage of the experience of the Department of Administrative Services-Materiel Division (DAS).

Due to both the large amount of public funds and the intricacies involved, the APA believes that it would have been prudent, not to mention more responsible to the Nebraska taxpayers, for DHHS to have placed the service contracts up for public bid. Additionally, though DAS could have proven an extremely valuable resource throughout the contract selection process, DHHS pursued a unilateral strategy that resulted ultimately in numerous amendments to the service agreements and the expenditure of millions of public dollars without any effective oversight.

In light of the eventual default of more than half of the providers selected, it is apparent that DHHS either lacked the expertise to examine the qualifications of those private contractors or was simply indifferent to the financial implications of contracting with entities whose business backgrounds contained glaring indicators of unsuitability. In addition to being able to help overcome either of these shortcomings, it is possible that DAS could have assisted in finding more and better qualified applicants.

The Health and Human Service Committee is currently seeking the input of DAS in an attempt to address problems occasioned by DHHS' contracting misadventures. Regardless of the applicability of statutory bidding requirements, it is likely that the committee would not be burdened with these concerns now had DHHS chosen to avail itself of the contracting resources of DAS.

Service Provider Overpaid Millions of Dollars: When Visinet, one of the five service providers with whom DHHS contracted, went out of business, some assumed that company's financial woes to have been exacerbated by a lack of payment from the State. In fact, nothing could be further from the truth. The audit examination revealed that Visinet was overpaid by more than $1.8 million under its service contracts with DHHS. Moreover, despite that overpayment, DHHS entered into a settlement agreement with Visinet that cost the State an additional $2 million. Worse yet, DHHS then added insult to the millions of dollars of injury done already to Nebraska's taxpayers by managing somehow to overpay that settlement agreement by $127,472. Between the service contract overpayment, the subsequent settlement agreement, and the overpayment on that gratuitous settlement, Visinet received nearly $4 million in unearned public funds.

The APA found that a senior attorney/administrator for DHHS had cautioned against overpaying Visinet. Even so, under the settlement agreement, DHHS accepted responsibility for paying an additional $2,008,818 to compensate subcontractors, foster parents, and employees left unpaid by Visinet – an obligation that DHHS had no duty whatsoever to assume. Additionally, due to the timing of the settlement agreement, DHHS made payments for 76 days during which Visinet provided no services at all.

With regard to public funds expended under the settlement agreement, DHHS could not provide documentation to support a payment of $627,270 to satisfy Visinet's payroll and payroll tax obligations. Likewise, DHHS lacked support for $158,639 in foster parent payments. In paying various subcontractors for Visinet, moreover, DHHS did not review service invoices to ascertain the amounts actually owed. As for the $127,472 overpayment on the settlement agreement, DHHS attempted no explanation.

Duplicate Claims Paid and Payments to the Wrong Contractors: During the period examined, DHHS made $25,276 in duplicate payments for the same services. Based upon our testing, the duplicate claim error rate was 78%, which indicates the potential duplicate dollars could be as high as $629,460.

Similarly, during that same period, DHHS paid a total of $128,422 to the incorrect contractors or subcontractors for client services provided. Our testing found that the incorrect contractor claim error rate was 75.9%, indicating that the amount of payments to the wrong contractors could be as high as $454,444.

Financial Records Were Not Obtained After Contracts Terminated: On April 15, 2010, Visinet closed its doors, and its service contracts with DHHS were officially terminated effective April 20, 2010. In concluding its business relationship with that former contractor, DHHS failed to obtain all financial and service delivery records needed both to support the settlement amounts paid and to verify that child welfare services had been provided in accordance with the terms of the terminated service contracts.

