CALIFORNIA STATE AUDITOR

Foster Family Home and Small Family Home Insurance Fund

Expanding Its Coverage Will Increase Costs and the Department of Social Services Needs to Improve Its Management of the Insurance Fund

September 2011 Report 2010-121

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September 29, 2011 2010-121

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the California State Auditor presents this audit report concerning the Department of Social Services' (Social Services) administration of the Foster Family Home and Small Family Home Insurance Fund (insurance fund). In September 1986 the Legislature established the insurance fund to pay, on behalf of foster family homes and small family homes (licensed homes), the claims of foster children, their parents, or their guardians stemming from an accident that results in bodily injury or personal injury neither expected nor intended by the foster parent.

This report concludes that almost 90 percent of the foster parents running licensed homes who responded to our survey were unaware of the insurance fund's existence. In addition, approximately a third of these foster parents reported that the possibility of liability claims against them made them less likely to continue as foster parents in the future. Expanding the insurance fund's coverage to homes that are certified by foster family agencies (FFAs), which are organizations that recruit, certify, and train parents who provide foster family homes not licensed by the State, may be costly. If the Legislature desires to expand the insurance fund's coverage to include the FFAs' certified homes, it will have to make statutory amendments to expressly permit the insurance fund to pay claims on behalf of certified homes. Based on our survey results and the insurance fund's claims history, our consultant estimated that expanding the insurance fund's coverage to the FFAs' certified homes could potentially cost the State a minimum of $967,500 each year. Further, if the Legislature desires to enable the insurance fund to cover legal guardians participating in the Kinship Guardianship Assistance Payment (Kin-GAP) program, it will have to amend the pertinent statutes to expressly provide coverage for these guardians. Due to limitations in obtaining readily available and pertinent data, we were unable to survey the Kin-GAP families and project the financial impact of adding them to the insurance fund.

This report also concludes that Social Services did not ensure that the Department of General Services (General Services), its designated contract agency, approved or rejected claims filed against the insurance fund within the 180-day time frame state law mandates. Social Services also failed to obtain key information from General Services, and as a result, Social Services has been unable to accurately project the insurance fund's budget needs. As of December 31, 2010, the insurance fund had a balance of roughly $5.4 million, which is significantly higher than the $1 million amount we estimate it needs to maintain as a reserve. Should the Legislature choose to expand the insurance fund's coverage to include certified homes and Kin-GAP families, Social Services will need to reevaluate this reserve amount.

Respectfully submitted,

Elaine M. Howle

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State Auditor

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Summary

Results in Brief

In September 1986 the Legislature established the Foster Family Home and Small Family Home Insurance Fund (insurance fund) to pay, on behalf of foster family homes and small family homes, the claims of foster children, their parents, their guardians, or their guardians ad litem stemming from an accident that results in bodily injury or personal injury neither expected nor intended by the foster parent.[1] Foster family homes and small family homes that are licensed (licensed homes) by the Department of Social Services (Social Services) or by a county under contract with Social Services are currently eligible for coverage from the insurance fund. However, almost 90 percent of the foster parents running licensed homes who responded to our survey were unaware of the insurance fund's existence, and the majority stated that they did not carry private insurance that might cover these same types of claims. In addition, approximately a third of these foster parents reported that the possibility of liability claims against them made them less likely to continue as foster parents in the future.

The Joint Legislative Audit Committee (audit committee) was interested in determining the feasibility of extending the insurance fund's coverage to foster family homes that are certified (certified homes) by foster family agencies (FFAs); FFAs are organizations that recruit, certify, and train foster family homes not licensed by the State. We surveyed the FFAs and found that most of the respondents currently maintain liability protection for themselves and their certified homes. Many of the FFAs obtained their coverage from either a specific nonprofit liability insurance provider or from excess and surplus line insurance carriers, which provide coverage for unusual or extraordinary risks. If the Legislature desires that the insurance fund expand its coverage to include the FFAs' certified homes, it will have to make statutory amendments to expressly permit the insurance fund to pay claims on behalf of certified homes. Our consultant estimated that expanding the insurance fund's coverage to the FFAs' certified homes could cost the State a minimum of $967,500 each year.[2]

The audit committee also expressed interest in extending the insurance fund's coverage to families participating in the Kinship Guardianship Assistance Payment (Kin-GAP) program.

[1] A guardian ad litem is a person who is appointed by the court to represent the interests of a minor child in a legal matter.

[2] Our estimate of future claims and expenditure amounts is general in nature and should not be viewed as a specific projection. Our consultant based it on assumptions that are consistent with the available information and data, which are limited and incomplete.

Audit Highlights . . .

Our review of the Department of Social Services' (Social Services) administration of the Foster Family Home and Small Family Home Insurance Fund (insurance fund) identified the following:

» *We surveyed foster parents running licensed homes and of those who responded:*

- *Nearly 90 percent were unaware of the insurance fund's existence, and the majority stated that they did not carry private insurance that might cover these same types of claims.*
- *Approximately a third reported that the possibility of liability claims against them made them less likely to continue as foster parents.*

» *Foster family homes that are certified by foster family agencies are currently not eligible for the insurance fund's coverage, but insuring them could cost the State a minimum of $967,500 each year.*

» *We were unable to determine the number of families participating in the Kinship Guardianship Assistance Payment (Kin-GAP) program and thus were unable to survey those families and project the financial impact of adding them to the insurance fund.*

» *Social Services did not ensure claims were approved or rejected within the 180-day required time frame.*

- *The Department of General Services (General Services)—retained to manage the insurance fund's claims process—took between 182 and 415 days to approve or reject 16 of the 118 claims we reviewed.*

continued on next page . . .

- *General Services did not consistently apply its policy of "procedurally rejecting" claims that it has not already approved or rejected by the 180-day deadline—one claim was rejected 210 days after the deadline.*

» *Social Services maintains an unnecessarily high reserve for the insurance fund because it has not obtained certain claims information nor has it established an appropriate methodology for determining the insurance fund's anticipated liabilities.*

The Kin-GAP program provides financial assistance for children whom the courts place in legal guardianships with relatives. Children participating in the Kin-GAP program are no longer foster children, and their legal guardians are not foster parents. Because of limitations in obtaining readily available and pertinent data, we were unable to determine the number of Kin-GAP families. Consequently, we could not survey these families and project the financial impact of adding them to the insurance fund. However, to enable the insurance fund to cover legal guardians receiving Kin-GAP payments, the Legislature will have to amend the pertinent statutes to expressly provide coverage for these guardians.

State law authorizes Social Services or its designated contract agency to process decisions and reports, to make claims payments, and to take other administrative actions for the insurance fund. According to Social Services, since October 1, 1986, it has entered into interagency agreements with the Department of General Services (General Services) to manage the insurance fund's claims process. However, Social Services did not ensure that General Services approved or rejected claims filed against the insurance fund within the 180-day time frame state law mandates. Specifically, General Services did not approve or reject within this deadline 16 of the 118 claims individuals filed between July 1, 2005, and December 31, 2010.[3] In fact, it took General Services between 182 and 415 days to approve or reject these claims. This lack of timeliness was in part the result of inconsistencies in General Services' claims handling process. General Services has established a process it calls "procedural rejections" to ensure that it meets the 180-day deadline established by law. This process requires General Services to reject claims that it has not already approved or rejected by the statutory deadline, even if it has not completed its investigation to determine whether the fund is liable. General Services did not consistently apply this policy. In one case, General Services "procedurally rejected" a claim 210 days after the 180-day deadline, delaying the claimant's ability to seek judicial remedy through litigation.

Finally, Social Services failed to obtain key information from General Services, and as a result, Social Services has been unable to accurately project the insurance fund's budget needs. The interagency agreement between Social Services and General Services states that General Services must provide Social Services with quarterly reports that include claims and financial data. General Services has not provided that claims information. Social Services' failure to ensure that it received these data and

[3] We identified 126 claims filed against the insurance fund between July 1, 2005, and December 31, 2010. However, General Services did not have sufficient information for us to determine whether it timely processed eight claims.

to establish an appropriate methodology for determining the insurance fund's anticipated liabilities has resulted in Social Services maintaining an unnecessarily high reserve for the insurance fund. As of December 31, 2010, the insurance fund had a balance of roughly $5.4 million, which is significantly higher than the $1 million amount we estimate it needs to maintain as a reserve. If the Legislature expands the insurance fund's coverage to include certified homes and Kin-GAP families, Social Services will need to reevaluate this reserve amount.

Recommendations

To mitigate foster parents' concerns about liability and to increase the likelihood that they will continue to serve as foster parents, Social Services should develop more effective methods to inform and remind licensed homes about the availability of the insurance fund.

If the Legislature desires that the insurance fund provide coverage to the FFAs' certified homes and Kin-GAP families, it should amend the pertinent statutes to expand the insurance fund's coverage to include them.

To comply with state law and improve the timeliness of claims processing, Social Services should ensure that General Services approves or rejects all claims within the mandated 180-day deadline.

To ensure the expedient disposition of claims, the Legislature should consider amending state law to expressly provide claimants the option of litigating against the insurance fund if General Services does not approve or reject their claims within the 180-day deadline described in state law.

To ensure that the insurance fund makes the most efficient use of the State's limited resources, Social Services should do the following:

- Ensure that General Services provides it with all the claims information specified in the interagency agreement.
- Use these claims and expenditure data to determine the annual appropriation amount needed for the insurance fund to meet its anticipated liabilities.
- Establish a written policy or procedures to guide staff on the appropriate methodology to use when calculating the insurance fund's anticipated liabilities.
- Establish an adequate reserve amount for the insurance fund and reevaluate it annually.

Agency Comments

Social Services stated that, in general, it agrees with the findings and recommendations in our report. Social Services did not agree with our assessment that an adequate reserve for the insurance fund is $1 million. General Services agrees with our findings regarding its management of the insurance fund's claims process and stated that it has taken or is taking the appropriate actions to address the concerns we raised.

Introduction

Background

The Department of Social Services (Social Services) is responsible for managing California's county-administered foster care program. Among other things, Social Services, or a county under contract with Social Services, issues licenses to the foster family homes and small family homes (licensed homes) in which the county welfare departments place foster children.[4] According to Social Services' data, the State had 3,356 state-licensed homes as of May 16, 2011, and 8,398 county-licensed homes as of March 2, 2011. The data indicate that 3,424 state and county licensed homes had 5,798 foster children placed in them as of February 28, 2011.[5]

Social Services also issues licenses to foster family agencies (FFAs), which are organizations that recruit, certify, and train parents who provide foster family homes not licensed by the State (certified homes). The FFAs offer professional support such as crisis intervention and counseling to the foster parents with whom they work, and they find homes or other placements for children. According to Social Services' data, there were 499 FFAs and 11,800 certified homes as of May 16, 2011. The data indicate that 8,065 certified homes had 17,614 foster children placed in them as of February 28, 2011.[6]

Legal Definitions of Homes the Foster Family Home and Small Family Home Insurance Fund Covers

Foster family home: Any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means residential facilities authorized under certain conditions to provide 24-hour care for eight foster children or more, for the purpose of placing siblings or half siblings together in foster care.

Small family home: Any residential facility, in the licensee's family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. In addition to placing children with special health care needs, the Department of Social Services may approve placement of children without special health care needs, up to the licensed capacity.

Sources: Health and Safety Code, sections 1502 and 1505.2.

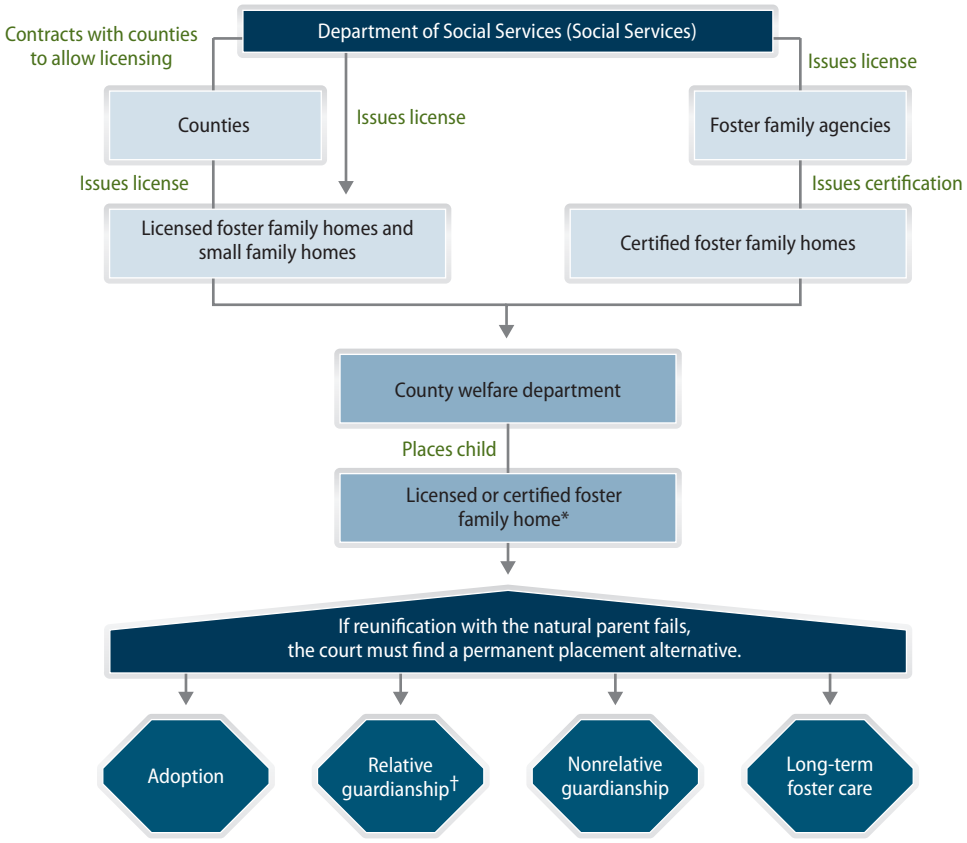
Although the State designed the foster care system to encourage reunification with parents, state law requires the court to find permanent placement alternatives for the foster children when reunification fails. State law establishes a hierarchy of preferred permanent placement alternatives that can be generally categorized as follows: 1) adoption; 2) relative as legal guardian; 3) nonrelative guardianship; and 4) long-term foster care. Figure 1 on the following page shows the structure of the foster care system and identifies its permanent placement alternatives.

[4] As the definition in the text box suggests, placements in small family homes generally involve children with developmental disabilities. The Department of Developmental Services' regional centers typically arrange the placement of these children.

[5] The number of licensed homes and the number of licensed homes with foster children placed in them is based on the Bureau of State Audits' (bureau) analysis of data obtained from the Department of Social Services' Child Welfare Services/Case Management System (CWS/CMS) and Licensing Information System (LIS) databases.

[6] The number of FFAs and certified homes and the number of certified homes with foster children placed in them is based on the bureau's analysis of data obtained from the Department of Social Services' CWS/CMS and LIS databases. The total number of licensed FFAs includes 272 foster family agencies, 188 foster family sub-agencies, and 39 transitional housing placements.

Figure 1
California's Foster Care System and Permanent Placement Alternatives



Sources: Health and Safety Code, sections 1501.1, 1502.2(b), 1506(a)(d), 1509, 1511, and 1536.2; Welfare and Institutions Code, Section 366.26; and the Department of Social Services' (Social Services) internal documents.

* According to Social Services, when a child is placed in foster care by a county, the county social worker and court must give preferential consideration to certain relatives. Prior to placement, a county social worker must assess and approve the relative's home.

† This permanent placement alternative is eligible for the Kinship Guardianship Assistance Payment program.

Implemented in 2000, state law established the Kinship Guardianship Assistance Payment (Kin-GAP) program to provide financial assistance for children whom the courts place in legal guardianship with relatives. The process for establishing this type of legal guardianship involves dismissing the children's dependency or terminating their wardship with the State. As a result, Kin-GAP children are no longer part of the foster care system. However, the State provides Kin-GAP guardians with assistance payments that are equal to the basic foster care rate for which the children would otherwise be eligible, as well as specialized care increments (if applicable) and clothing allowances.

Establishment of the Foster Family Home and Small Family Home Insurance Fund

Since October 1, 1986, California has offered liability protection to licensed homes through the Foster Family Home and Small Family Home Insurance Fund (insurance fund). In enacting the state law establishing the insurance fund, the Legislature acknowledged that foster parents provide an important service to the citizens of California and that the insurance crisis at the time had adversely affected some licensed homes, as described in the text box. In addition to establishing the insurance fund, the Legislature made changes to the California Insurance Code to protect applicants or policyholders engaged in foster home activities. For example, state law now prohibits an admitted insurer from failing to or refusing to accept an application or issue a homeowner's or tenant's policy solely on the basis that the applicant or policyholder is engaged in foster home activities in a licensed home.[7] State law does allow insurers to provide a special endorsement to a homeowner's or tenant's policy or a separate policy to cover most claims related to foster care, except those claims of a type payable by the insurance fund. According to state law, it is against public policy for a homeowner's or tenant's policy to provide liability coverage for, among other things, claims of a type payable by the insurance fund.

The Legislature's 1986 Findings Regarding the Insurance Crisis's Effect on Licensed Homes

- Homeowner's and tenant's insurance was unavailable to foster parents in some locales or available coverage excluded foster parent activities.
- In some locales, foster parents were unable to obtain liability insurance coverage over and above homeowner's or tenant's coverage for actions filed against them by the foster child or the child's parents or legal guardian. In addition, the monthly payment made to licensed homes was not sufficient to cover the cost of obtaining this extended coverage and there was no mechanism in place by which foster parents could recapture this cost.
- Foster parents' personal resources were at risk as a result of foster children and their parents filing an increasing number of claims against them.

Source: Statutes of 1986, Chapter 1330, Section 1.

Coverage Eligibility

According to state law, the insurance fund is liable to pay on behalf of any licensed home damages that result from valid claims of bodily injury or personal injury arising out of the activities of foster parents while foster children reside in their licensed homes. FFAs and their certified homes are not eligible for coverage under the insurance fund because the law establishing it contains specific definitions for the terms *licensed foster family home* and *licensed small family home*, the only types of homes the insurance fund covers. The law also precludes coverage for Kin-GAP families because, as previously discussed, those children are no longer part of the foster care system: They are not foster children, nor do they reside with foster parents in licensed homes.

[7] A homeowner's or tenant's policy would typically cover loss or damage caused by perils such as fire, theft, or vandalism.

Claims for Which the Foster Family Home and Small Family Home Insurance Fund Is Not Liable

a) Any loss arising out of a dishonest, fraudulent, criminal, or intentional act.

b) Any occurrence that does not arise from the foster-care relationship.

c) Any bodily injury arising out of the operation or use of any motor vehicle, aircraft, or watercraft owned or operated by, or rented or loaned to, any foster parent.

d) Any loss arising out of licentious, immoral, or sexual behavior on the part of a foster parent intended to lead to or culminating in any sexual act.

e) Any allegation of alienation of affection against a foster parent.

f) Any loss or damage arising out of occurrences prior to October 1, 1986.

g) Exemplary damages.

h) Any liability of a foster parent that is uninsured due solely to the foster parent's failure to obtain homeowner's or tenant's insurance.

Source: Health and Safety Code, Section 1527.3.

Note: State law defines an *occurrence* as an accident, including continuous or repeated exposure to conditions, which results in bodily injury or personal injury neither expected nor intended by the foster parent.

Claims Eligibility

State law requires that the insurance fund either pay claims that foster children, their parents, their guardians, or their guardians ad litem file for damages related to the foster-care relationship and the provision of foster-care services, or reimburse licensed homes for those damages.[8] These claims must be based on bodily or personal injuries resulting from the activities of the foster parents and occurring while the foster children resided in a licensed home. For purposes of the insurance fund, state law defines *bodily injury* as any bodily injury, sickness, or disease sustained by any person, including death; and the law defines *personal injury* as any injury to the feelings or reputation of any person or organization arising out of libel, slander, defamation, or disparagement, wrongful eviction, or entry. State law expressly limits the insurance fund's liability for several types of claims, as described in the text box. Furthermore, the insurance fund is not liable for damages in excess of $300,000 for any single licensed home for all claims arising because of one or more occurrences during a single calendar year.

State law requires that individuals filing claims against the insurance fund submit those claims within the applicable statute of limitations for the civil action that underlies the claims. For personal or bodily injury, this period is generally two years. Except for certain claims such as wrongful death, that two-year period does not begin until the child involved reaches the age of 18. Thus, the injured child generally has until his or her 20th birthday to file a claim against the insurance fund. If individuals do not submit claims within the applicable period of time, the insurance fund is not liable.

Management of the Insurance Fund

State law requires Social Services or its designated contract agency to process all decisions and reports, to pay claims, and to perform other administrative functions related to the insurance fund. According to Social Services, it has entered into interagency agreements with the Department of General

[8] A guardian ad litem is a person who is appointed by the court to represent the interests of a minor child in a legal matter.