By not taking possession of Visinet's records, DHHS neglected also to ensure that potentially confidential client information contained therein would be protected. Specifically, DHHS did not secure some 3,000 boxes of service-related documents summarily discarded when Visinet ceased business operations. Prior to their destruction, the former service provider expressly invited DHHS to take possession of those records. However, DHHS disregarded its duty to confirm that client information was properly safeguarded. Because no one was able to provide an explanation of when, where, or how thousands of boxes of Visinet files were destroyed – only that they were no longer available and were disposed of prior to this audit examination – there are also concerns regarding compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Due to the failure to obtain the records in question, DHHS could provide the APA with only very minimal documentation regarding Visinet's operations. Those documents lacked the following: 1) subcontractor invoices submitted to Visinet; 2) payments made to subcontractors and foster parents; 3) bank information; 4) accounts payable and receivable; 5) contracts between Visinet and subcontractors and foster parents; 6) client service rate schedules; 7) client placement agreements; 8) employee timesheets; 9) payroll records; 10) and other information pertaining to the service delivery and coordination contracts. Without access to those Visinet records, the APA was unable to issue an opinion as to whether the financial schedule for DHHS's expenditures under the Families Matter reform, for the period July 1, 2009, through March 31, 2011, was presented correctly, in all material respects, in this report.

DHHS Failed to Reconcile Service Provider Billings in NFOCUS: DHHS failed to ensure that service provider claim information contained in the Nebraska Family Online Client User System (NFOCUS) was both current and accurate. A comparison of service provider billings sent to DHHS with corresponding claims found in NFOCUS, between November of 2009 and March of 2011, revealed inconsistencies totaling more than $28 million dollars and dating back for almost two years. These variances are attributable to poor oversight and account keeping, as well as faulty data entry, by DHHS. At no point, it appears, has DHHS ever attempted to reconcile client service billings received from contractors to information entered into NFOCUS. As a result of this serious omission, much of the child welfare service data contained in NFOCUS is neither current nor complete.

Because NFOCUS serves as the primary repository of information pertaining to DHHS clients and services, the failure to reconcile provider billings to that database deprived DHHS of verifiable documentation upon which to base payments for services. Far more importantly, due to the inadequacy of the NFOCUS records, DHHS lacked a functional mechanism for monitoring the well being, including the proper treatment and care, of children in State custody. Thus, in addition to showing how far the Families Matter reform has fallen short of expectations of increased financial accountability, the failure of DHHS to ensure the accuracy of billing information in NFOCUS has actually increased the vulnerability of the very children whom the reform was supposed to help.

Service Providers Failed to Meet Client Service Coordination and Delivery Benchmarks: The five private contractors selected by DHHS to provide services under the Families Matter reform agreed to take control of client cases from DHHS according to percentages found in a transition schedule referenced in the service contracts. With the passing of each month, between November 2009 and March of 2010, the service providers were expected to assume an increasingly large percentage of DHHS' client case load, as specifically outlined in the transition schedule, for a particular service area. Ultimately, this gradual transition process was to bring about the complete privatization of child welfare services.

The audit examination revealed that the contractors failed to meet the required contractual percentages for transitioning client service coordination and delivery – accumulating shortfalls that ranged from 1% to 18%. Surprisingly, the service contracts contained no penalties for failure to meet these periodic benchmarks. Thus, the service providers continued to receive full compensation despite having failed to meet their contractual obligations. Because fiscal year 2010 contract amounts were based on the transition percentages specified, moreover, DHHS incurred additional costs by continuing to provide client services for which the contractors were already being paid.

Former Employees of Service Providers Continued to Access NFOCUS Data: DHHS did not revoke in a timely manner the NFOCUS access for 24 former employees of service providers. As a result, those unauthorized individuals were able to continue accessing – and, at least, one person was found to have done so – client service data contained in NFOCUS days after their employment had been terminated.

The ability to restrict NFOCUS access depends, to a large degree, upon the cooperation of the contractors, who are responsible for informing DHHS immediately when workers have ceased employment. However, even when notified within a day of a terminated employment, DHHS delayed by as much as three weeks revoking the NFOCUS access of the former employee.

DHHS Failed to Approve Subcontractors or Ensure Their Proper Compensation: Under the service contracts, all of the five providers were expressly required to obtain the approval of DHHS prior to utilizing subcontractors for client services. However, DHHS appears to have granted that approval in a perfunctory fashion. As a result, neither the qualifications nor the suitability of the subcontractors were properly verified.