Services (General Services) to manage the insurance fund's claims process since October 1, 1986. General Services has assigned the responsibility of processing claims to its Office of Risk and Insurance Management (ORIM) and the responsibility of accounting for the insurance fund to its Contracted Fiscal Services (CFS) unit. Appendix A outlines the scope of work that General Services agreed to in its interagency agreement with Social Services.

Funding Sources

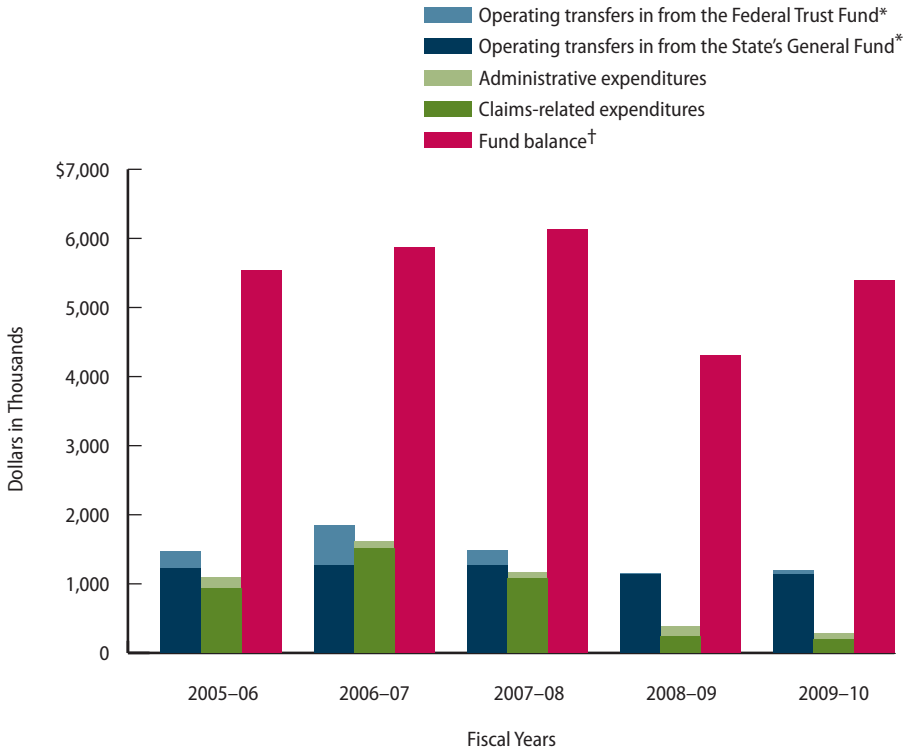
The insurance fund receives its funding from the State's General Fund and the Federal Trust Fund. Each year, as part of the state budgeting process, Social Services receives a General Fund appropriation that authorizes it to make expenditures or incur liabilities for the insurance fund. Social Services submits a request to the State Controller's Office (SCO) to transfer the entire appropriation amount to the insurance fund; if the money from this General Fund appropriation is not needed, it can be returned to the General Fund. Since fiscal year 2008–09, this annual appropriation has been $1.14 million. Social Services uses the insurance fund to pay for damages the claimants incur and for the legal and investigation expenditures associated with resolving claims, which we refer to as *claims-related expenditures*. In addition, the insurance fund pays for General Services' administrative expenditures.

Social Services also receives a Federal Trust Fund appropriation each year that authorizes it to make expenditures or incur liabilities for the insurance fund. Since fiscal year 2006–07, this appropriation has been $996,000. California participates in the federal Foster Care Title IV-E (federal foster care) program. The objective of the federal foster care program is to help provide safe and stable out-of-home care for children until they are returned home, permanently placed with adoptive families, or permanently placed in other planned arrangements. Federal regulations for the federal foster care program allow states to receive federal funds at the rate of 50 percent of their administrative expenditures related to their Title IV-E state plan. California's federally approved cost allocation plan for state operations identifies General Services' management of the insurance fund's claims process as an allowable cost necessary to administer the federal foster care program. Before federal funds can be transferred to the insurance fund, General Services confirms with Social Services the child's eligibility for the federal foster care program. General Services' ORIM sends a payment request to CFS and Social Services for claims-related expenditures. The payment request includes the payee's name and address; the invoice number, date, and amount; and the claim number. If the foster

child is eligible for the federal foster care program, Social Services submits a request to the SCO to transfer 50 percent of the invoice amounts from the Federal Trust Fund to the insurance fund. CFS also submits the payment requests to the SCO for processing. Finally, Social Services requests reimbursements from the federal government for the amount transferred from the Federal Trust Fund to the insurance fund. Between fiscal years 2005–06 and 2009–10, Social Services used a total of $1.1 million in federal funds to pay claims-related expenditures.

Figure 2 shows the insurance fund's financial activity from fiscal years 2005–06 through 2009–10.

Figure 2
The Foster Family Home and Small Family Home Insurance Fund's Financial Activity
Fiscal Years 2005–06 Through 2009–10



Sources: The Department of Social Services' (Social Services) Foster Family Home and Small Family Home Insurance Fund's (insurance fund) year-end financial reports and accounting records maintained by the Department of General Services.

Note: The $1.8 million drop in the fund balance from fiscal year 2007–08 to fiscal year 2008–09 is attributable to Social Services' return of $2.8 million to the General Fund and the net increase resulting from its current year activity. Specifically, during fiscal year 2008–09, Social Services received approximately $1.2 million from the General Fund and the Federal Trust Fund, which was roughly $1 million greater than the current year expenditures and prior year appropriation adjustments.

* For purposes of our report, we refer to the money the insurance fund receives from the General Fund and the Federal Trust Fund as *operating transfers in*. However, the year-end financial reports record the money as a reduction to the insurance fund's expenditure account.

† Because Social Services used operating transfers in from the Federal Trust Fund to pay for 50 percent of the eligible claims-related expenditures, the fund balance is comprised solely of General Fund money.

Scope and Methodology

The Joint Legislative Audit Committee (audit committee) directed the Bureau of State Audits (bureau) to audit the insurance fund. The audit committee specifically asked the bureau to identify the source(s) and amount of funds appropriated to the insurance fund for the past five years and to determine the amount and disposition of any unused funds. The audit committee also requested that the bureau review and assess the processes and practices for administering, adjusting, and paying claims from the insurance fund and that the bureau determine whether General Services processes and settles claims in a timely and reasonable manner. The audit committee was interested in the following information related to insurance fund claims filed during the past five years: the number of claims filed and paid, the types of claims, the amounts paid, and the originating county of the claims.

In addition, the audit committee requested that the bureau determine the impact foster care families' private insurance has on the insurance fund and whether foster care families that receive payouts from private insurance also receive payouts from the insurance fund, and if so, up to what dollar limit. Further, the audit committee asked the bureau to determine how FFAs and Kin-Gap families handle claims similar to those the insurance fund currently covers. Finally, the audit committee asked the bureau to assess the feasibility of having the insurance fund cover FFAs' certified homes and Kin-GAP families and to identify any changes necessary for the insurance fund to cover them.

To understand the insurance fund, we reviewed relevant state laws and court cases. We also reviewed Social Services' interagency agreement with General Services. Further, we interviewed Social Services' and General Services' senior staff counsels to gain an understanding of their interpretation of certain aspects of the insurance fund's legal requirements.

To identify the source(s) and amount of funds appropriated to the insurance fund for the past five years, we obtained and reviewed accounting records from Social Services and General Services. For the purpose of our audit, we established the past five years as July 1, 2005, through December 31, 2010. To determine the amount and disposition of any unused funds, we obtained the year-end financial reports and quarterly reports that CFS prepared, and we interviewed Social Services' accounting and program staff. We also reviewed Social Services' methodology and supporting documentation for returning unused funds to the State's General Fund.

To review and assess the processes and practices for administering, adjusting, and paying claims from the insurance fund, we interviewed relevant staff at Social Services, ORIM, and CFS. We also reviewed ORIM's procedures manual for handling claims and ORIM's memorandum of understanding with CFS. Further, we examined ORIM's internal controls associated with administering and adjusting claims to determine whether these controls prevented the approval of claims outside the insurance fund's coverage. To examine CFS's internal controls associated with its payment process, we tested a sample of receipts and expenditures from our audit period and determined whether CFS accounted for them in accordance with the State Administrative Manual.

We relied upon various electronic data in performing this audit. The U.S. Government Accountability Office, whose standards we follow, requires us to assess the sufficiency and appropriateness of computer-processed data. To comply with this standard, we assessed each system separately according to the purpose for which we used the data in this report.

For the purpose of identifying the number of claims filed and paid between July 1, 2005, and December 31, 2010, the types of claims, the amounts paid, and the originating county of the claims, we obtained and analyzed data from General Services' claims database, iVOS.[9] General Services uses iVOS to document claims information for all of its insurance programs, including the insurance fund. General Services records the insurance fund claims in iVOS as general liability claims. Because the other insurance programs were not within the scope of this audit, we asked ORIM to provide us with a summary report generated from iVOS for all general liability claims.

We assessed the reliability of the summarized report by verifying the total number of claims with ORIM and performing both completeness and accuracy testing. For our completeness testing, we haphazardly selected a sample of 29 claim files from ORIM's claims file room and compared them to the summarized report. We found no errors in our completeness testing. For our accuracy testing, we performed a high-level review of the details in the "notes" data field for each of the 486 claims in the summarized report. For the 126 claims the summarized report identified as insurance fund claims, we reviewed the source documentation and were able to verify the accuracy of the claims filed and paid, the types of claims, and the amounts paid for damages. However, our review of the source documentation found that the amounts the summarized report identified as paid for legal and investigation

[9] iVOS is a registered trademark of Valley Oak Systems, Inc.

services were inaccurate for nine of the claims. Based on our testing, we determined the data from the summarized report to be sufficiently reliable for purposes of identifying the number of insurance fund claims filed and paid, the types of claims, and the amounts paid for damages during our audit period. On the other hand, we determined the data from the summarized report to be not sufficiently reliable for the purpose of identifying the amounts paid for legal and investigation services for the claims. Nevertheless, we used this information from the summarized report because no other source was available. Finally, we obtained the originating county of the claims from the source documentation.

To determine whether General Services processed and settled the 126 claims filed against the insurance fund in a timely and reasonable manner, we compared the dates ORIM took certain actions against the time frame specified by state law. To identify the dates on which General Services approved claims, we obtained evidence demonstrating that ORIM negotiated settlement agreements or the courts awarded damages to claimants.

To determine the impact foster care families' private insurance has on the insurance fund, we surveyed a random sample of 346 licensed homes. Roughly 44 percent of the licensed homes we surveyed responded to at least one question. We selected our random sample by identifying the number of licensed homes that had active placements as of February 28, 2011. To identify these numbers, we obtained and analyzed Social Services' Child Welfare Services/Case Management System (CWS/CMS) data. We assessed the reliability of CWS/CMS by conducting data-set verification procedures and electronic testing of key data elements, and attempting to assess the accuracy and completeness of the CWS/CMS. We identified no issues when performing data-set verification procedures, but we identified logic errors in the data field that is used to track the date upon which a placement becomes effective. As instructed by Social Services, we removed the affected records from our analysis when appropriate, effectively mitigating the issue.

In order to assess the completeness of key tables and fields within CWS/CMS, we planned to pull a haphazard sample of records related to key fields and tables used in our analysis. Because not all 58 counties maintain paper case files and those that do are located throughout the State, and because testing a sample would require a visit to each county, we determined that this testing was not feasible. Instead, we pulled a sample of 29 case files from Sacramento, Fresno, Alameda, and Los Angeles counties. We tested this case file client information against the CWS/CMS database and found no errors.

To test the accuracy of the CWS/CMS data used in our analysis, we selected a random sample of placements from the CWS/CMS data files. We attempted to test the key fields from these samples, but found that the counties we visited maintained inconsistent documentation. As a result, we were unable to test the accuracy of the CWS/CMS. Based on our testing and analysis, we determined the data obtained from the CWS/CMS to be of undetermined reliability for purposes of determining the number of active licensed homes with active placements.

To determine how claims similar to those currently covered by the insurance fund are handled and settled for FFAs, we surveyed a random sample of 215 FFAs. Roughly 50 percent of the licensed homes we surveyed responded to at least one question. We selected our random sample by identifying the number of active FFAs as of May 16, 2011. To identify this population, we obtained Social Services' Licensing Information System (LIS) facility data. We assessed the reliability of the LIS by conducting data-set verification procedures, electronic testing of key data elements, and attempting to conduct accuracy testing. We did not test the completeness of the LIS facility data due to the lack of a centralized storage location and because source documents required for this testing are stored in multiple district offices within the 58 counties throughout the State. We identified no issues when performing data-set verification procedures or electronic logic testing of key data elements.

To assess the accuracy of the data, we randomly selected a sample of 29 records from the LIS data file obtained and attempted to test whether we could match the data in those records to source documents. We were unable to obtain sufficient source documentation to conduct these tests; therefore, we were unable to test the accuracy of the LIS. Based on the above testing and analysis, we determined the data obtained from the LIS to be of undetermined reliability for purposes of identifying the number of active foster family agencies.

We also attempted to identify the number of active Kin-GAP families and the number of children placed within those families. We worked with appropriate personnel from Social Services to determine the best methodology for using the data from CWS/CMS and facility data from LIS for this purpose. We concluded that these systems do not track Kin-GAP data in a manner that would allow us to identify the number of Kin-GAP families and the number of children in those families as of a specific date. As a result, we asked the agency about the feasibility of using data on maintenance payments to answer this audit question. Social Services indicated that it only tracks high-level totals of expenditure data for maintenance payment information statewide and that the individual counties track more specific

payment information. Because of these limitations in accessing readily available and pertinent data, we were unable to determine the number of Kin-GAP families and the number of children placed within those families. For further discussion on these limitations, see Appendix B.

Finally, to assess the feasibility of having the insurance fund cover the FFAs' certified homes, we hired a consultant to analyze our survey results and the insurance fund's claims history. We also analyzed state laws governing the insurance fund to identify specific changes necessary for the insurance fund to cover the FFAs' certified homes and Kin-GAP families. In addition, we calculated the number of licensed homes and certified homes with children placed in them as of February 28, 2011, and the total number of children placed in those homes.[10]

[10] The number of licensed and certified homes with children placed in them and the total number of children placed in those homes is based on the Bureau of State Audits' analysis of data obtained from the Department of Social Services Child Welfare Services/Case Management System (CWS/CMS) database. See pages 13 and 14 for an explanation of our assessment of the reliability of CWS/CMS for this purpose.

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Audit Results

Most Licensed Foster Parents Are Unaware of the Foster Family Home and Small Family Home Insurance Fund and They Do Not Have Supplemental Private Insurance

Our survey of foster family homes and small family homes (licensed homes) indicated that a significant majority of licensed foster parents are unaware of the Foster Family Home and Small Family Home Insurance Fund (insurance fund) or other types of liability insurance that cover claims arising from the foster-care relationship or from the provision of foster-care services. Although the private insurance market offers supplemental liability protection to foster families, few licensed homes reported purchasing this coverage. Approximately a third of the licensed foster parents we surveyed reported that the possibility of liability claims filed against them made them less likely to continue as foster parents.

The Majority of Licensed Homes Are Unaware of the Insurance Fund's Availability

As discussed in the Introduction, the insurance fund provides liability protection to licensed homes for eligible claims of bodily or personal injury up to a maximum of $300,000 in damages for each home for each calendar year. However, based on our survey of licensed foster homes with active foster children placements as of February 28, 2011, we estimate that almost 90 percent of the licensed foster parents are not aware that the insurance fund exists. As a result, these homes may not have used the insurance fund to pay eligible claims.

The relatively small number of claims the insurance fund has paid in the past five and a half years may reflect the foster homes' lack of knowledge of the insurance fund. Between July 1, 2005, and December 31, 2010, individuals filed 126 claims against the insurance fund. Only 19 of these claims resulted in payments from the insurance fund for damages or for legal or investigation expenditures. Seven of the 19 claims were either rejected after incurring legal or investigation expenditures or pending the resolution of a final settlement, while the remaining 12 approved claims incurred both damages and legal and investigation expenditures. Specifically, the insurance fund paid $966,999 in damages for these 12 approved claims, which is an average of $80,583 for each claim, and the damages for two of the 12 claims met the $300,000 threshold previously discussed. In addition, the insurance fund paid $578,026 in legal and investigation expenditures for the 19 claims, which is an average of $30,422 for each claim. The Table on the following page summarizes these insurance fund payments by county.

Table
Foster Family Home and Small Family Home Insurance Fund Claims Filed and Paid Between July 1, 2005, and December 31, 2010

		TOTAL AMOUNTS PAID		
COUNTY OF ORIGIN	NUMBER OF BODILY INJURY CLAIMS*	DAMAGES	LEGAL AND INVESTIGATION EXPENDITURES	TOTAL
Contra Costa	2	$300,000.00	$1,046.58	$301,046.58
Fresno	1	–	7,136.51	7,136.51
Kern	2	75,000.00	16,100.37	91,100.37
Los Angeles	3	85,000.00	134,052.23	219,052.23
Mendocino	1	75,000.00	55,950.97	130,950.97
Monterey	1	300,000.00	54,085.10	354,085.10
Orange	1	–	36,401.45	36,401.45
Riverside	2	85,000.00	78,677.43	163,677.43
San Bernardino	1	–	55,441.89	55,441.89
San Diego	5	46,999.33	139,133.26	186,132.59
Totals	19	**$966,999.33**	**$578,025.79**	**$1,545,025.12**

Sources: A summarized report generated from the Department of General Services' claims database and our review of its claims files. For the Bureau of State Audits' data reliability assessment of the summarized report, please refer to the Scope and Methodology.

* The number of bodily injury claims shown in this column does not necessarily correspond to the number of bodily injury claims with damages paid. For example, although Contra Costa County shows two bodily injury claims, the total damages were only paid for one of these claims.

Social Services has made some efforts to educate foster parents about the insurance fund. Specifically, Social Services' Community Care Licensing Division (division) requires all prospective foster parents to attend an orientation, at which it provides a handout that includes information on the insurance fund's coverage and instructions for filing claims. The program chief of the division stated that Social Services has not provided reminders to foster parents about the insurance fund after the orientation and that it has only provided additional information about the insurance fund if individuals contacted Social Services to ask about insurance.

Our survey results suggest that Social Services' past efforts have been ineffective in fully educating foster parents about the protections that the insurance fund provides. We asked the licensed homes if the possibility of liability claims made them less likely to continue as foster parents in the future. Based upon the responses from those licensed homes that answered this question, we estimate that the possibility of claims against them could cause about a third of all licensed homes to be less likely to continue as foster parents. On the other hand, some survey respondents also indicated that they were interested in learning more about the insurance fund or about their insurance options.

Licensed Foster Homes' Private Insurance Has Had Minimal Impact on the Insurance Fund

The private insurance that licensed homes obtain has had minimal impact on the insurance fund. Specifically, according to state law, it is against public policy for a homeowner's or tenant's insurance policy to provide, among other things, liability coverage for claims of a type payable by the insurance fund. Of the 152 licensed homes responding to our survey, only four stated that they purchased liability insurance in addition to their homeowner's or tenant's insurance. For example, one licensed foster parent indicated that she obtained a $1 million umbrella insurance policy to insure her against anyone who might sue her. We asked the licensed homes to indicate the reasons they had chosen not to obtain additional liability insurance. More than half stated they did not know of any private insurance providers who offered this type of liability insurance. We also asked the licensed homes if they believed there was a competitive marketplace for private liability insurance for foster parents. Of the 138 licensed homes that responded to this question, 111 stated they were not sure whether a competitive private marketplace for foster parents' private liability insurance exists.

Expanding the Insurance Fund's Coverage to Certified Homes May Be Costly

Most foster family agencies use private insurance to protect themselves and the homes they certify against liability, and those that do not frequently cited the high expense of such coverage.

Unlike licensed homes, most foster family agencies (FFAs) use private insurance to protect themselves and the homes they certify (certified homes) against liability. Based on our survey, we estimate that between 45 percent and 62 percent of the FFAs maintain liability protection for themselves and provide liability protection for their certified homes. The FFAs that do not maintain any liability insurance frequently cited the high expense of such coverage as their reason for not doing so, and most FFAs indicated they were either unsure or did not believe a competitive marketplace for private liability insurance for foster families exists.

The Joint Legislative Audit Committee (audit committee) asked us to assess the feasibility of having the insurance fund cover the FFAs' certified homes and to identify changes that would be needed for the insurance fund to cover them. If the Legislature desires that the insurance fund cover the FFAs' certified homes, it will need to amend the pertinent statutes to expand the legal definition of a *foster parent* and a *foster child*, and to expand the insurance fund's coverage to include certified homes. Expanding the insurance fund's coverage to the FFAs' certified homes will significantly increase the number of homes eligible for the coverage: As of February 28, 2011, 3,424 licensed homes housed 5,798 foster

children in comparison to 8,065 certified homes that housed 17,614 foster children. Potentially more than doubling the number of eligible homes is likely to significantly increase the number of claims filed and the number of claims paid, which will increase other claims-related expenditures as well. Our consultant estimated that adding insurance fund coverage to the FFAs' certified homes could cost the State a minimum of $967,500 for each year.[11]

Adding insurance fund coverage to the foster family agencies' certified homes could cost the State a minimum of $967,500 for each year.