Two subcontractors, BSM, Inc., and Family Skill Building Services, LLC, (FSBS) were found to be using workers who lacked appropriate credentials to provide client services. Those six employees had neither a Bachelor's degree nor a staff equivalency petition approved by the DHHS service area Contract Liaison, as required by the service contracts. The immediate prior employment of two workers had been at Taco Bell and Walmart – neither of which is an establishment known to offer extensive training in the field of child welfare services.

It should be noted that the uncredentialed employees were paid between $10.50 and $13.00 per hour. At the same time, however, DHHS was reimbursing the direct contractor for the work of those same employees at a rate of $47.00 per hour – doing so under the mistaken assumption that such compensation was paying for the labor of qualified workers. Thus, the contractors profited enormously from paying unqualified staff wages much lower than what would have been required to retain qualified workers. Aside from creating a situation that could have proven potentially detrimental to the welfare of the clients served, the failure of DHHS to scrutinize subcontractors more closely permitted some of them to enjoy a windfall in public funds at taxpayer expense.

The audit examination revealed yet another apparent consequence of the lackadaisical approach taken by DHHS toward approval of subcontractors. BGH subcontracted with McConaughy Discovery Center, which is a trade name for BSM, Inc. That entity was incorporated by Jeannine J. Lane, who was the subject of a previous report by the APA. The report found that, as the incorporator of Alternative Learning Lane, Inc., a company paid $1.4 million to provide a computer-delivered "alternative education" program for at-risk students in the Ogallala Public School District (OPSD), both Jeanine J. Lane and her employees lacked the teaching certification required by the Nebraska Department of Education to perform such a service. Upon learning of that lack of certification, OPSD terminated its contract with Alternative Learning Lane, Inc.

Finally, DHHS failed to seek, much less to obtain, assurances that the subcontractors maintain proper insurance coverage, as required by the service contracts. Furthermore, DHHS made no effort to ensure that any of the five lead contractors compensated, both timely and adequately, subcontractors and foster parents alike for their services.

Lack of Cooperation by DHHS: Despite the fact that the APA is vested with statutory authority to access all records of any public entity, DHHS failed to provide the APA with complete and timely access to requested documentation. This lack of cooperation necessarily limited the scope of the examination and, to some degree, its overall effectiveness – not to mention generated no small amount of speculation regarding other findings that might have been developed had full agency cooperation been forthcoming.

The audit report describes numerous examples of DHHS's failure to respond either timely or completely, or both, to requests for information. Incidents involving three or four separate requests, made over a period of almost a month or more, for the same records were not uncommon. For instance, on June 20, July 5, and July 8, 2011, the APA asked DHHS for specific details regarding Amendments 6 and 7 to the service contracts. Finally, on July 19, 2011, DHHS provided a response that carefully avoided the requested details.

Following a July 22, 2011, exit conference that included some of the agency's senior administrators, DHHS was given 28 days to respond to findings discussed in the draft audit report, as well as to make available any additional relevant documentation, previously requested or otherwise. On August 19, 2011, moreover, DHHS signed a representation letter asserting that all "financial and related data” had been made available to the APA. However, ten days later, it was discovered that all such information had not, in fact, been provided.

More details regarding requested information not provided by DHHS can be found in the full audit report. Suffice it to say, this failure to acquiesce both promptly and completely to records requests, made pursuant to express statutory authority, leads to the inescapable conclusion that either DHHS hoped to hinder the examination by intentionally circumventing the law requiring cooperation with the APA, or supporting documentation for the expenditure of millions of taxpayer dollars simply does not exist.

Conclusion: As a whole, the findings noted above – along with others addressed in the full audit report – indicate that DHHS has exercised poor fiscal management and control over the Families Matter reform. The consequence to the Nebraska taxpayers has been dramatic, including tens of millions of dollars in increased costs for child welfare services and a conspicuous lack of financial accountability that effectively frustrates any hope of transparency with regard to the expenditure of related public funds. Given these shortcomings, the Families Matter reform has little hope of realizing DHHS' goal of enhancing the efficiency and accountability of child welfare services, much less of doing so "within existing resources."

The full audit report is available on the APA website at http://www.auditors.state.ne.us/.

Signed Original on File

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