Most Foster Family Agencies Have Insurance to Protect Themselves and Their Certified Homes Against Liability

The insurance fund does not provide liability protection to FFAs and their certified homes. However, most of the 108 FFAs responding to our survey stated that they have either liability insurance that insures their agency or their certified homes against claims similar to those the insurance fund covers or liability insurance that insures their agency against any claims arising out of the foster-care relationship or provision of foster-care services. According to our survey, FFAs most commonly obtained their coverage through a specific nonprofit liability insurance provider or through excess and surplus line insurance carriers. Excess and surplus line insurance carriers provide coverage for unusual or extraordinary risks that are not typically covered by insurance carriers licensed by the Department of Insurance. More than half of the FFAs that indicated they have liability insurance against claims arising out of the foster-care relationship or the provision of foster-care services specified that they have either a professional liability policy or a general liability policy.

Similar to the licensed homes, we asked the FFAs to indicate the reasons they chose not to obtain liability insurance. Those FFAs responding to this question most frequently cited the high expense of such coverage. FFAs responding to our question about how much they pay to insure their certified homes against claims similar to those the insurance fund covers reported that they paid between $1,200 and $80,000 annually for their insurance policies. Further, we asked the FFAs if their agreements with their certified homes require the homes to maintain an insurance policy against claims for injuries arising out of the foster-care relationship or the provision of foster-care services. Of the FFAs

[11] This estimate of future claims and expenditure amounts is general in nature because it does not include a rigorous analysis of claims history and all factors relevant to future claims. Instead, this estimate was based on assumptions that are consistent with the information and data that were available. The information and data for the FFAs and their certified homes was limited and incomplete, such as the lack of information on the frequency of future claims. In addition, there is no way to estimate the potential increase of future claims filed by the licensed homes due to their increased awareness of the insurance fund. Therefore, the results should be viewed as broad expectations rather than specific projections.

responding to this question, roughly 75 percent stated that they do not require their certified homes to maintain such an insurance policy. Most of the FFAs responding to our survey stated they were either not sure or did not believe a competitive marketplace for private liability insurance for foster parents exists. The chief of Social Services' Foster Care Audits and Rates Branch stated that Social Services does not provide FFAs with information about liability insurance options because Social Services lacks the expertise and because the FFAs have other resources to assist them in identifying their options.

Expanding the Insurance Fund's Coverage to Certified Homes Will Require Statutory Changes and May Significantly Increase the Insurance Fund's Costs

State law excludes the FFAs' certified homes from the insurance fund's protection. The Legislature has never included FFAs or their certified homes on the list of entities on whose behalf the insurance fund must pay claims. If the Legislature desires the insurance fund to cover foster homes certified by FFAs, it will have to change the law to expressly permit the insurance fund to pay claims on behalf of certified homes.

To determine the potential cost of expanding the insurance fund's protection to the FFAs' certified homes, we collected data relating to claims filed against FFAs and their certified homes in recent years. First, we asked the FFAs about claims filed against their insurance policies for their agencies and their certified homes. Twenty of the 108 FFAs stated that claims had been filed against their policies, which the respondents had carried, on average, for almost 14 and a half years. Thirteen of these 20 FFAs stated that their policies had paid the claims, with the payments ranging from $1,520 to $406,000. As another measure of the potential cost of expanding the insurance fund's coverage, we looked at the Department of General Services' (General Services) records of claims that certified homes filed against the insurance fund between July 1, 2005, and December 31, 2010. Certified homes were ineligible for coverage; however, they filed 55 claims against the insurance fund during this period, which represents 44 percent of the total claims filed. Although the insurance fund rejected all 55 claims, their number indicates the potential increase in costs if the Legislature expands the insurance fund's protection to cover certified homes.

Even though certified homes were ineligible for coverage, they filed 55 claims—44 percent of the total claims filed—against the insurance fund between July 1, 2005, and December 31, 2010.

Our consultant used the FFAs' survey responses to estimate the potential costs of expanding the insurance fund's coverage to the FFAs' certified homes. The consultant projected that the number of claims filed against the insurance fund annually would

increase from an average of 23 for each year to at least 36 for each year. The projected number of claims for which the insurance fund would pay damages could increase from two each year to at least 10 each year, and the projected associated investigation and legal expenditures could increase by at least $322,500 for each year. Overall, the projected increase in costs to the insurance fund for expanding coverage to the FFAs' certified homes could be at least $967,500 for each year. Our consultant assumed the number of large claims would follow the same trend as the insurance fund's history. However, if the number of large claims increased disproportionately for some reason, it could significantly affect the insurance fund's ability to pay claims.

General Services' average annual costs of roughly $115,000 a year to manage the insurance fund's claims process would increase if the insurance fund's coverage were expanded.

Furthermore, General Services' average annual costs of roughly $115,000 to manage the insurance fund's claims process would also increase. According to its risk manager, General Services does not currently have the staff to handle a large influx of claims and, if such an increase were to occur, it would need to hire additional staff.

Expanding the Insurance Fund's Coverage to Families in the Kinship Guardianship Assistance Payment Program Will Require Statutory Changes

The audit committee also asked us to assess the feasibility of having the insurance fund cover families in the Kinship Guardianship Assistance Payment (Kin-GAP) program. Because the Kin-GAP families exist outside of the foster care system entirely, covering these families will require statutory changes. Children who have legal guardians and have had their dependency dismissed or their wardship terminated resulting in Kin-GAP eligibility are considered neither foster children nor part of the foster care system. Moreover, none of the statutory definitions of *foster family home, small family home,* or *foster parent* include relatives who are serving as legal guardians. Thus, to enable the insurance fund to cover legal guardians receiving Kin-GAP payments, the Legislature will have to amend the pertinent statutes to expressly insure these guardians.

As we describe in Appendix B, we were unable to obtain information related to the number of Kin-GAP families. Consequently, we could not survey these families and project the financial impact of adding them to the insurance fund.

Social Services Has Not Ensured the Efficient Management of the Insurance Fund's Claims Process

State law authorizes Social Services or its designated contract agency to process decisions and reports, make claims payments, and take other administrative actions for the insurance fund. According to

Social Services, it has entered into interagency agreements with General Services to manage the insurance fund's claims process since October 1986. However, Social Services did not ensure that General Services timely approved or rejected claims filed against the insurance fund. In addition, General Services has not always processed claims in a way that is consistent with state law and its own procedures.

General Services Did Not Always Approve or Reject Insurance Fund Claims Within the State-Mandated Time Frame

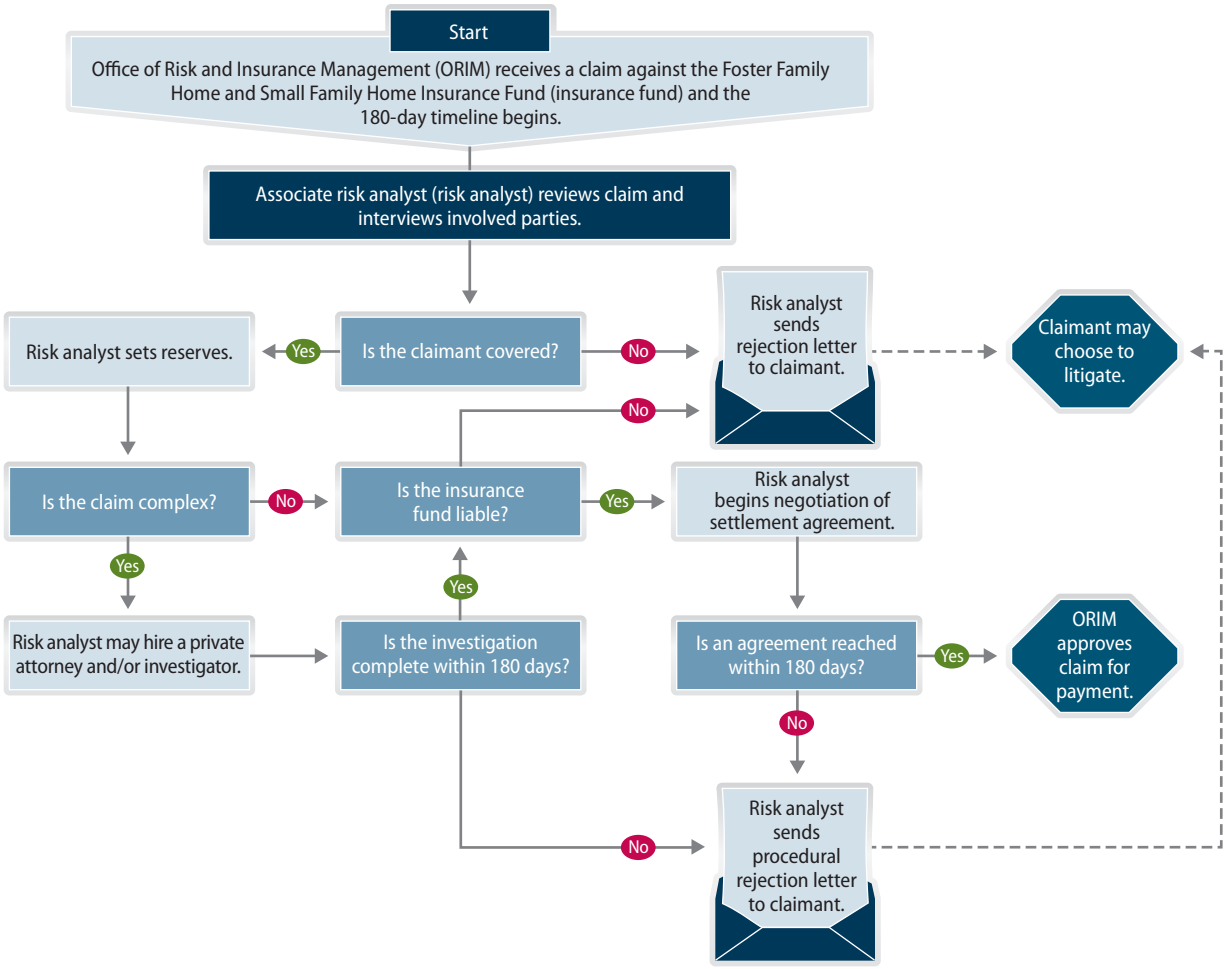
Social Services did not ensure that General Services approved or rejected claims filed against the insurance fund in accordance with state law. Claims against the insurance fund are filed with General Services' Office of Risk and Insurance Management (ORIM). State law requires that Social Services or its contracted agency approve or reject these claims within 180 days of their receipt. Figure 3 on the following page shows ORIM's process for claims review.

In many instances, ORIM appears to have met the state-mandated time frame. ORIM did not have sufficient information for us to determine whether it timely processed eight of the 126 claims filed between July 1, 2005, and December 31, 2010, primarily because the claims were either pending ORIM's review or had not been submitted on claim forms. Consequently, we based our analysis on the 118 claims filed against the insurance fund for which information was available. Between July 1, 2005, and December 31, 2010, ORIM took an average of 51 days to approve or reject 102 of these claims. Its ability to approve or reject these claims within 180 days is largely attributable to the fact that 80 of the claims were ineligible because the paperwork was incomplete or because the claims involved unlicensed or certified homes that the insurance fund does not cover.

Between July 1, 2005, and December 31, 2010, General Services took an average of 51 days to approve or reject 102 claims, but took between 182 and 415 days to approve or reject the remaining 16 claims.

However, for the remaining 16 claims, ORIM's claims resolution process exceeded the state-mandated deadline, sometimes by a significant length of time. ORIM took between 182 and 415 days to approve or reject these 16 claims. Both Social Services and General Services interpret the approval of a claim to mean that the claim has been resolved with a final settlement. Alternatively, if ORIM is unable to determine if it should cover a claim or to reach a settlement, it has the option to reject the claim because of its inability to resolve the claim within the 180-day deadline. We discuss these "procedural rejections" in more detail later. General Services' associate risk analyst (risk analyst) was unable to explain why ORIM approved or rejected 13 of the 16 claims beyond 180 days because he was not responsible for handling those claims. The risk analyst stated that ORIM approved or rejected the remaining three claims after the 180 days because it took additional time either to investigate the claims or the foster homes' license status, or to negotiate the settlements.

Figure 3
Claims Review Process



Sources: Department of General Services' Claims Procedures Manual and interviews with its staff.

General Services' failure to meet the state-mandated time frame can affect the ability of the claimants to move forward in pursuing resolution to their cases. According to state law, "no person may bring a civil action against a foster parent for which the insurance fund is liable unless that person has first filed a claim against the insurance fund and the claim has been rejected, or the claim has been filed, approved, and paid, and damages in excess of the payment are claimed." Thus, claimants who prefer to seek judicial remedy cannot do so until they receive notification from ORIM on the status of their claim. However, ORIM does not promptly notify claimants of its decision to approve or reject their claims. Three of the 16 claimants waited for more than a year before receiving notification that General Services had rejected their claims. Because Social Services did not closely monitor General Services' management of the insurance fund's claims process, it was unable to ensure that General Services approved or rejected claims within the 180-day deadline and notified the claimants of its decision.

General Services Did Not Always Follow Its Process Designed to Ensure That It Meets the 180-Day Deadline

As mentioned previously, state law requires Social Services or its contracted agency to approve or reject insurance fund claims within 180 days of their receipt. ORIM has established a process it calls "procedural rejections" to ensure that it meets this statutory deadline. ORIM's procedures manual states that it sends procedural rejection letters to claimants or their attorneys to accomplish the following: a) signify the end of the statutory period and either the approval or denial of a claim; b) signify the end of the statutory period and an incomplete investigation of the claim; or c) signify the end of the statutory period and incomplete settlement negotiations for a claim.

Between July 1, 2005, and December 31, 2010, ORIM procedurally rejected 21 claims. However, ORIM procedurally rejected five of these claims between two and 210 days after the 180-day deadline. ORIM later settled with two of these claimants who pursued litigation after it rejected their claims. However, one of these claimants experienced a 210-day delay before he could initiate litigation because he received his rejection notice 390 days after he initially filed his claim.

The risk analyst stated that General Services should reject every claim by the 180th day if it has not settled the claim by then. The risk analyst also stated that if it appears ORIM owes on a claim, he makes every attempt to settle before the 180 days because rejecting a claim opens the door for a lawsuit to be filed and for litigation costs to mount. As mentioned in the previous section, if ORIM does not approve or reject claims within 180 days, then it is not complying with state law and it is denying claimants the ability to seek prompt legal recourse.

Social Services Overestimated the Insurance Fund's Budgetary Needs in Part Because General Services Did Not Provide It With Necessary Data

Social Services did not receive key information from General Services that it needed to accurately estimate the level of funds necessary to meet the insurance fund's anticipated liabilities. In addition, Social Services failed to establish a written policy or procedures to guide its staff on the appropriate methodology to use when calculating the insurance fund's needs. Because Social Services did not periodically evaluate the insurance fund's needs, the insurance fund had amassed an unappropriated fund balance of almost $5.4 million as of December 31, 2010, an amount that we believe is significantly more than necessary.

The insurance fund had amassed an unappropriated fund balance of almost $5.4 million as of December 31, 2010, an amount that we believe is significantly more than necessary.

Social Services Did Not Obtain Information Needed to Manage the Insurance Fund

Social Services did not obtain information from General Services that is crucial to the management of the insurance fund. Social Services' interagency agreement with General Services requires General Services to provide Social Services with quarterly reports that include claims information. However, General Services did not provide Social Services with this information, and Social Services did not compel General Services to do so. As a result, Social Services could not accurately develop budgets for the insurance fund's needs.

The Department of General Services' Reporting Requirements

The Department of General Services (General Services) agreed to provide the Department of Social Services (Social Services) with quarterly reports which include, but are not limited to, the following:

- The number, types, and amounts of all claims filed during the quarter, including names and addresses of all claimants and the foster parents against whom a claim was filed.
- The number, types, and amounts of claims settled during the quarter, including the amount of each settlement and the amount of the original filing, and the names and addresses of all claimants and the foster parents against whom a claim was filed.
- The total number of claims and the total amounts of the claims paid and reserved to date.
- The reserve balance of the fund.
- Total administrative and settlement contract costs to date.

Sources: Social Services' and General Services' interagency agreements 03-2020, 06-2011, and 09-2018.

Because the insurance fund's liabilities result from claims filed against it, Social Services must obtain information about the insurance fund's claims activity to assess the ongoing adequacy of the insurance fund. Yet General Services only reports to Social Services a fraction of the information required by their interagency agreement, as described in the text box. Specifically, between July 1, 2005, and December 31, 2010, General Services only provided Social Services with annual financial statements that documented the insurance fund's reserve balance and the overall administrative and settlement contract costs to date. General Services did not provide Social Services with quarterly reports detailing the number, types, and amounts of claims filed or settled during the quarter. General Services also did not provide quarterly reports on the total number of claims and the total amounts of claims paid and reserved to date.

The State Contracting Manual requires a contract manager to ensure compliance with all contract provisions. Social Services did not require General Services to fully comply with the quarterly reporting requirements outlined in their interagency agreement. According to Social Services, General Services indicated that high staff turnover related to its management of the insurance fund's claims process resulted in it providing Social Services with only the year-end financial reports. General Services typically employs only one risk analyst and one risk manager to work on the insurance fund. According to the risk analyst, General Services assigned him the sole responsibility for working on the insurance fund in November 2010, and he estimated that he works, on average, two hours each day on the insurance fund. In addition, according to the risk manager, General Services assigned her to supervise

the risk analyst in January 2011. Nevertheless, by entering into the interagency agreement, General Services made a commitment to fulfill all provisions of the agreement.

Social Services stated that General Services has committed to providing the claims data quarterly in the future. General Services informed us that it would start providing claims information to Social Services with the quarter ending June 30, 2011. However, as of August 26, 2011, Social Services stated it had not received this information from General Services. Until General Services delivers this quarterly data, Social Services cannot accurately budget for the insurance fund's anticipated liabilities or effectively assess the necessary reserve level for the insurance fund as we discuss in the next section.

Social Services Has Not Proactively Evaluated the Insurance Fund's Needs Each Year

Each year, as part of the state budgeting process, Social Services receives a General Fund appropriation that authorizes it to make expenditures or incur liabilities for the insurance fund. Since fiscal year 2005–06, Social Services has received an annual General Fund appropriation of more than $1 million. The insurance fund's accounting records indicate that between July 1, 2005, and December 31, 2010, Social Services paid a total of roughly $4.1 million from the fund for damages to the claimants and the legal and investigation expenditures associated with resolving the claims, which we refer to as *claims-related expenditures*.[12] Yet the unappropriated fund balance at the end of each year during this same period was usually more than $5 million because annual appropriations in excess of the annual expenditures remain in the insurance fund until Social Services returns this unused money to the General Fund. The fact that the fund's yearly expenditures were consistently less than its yearly appropriations combined with the fact that its fund balance was consistently, and unnecessarily, high suggests that the annual appropriation Social Services received each year was excessive.

The insurance fund's yearly expenditures were consistently less than its yearly appropriations and its unnecessarily high fund balance suggests the annual appropriation was excessive.

Social Services did not proactively manage the insurance fund. As previously noted, its interagency agreement requires General Services to provide caseload information that Social Services can use to support its requests of funds from the Legislature to maintain

[12] The roughly $2.6 million difference between the amounts reported in General Services' accounting records and its claims database is due in part to claims that were filed before July 1, 2005, but reflected as paid in the accounting records during our audit period. In addition, please refer to the Scope and Methodology for the data reliability assessment of the summarized report generated from General Services' claims database.

the insurance fund at an adequate level to meet anticipated liabilities. However, Social Services did not require General Services to provide claims-related information until very recently. In addition, Social Services has not established a written policy or procedures to guide its staff on the appropriate methodology to use when calculating the insurance fund's needs each year. Without established processes for evaluating the annual needs of the insurance fund, Social Services cannot determine if the insurance fund is receiving the appropriate level of funding to cover its anticipated liabilities.

General Services could not provide the data used by Social Services to support its calculation of a required reserve amount of between $2.5 million and $3 million.

Without such written policies and procedures, Social Services also cannot accurately determine how much of a reserve the insurance fund requires. In April 2008, during the course of budget hearings with the Legislature, Social Services stated that the insurance fund had a balance of $5.8 million, which was in addition to the appropriation it receives each year. Social Services also stated that a prudent reserve for the insurance fund would be between $2.5 million and $3 million, and as a result, it returned $2.8 million of the unused insurance fund balance to the General Fund on October 29, 2008. General Services could not provide the data used by Social Services to support its calculation of a required reserve amount of between $2.5 million and $3 million. According to its chief of the Financial Management and Contracts Branch (chief), Social Services used $300,000—the maximum amount established by state law that the insurance fund is liable for damages associated with any single licensed home for all claims arising due to one or more occurrences during a single calendar year—to calculate the reserve amount. Using this methodology, Social Services overestimated the level of funds necessary to meet the insurance fund's anticipated liabilities. However, as previously mentioned, the insurance fund's accounting records show that the total paid out of the insurance fund for claims-related expenditures was about $4.1 million between July 1, 2005, and December 31, 2010. General Services' claims database indicates that $1.5 million of this $4.1 million was for the 19 insurance fund claims that the insurance fund paid during the period, for an average of $81,317 for each claim—far less than the $300,000 used in Social Services' calculation. According to the chief, Social Services used a conservative estimate that the insurance fund would pay the statutory maximum to each claimant. However, the insurance fund paid this statutory maximum for only two of the 19 claims during a five and a half year period.

Social Services has continued to determine the insurance fund's anticipated liabilities by using General Services' unsupported claims data. On July 19, 2011, the Department of Finance (Finance) approved a request to transfer $3 million from the insurance fund to the General Fund and the State Controller's Office processed this request on August 2, 2011. However, Social Services once again determined the insurance fund's anticipated liabilities by using General Services'

unsupported claims data and the statutory maximum to calculate the payment for each claim. The chief explained that, because of Finance's time frame for obtaining the amount of unused insurance fund balance that could be returned to the General Fund, Social Services and Finance relied on the analysis used in 2008 to calculate the $3 million to be returned to the General Fund in 2011. The chief stated that he believed that the 2008 analysis was still applicable for the insurance fund's current circumstances. We disagree: Based on the claims-related and administrative expenditures the fund paid between July 1, 2005, and December 31, 2010, we believe that $1 million would be an adequate reserve, which would allow the return of an additional $1.4 million to the General Fund. If the Legislature chooses to expand the insurance fund's coverage to certified homes and Kin-GAP families, Social Services will have to reevaluate this reserve amount to address the increase in the insurance fund's claims-related and administrative expenditures. Until Social Services revises its methodology for calculating the insurance fund's annual anticipated liabilities for claims and takes a more proactive approach to evaluating these liabilities as part of its annual budgeting process, it will continue to overestimate the level of funds necessary to meet the insurance fund's needs.

Recommendations

To mitigate foster parents' concerns about liability and to increase the likelihood that they will continue to serve as foster parents, Social Services should develop more effective methods to inform and remind licensed homes about the availability of the insurance fund.

If the Legislature desires that the insurance fund provide coverage to the FFAs' certified homes and Kin-GAP families, it should amend the pertinent statutes to expand the insurance fund's coverage to include them.

To comply with state law and improve the timeliness of claims processing, Social Services should:

- Ensure that General Services approves or rejects all claims within the mandated 180-day deadline.

- Require General Services to ensure that claimants receive prompt notification of its decision to approve or reject their claims.

To ensure the expedient disposition of claims, the Legislature should consider amending state law to provide claimants the option of litigating against the insurance fund if General Services does not approve or reject their claims within the 180-day deadline described in state law.

To ensure that the insurance fund makes the most efficient use of the State's limited resources, Social Services should do the following:

- Ensure that General Services provides it with all the claims information specified in the interagency agreement.
- Use these claims and expenditure data to determine the annual appropriation amount needed for the insurance fund to meet its anticipated liabilities.
- Establish a written policy or procedures to guide staff on the appropriate methodology to use when calculating these anticipated liabilities.
- Establish an adequate reserve amount for the insurance fund and reevaluate it annually.

We conducted this audit under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the scope section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,

ELAINE M. HOWLE, CPA
State Auditor

Date:	September 29, 2011
Staff:	Joanne Quarles, CPA, Audit Principal Andrew Lee Casey Caldwell Amanda Garvin-Adicoff
Legal Counsel:	Stephanie Ramirez-Ridgeway, Esq.
IT Audit Support:	Michelle J. Baur, CISA, Audit Principal Ryan Coe, MBA
Consultant:	James Pellegrini, MS Mathematics

For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

Appendix A

MANAGEMENT OF THE FOSTER FAMILY HOME AND SMALL FAMILY HOME INSURANCE FUND

State law requires the Department of Social Services (Social Services) or its designated contract agency to process all decisions and reports, pay claims, and perform other administrative functions for the Foster Family Home and Small Family Home Insurance Fund (insurance fund). According to Social Services, it has entered into interagency agreements with the Department of General Services (General Services) to manage the insurance fund's claims process since October 1, 1986. General Services assigned the responsibility for processing claims for the insurance fund to its Office of Risk and Insurance Management and the responsibility of accounting for the insurance fund to its Contracted Fiscal Services unit. Table A outlines the scope of work that General Services agreed to in its interagency agreement with Social Services.

Table A
Department of General Services' Contracted Responsibilities Related to the Foster Family Home and Small Family Home Insurance Fund

INTERAGENCY AGREEMENT (SCOPE OF WORK)	PURSUANT TO HEALTH AND SAFETY CODE SECTION (IF APPLICABLE)	UNIT RESPONSIBLE
Department of General Services (General Services) Agrees to:		
1. Act as Department of Social Services' (Social Services) agent in the management, supervision, handling, investigation, and payment of all claims made upon the Foster Family Home and Small Family Home Insurance Fund (insurance fund) in accordance with applicable sections of the Civil, Health and Safety, and Insurance codes.	1527.1 and 1527.7	Office of Risk and Insurance Management (ORIM)
2. Develop all claims procedures and forms necessary for insurance fund management, and require the use of these procedures and forms for the filing of claims.	1527.6 (a)	ORIM
3. Limit claims upon the insurance fund to the legal liability for damages. This insurance fund will not be liable for damages in excess of $300,000 for any single licensed foster family home or licensed small family home for all claims arising due to one or more occurrences during a single calendar year.	1527.4	ORIM
4. Reject all claims which are not filed within the applicable period of limitations for the civil action underlying the claim.	1527.6 (b)	ORIM
5. Approve or reject each claim within 180 days of its presentation.	1527.6 (c)	ORIM
6. Select legal representation as required, in connection with the claims adjusted under the insurance fund.	–	ORIM
7. Contract for all services necessary for settlement activities under the agreement. Such activities shall include legal and insurance adjuster services. General Services shall perform its contracting activities in accordance with Section 1200 of the State Administrative Manual. These contracts shall be based on Social Services' approved formats. General Services shall provide Social Services with copies of all executed settlement activity service contracts.	–	ORIM

continued on next page . . .

INTERAGENCY AGREEMENT (SCOPE OF WORK)	PURSUANT TO HEALTH AND SAFETY CODE SECTION (IF APPLICABLE)	UNIT RESPONSIBLE
8. Maintain a file on each claim, which shall be available at all times for inspection by authorized Social Services or federal personnel upon reasonable notice. Records shall be maintained for a minimum period of time as follows:	–	ORIM
a. Three years after the expiration date of the agreement.		
b. Three years after the settlement date of any claim made under the agreement, if such date occurs after the expiration date of the agreement.		
c. Until all state or federal audits of the agreement, started before July 12, 2012, are complete.		
9. Provide Social Services with quarterly reports which include, but are not limited to, the following:	–	ORIM and Contracted Fiscal Services (CFS)
a. The number, types, and amounts of all claims filed during the quarter, including names and addresses of all claimants and the foster parents against whom a claim was filed.		
b. The number, types, and amounts of claims settled during the quarter, including the amount of each settlement and the amount of the original filing, and the names and addresses of all claimants and the foster parents against whom a claim was filed.		
c. The total number of claims and the total amounts of the claims paid and reserved to date.		
d. The reserve balance of the fund.		
e. Total administrative and settlement contract costs to date.		
10. Maintain separate state General Fund and federal accounts.	–	CFS
11. Identify the state or federal funding status for each case by obtaining the case number for each child from the county welfare department which places the child.	–	ORIM
12. General Services shall use the state/federal funding information in item 11 above to identify and record all administrative time and service contracts related to a specific case, as having either state or federal funding.	–	ORIM and CFS
13. Provide Social Services with caseload information to support requests of funds from the Legislature to maintain the insurance fund at an adequate level to meet anticipated liabilities.	1527.8	ORIM
14. Provide Social Services with ad hoc reports as required.	–	ORIM

Sources: Social Services' and General Services' interagency agreements 03-2020, 06-2011, and 09-2018.

Appendix B

DATA LIMITATIONS RELATED TO THE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT PROGRAM

The Joint Legislative Audit committee (audit committee) requested that, to the extent practical, we assess the feasibility of having the Foster Family Home and Small Family Home Insurance Fund (insurance fund) cover families participating in the Kinship Guardianship Assistance Payment (Kin-GAP) program. Through the Kin-GAP program, the State provides financial assistance for children whom the courts place in legal guardianship with relatives. To assess the feasibility of the insurance fund covering these families, we attempted to identify the total number of active Kin-GAP families and the number of children placed within those families as of February 28, 2011. As noted in the Scope and Methodology, we encountered several limitations in identifying readily available information that prevented us from making this assessment.

Specifically, we attempted to use data from the Department of Social Services' (Social Services) Child Welfare Services/Case Management System (CWS/CMS) to identify the number of active Kin-GAP families and the number of children placed within those families as of February 28, 2011. To obtain an understanding of the CWS/CMS, we reviewed the system's data dictionary, code values dictionary, and entity relationship diagrams. We noted that the system contains a code value of "Kin-GAP" in the field identifying the agency or department that is responsible for a case. We tested this field and found that only one county (Los Angeles) documents Kin-GAP situations in this manner. Therefore, we determined that we would be unable to use this field to identify Kin-GAP cases for all of the counties in California.

Further, Social Services' chief of the Child Welfare Data Analysis Bureau indicated that the CWS/CMS does not track Kin-GAP children in a manner that would allow us to identify the number of children in Kin-GAP situations as of a specific date. In part, this is because Kin-GAP is not a placement at all but rather an exit from foster care, resulting in the closure of children's foster cases. Kin-GAP children are no longer under the care of the county welfare or probation departments. The system's Case Closure Date field represents the dates that children exit foster care into Kin-GAP situations. Because the Case Closure Date field could be any possible date in the past, we determined that it was not an appropriate indicator for how many children were still in Kin-GAP situations as of a specific date.

Social Services informed us that it reports on how many children exit foster care into Kin-GAP situations during a specific time frame. It compiles this report from aggregate totals provided by the individual counties and does not include information regarding specific children. As a result, we were unable to determine the total number of active Kin-GAP families and the number of children placed within those families by using Social Services' Kin-GAP caseload reports. Because of these limitations, we inquired with Social Services about using the Licensing Information System (LIS) to determine Kin-GAP caseloads as of a specific date. Social Services informed us that Kin-GAP homes are not licensed. As a result, we were unable to identify relevant Kin-GAP populations using data found in the LIS.

Finally, we investigated the feasibility of using data on maintenance payments to answer this audit question. According to Social Services, the State does not maintain recipient information on Kin-GAP maintenance payments. The state-level information that Social Services receives contains only high-level data on total expenditures, while individual counties track more specific payment information. Therefore, we determined that it would not be feasible to use these data to determine the number of active Kin-GAP families and the number of children placed within those families.

Because of the limitations explained above, we were unable to assess the feasibility of the insurance fund covering Kin-GAP families.

(Agency response provided as text only.)

State of California—Health and Human Services Agency
Department of Social Services
744 P Street
Sacramento, CA 95814

September 11, 2011

Ms. Elaine M. Howle, State Auditor*
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

The California Department of Social Services (CDSS) appreciates the opportunity to respond to the audit findings and recommendations in the audit entitled, "Foster Family Home and Small Family Home Insurance Fund: Expanding its coverage would increase costs and the Department of Social Services needs to improve its management of the insurance fund." The CDSS shares the goal of an insurance fund that can provide appropriate funding for services when necessary.

In general, CDSS embraces the findings and recommendations in the report that are directed toward accomplishing the shared goal. In the enclosure, CDSS responds in further detail to the findings and recommendations directly affecting the Department.

Should you have any questions regarding this response, please contact me at (916) 657-2598 or Cynthia Fair, Audits Bureau Chief, at (916) 651-9923.

Sincerely,

(Signed by: Will Lightbourne)

WILL LIGHTBOURNE
Director

* California State Auditor's comment appears on page 39.

California Department of Social Services
RESPONSES TO AUDIT RECOMMENDATIONS

Bureau of State Audits
Audit #: 2010-121

Audit Title: *Foster Family Home and Small Family Home Insurance Fund: Expanding Its Coverage Would Increase Costs and the Department of Social Services Needs to Improve Its Management of the Insurance Fund*

Recommendations for Social Services:

Recommendation: *To mitigate foster parents' concerns about liability and to increase the likelihood that they will continue to serve as foster parents, Social Services should develop more effective methods to inform and remind licensed homes about the availability of the insurance fund.*

Response: Status: Agree with Finding. In addition to informing potential applicants during the licensing orientation session about the availability of the insurance fund, the CDSS', Community Care Licensing Division (CCLD) will require Licensing Program Analysts (LPAs) to provide foster parents with the Department of General Services' (DGS) Insurance Fund handout during the pre-licensing visit. These instructions will be provided to the LPAs via a memo from the Program Administrator responsible for the statewide Children's Residential Program. Further, the insurance fund information will be provided on the Community Licensing Website, and occasionally in the Community Care Licensing, Children's Residential Quarterly Update Newsletter.

Recommendation: *To comply with state law and improve the timeliness of claims processing, Social Services should ensure General Services approves or rejects all claims within the mandated 180-day deadline.*

Response: Status: Agree with Finding. CDSS will work with the DGS' Office of Risk and Insurance Management (ORIM) to develop and implement a process to track claims by date. This information will be reported to CDSS as part of the quarterly reporting documentation submitted by ORIM.

Recommendation: *To ensure that the insurance fund makes the most efficient use of the State's limited resources, Social Services should do the following:*

- *Ensure that General Services provides it with all of the claims information specified in the interagency agreement.*
- *Use these claims and expenditure data to determine the annual appropriation amount needed for the insurance fund to meet its anticipated liabilities.*
- *Establish a written policy or procedures to guide staff on the appropriate methodology to use when calculating the insurance fund's anticipated liabilities.*
- *Establish an adequate reserve amount and reevaluate it annually.*

CDSS Responses to BSA Audit
of Foster and Small Family Home Insurance Fund
August 9, 2011
Page 2

Response: Status: Agree with Finding. CDSS agrees with the finding to ensure the DGS provides and CDSS relies on the quarterly data reporting of claims activities as required by the contract for management of the fund. In this regard, CDSS anticipates revisiting existing processes and completing written procedures outlining a methodology to determine an appropriate level of funding to cover the insurance fund's anticipated liabilities as part of subsequent budget development cycles.

However, CDSS disagrees with the BSA assessment that $1.0 million dollars is an adequate reserve for this fund. A reserve of this size fails to acknowledge the difficulty in determining when a claim will be finalized and does not account for fluctuations in unanticipated claims and liabilities. In the five-year time period prior to BSA's audit scope of July 1, 2005 through December 31, 2010, the expenditures reported for the fund were $5.4 million, or $1.4 million higher than in the audit scope. When considering the lengthy time of adjudication and litigation for these claims along with unanticipated fluctuations in claims received, CDSS believes it is fiscally prudent to adopt a conservative methodology that allows for these types of variances, and will do so. (1)

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Comment

CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM THE DEPARTMENT OF SOCIAL SERVICES

To provide clarity and perspective, we are commenting on the Department of Social Services' (Social Services) response to our audit. The number below corresponds to the number we have placed in the margin of Social Services' response.

Social Services stated it disagrees with our assessment that $1 million is an adequate reserve for the Foster Family Home and Small Family Home Insurance Fund (insurance fund) because this amount fails to acknowledge the difficulty in determining when a claim will be finalized and because it does not account for fluctuations in unanticipated claims and liabilities. We disagree: Figure 3, on page 24, outlines the Department of General Services' (General Services) process for claims review. One of the early steps in the process requires General Services' associate risk analyst to set reserves for the claims, which represents General Services' estimate of how much it expects to pay for damages to the claimants and legal and investigation expenditures associated with resolving the claims. However, as we state on pages 27 and 28, Social Services did not proactively manage the insurance fund and did not require General Services to provide quarterly reports that include claims information, such as the total number of claims, the total amounts of the claims paid, and the reserve amount set by General Services for each claim until very recently. 1

If Social Services implements our recommendation on page 30 related to ensuring that General Services provides it with all claims information specified in the interagency agreement, it will have sufficient information to determine when claims will be finalized and adjust its annual requests of funds from the Legislature accordingly. As we state on page 27, since fiscal year 2005–06, Social Services has received an annual appropriation of more than $1 million from the State's General Fund, an amount we believe has been excessive and not reflective of the insurance fund's anticipated liabilities. In addition, Social Services' assertion that fluctuations in unanticipated claims and liabilities exist is unfounded because, as we depict on page 24, all insurance fund claims must be filed with General Services and are subject to its process for claims review, which includes setting reserves for claims as described above. Furthermore, combining Social Services' assertion of $5.4 million in insurance fund expenditures for the five-year period prior to our audit period with the $4.1 million in expenditures for our audit period yields roughly $9.5 million in expenditures for a 10 and a half year period, which results in an average of less than $1 million each year. Thus, the data do not support Social Services' assertion that fluctuations in unanticipated claims and liabilities exist.

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(Agency response provided as text only.)

State and Consumer Services Agency
915 Capitol Mall, Suite 200
Sacramento, CA 95814

September 8, 2011

Elaine Howle
California State Auditor
Bureau of State Audits

RE: Bureau of State Audit's Draft Report No. 2010-121

Ms. Howle:

Pursuant to the Bureau of State Audit's (BSA) Report No. 2010-121, enclosed are the Department of General Services' comments pertaining to the results of the audit.

The State and Consumer Services Agency would like to thank the BSA for the comprehensive review of the Foster Family Home and Small Family Home Insurance Fund. The results provide us with the opportunity to better serve our clients.

(Signed by: Dr. Willie Armstrong for)

Anna M. Caballero, Secretary
State and Consumer Services Agency

Department of General Services

September 8, 2011

Anna M. Caballero, Secretary
State and Consumer Services Agency
915 Capitol Mall, Suite 200
Sacramento, CA 95814

Subject: RESPONSE TO BUREAU OF STATE AUDITS' REPORT NO. 2010-121

Thank you for the opportunity to comment on Bureau of State Audits' (BSA) Report No. 2010-121 which contains the results of its audit of the Foster Family Home and Small Family Home Insurance Fund (insurance fund). As noted in the report, the California Department of Social Services (CDSS) has contracted with the Department of General Services' (DGS) Office of Risk and Insurance Management (ORIM) to manage the insurance fund's claims process.

The BSA identified the following two areas for improvement with ORIM's process for managing the insurance fund's claims. The ORIM has taken or is taking appropriate actions to address the BSA's concerns.

- *Timely Approval or Rejection of Claims* – while concluding that in many instances claims appeared to have been processed within the state-mandated time frame of 180 days, the BSA found that ORIM did not approve or reject 16 of the 118 claims individuals filed between July 1, 2005, and December 31, 2010 within that deadline. To assist in ensuring full compliance with the 180 day time frame, ORIM has implemented a diary system that provides for the sending of an automated reminder notice to both the assigned risk analyst and the analyst's supervisor. The automated notice will be sent at 150 days after a claim is filed as a reminder to process a procedural rejection letter prior to the 180 day deadline, if necessary. This process will also be added to the program's procedures manual.

- *Quarterly Reporting of Claims Information* – the BSA found that ORIM was not complying with the quarterly claims reporting requirements contained in its interagency agreement with CDSS. Specifically, except for reporting some required financial data, ORIM was not providing the CDSS with detailed claims information on a quarterly basis as required under the terms of the agreement. Recently, ORIM took action to ensure the submittal of quarterly claims information reports to the CDSS. Consequently, on September 1, 2011, ORIM submitted a report for the quarter ending June 30, 2011 to the CDSS that contained the detailed information required by the interagency agreement, including information detailing the number, types and amounts of claims filed or settled during the quarter.

  The ORIM's new quarterly reporting process includes a checklist for use in ensuring that all required data is included in the report. Further, as with the 180 day time frame requirement discussed above, a diary system has been implemented that provides for the sending of an automated reminder notice to both the assigned risk analyst and the analyst's supervisor on the need to prepare and submit a claims information report on a quarterly basis to the CDSS. The quarterly report process will also be added to the program's procedures manual.

The DGS appreciates the BSA's in-depth and professional audit of ORIM's management of the insurance fund's claims process.

If you need further information or assistance on this issue, please contact me at (916) 376-5012.

(Signed by: Fred Klass)

Fred Klass, Director
Department of General Services

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press