

STATE OF WEST VIRGINIA

AUDIT REPORT

OF

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES**

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

NATIONAL SCHOOL LUNCH PROGRAM - ACCOUNT 5050

EMPLOYEE BENEFITS FUND - ACCOUNT 5072

HUMAN SERVICES PERSONAL SERVICES FUND - ACCOUNT 5065

HUMAN SERVICES ADMINISTRATIVE EXPENSE FUND - ACCOUNT 5362

FOR THE PERIOD

JULY 1, 2003 - JUNE 30, 2006



OFFICE OF THE LEGISLATIVE AUDITOR

CAPITOL BUILDING

CHARLESTON, WEST VIRGINIA 25305-0610

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

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WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

Theford L. Shanklin, CPA, Director
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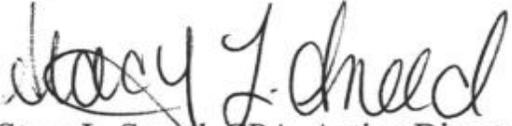
CHARLESTON, WEST VIRGINIA 25305-610

The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have examined the accounts of the West Virginia Children's Home.

Our examination covers the period July 1, 2003 through June 30, 2006. The results of this examination are set forth on the following pages of this report. However, only the financial statements for the year ended June 30, 2006 and June 30, 2005 are included in this report.

Respectfully submitted,


Stacy L. Sneed, CPA, Acting Director
Legislative Post Audit Division

TLS/ela:cds

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

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WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

EXIT CONFERENCE

We held an exit conference on August 16, 2007 with the Director of the West Virginia Children's Home, and other representatives of the West Virginia Department of Health and Human Resources and all findings and recommendations were reviewed and discussed. The spending unit's responses are included in bold and italics in the Executive Summary and after our findings in the General Remarks section of this report.

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

INTRODUCTION

Located in Randolph County, the West Virginia Children's Home (the Home) was established by an Act of the Legislature (§26-1-1) in 1917. Effective July 1, 1977, jurisdiction of and title to the West Virginia Children's Home transferred to the Department of Health and Human Resources (§25-1-3). Currently, the Home is under the supervision of a division of the Department of Health and Human Resources (DHHR) called the Bureau for Children and Families.

Originally an orphanage for neglected children, the West Virginia Children's Home provides residential social services to youth between the ages of 11 and 17 years from the 55 counties in West Virginia for short-term diagnostic evaluation and treatment. Residents are received by both voluntary and court-ordered placements. The Home provides comprehensive educational, recreational and cultural enrichment programs together with its regiment of diagnostic services and community involvement. The staff at the Home has developed a direct ongoing relationship with youths' area social service staff to assure they are receiving the most appropriate social services while in residence at the West Virginia Children's Home and upon their return to the community.

The West Virginia Children's Home is a licensed, self-contained, non-secure residential facility, operated by the West Virginia Department of Health and Human Resources. The Home is licensed for 25 youth, and has private rooms, semi-private rooms, dormitories, and a Pre-Independent house. This facility is generally governed by Chapter 49 (Child Welfare) of the West Virginia Code.

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

ADMINISTRATIVE OFFICERS AND STAFF

JUNE 30, 2006

Administration

Carson Markley..... Director/Health and Human Resources Program Manager I
Wanda Siler.....Social Services Supervisor/Assistant Director
Janet S. Rowe..... Office Assistant II
Wilma Burdette..... Secretary I

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

EXECUTIVE SUMMARY

I. Employee Leave

Our examination of sick, annual and holiday equivalent leave; proper pay and overtime payments and payments related to retirements and resignations showed the West Virginia Children's Home (the Home) was not always properly documenting such payments. Specifically, leave applications totaling 370 hours were not approved by the appropriate supervisor of the employee and leave applications totaling 109 hours were not even signed by the employee actually requesting the leave. Home personnel were unable to provide us with leave applications to support 433.50 hours of leave taken by 17 different employees. The Home was unable to provide us with physicians' statements to support 72 hours of family sick leave taken by two employees. We determined 45 hours of annual leave were not requested by employees in advance of the leave being taken. We located nine time sheets which were not approved by the employee's supervisor. We noted one instance where an employee was allowed to utilize 8 hours of holiday equivalent leave where the records indicated the employee had no available balance of such leave to use. Our work showed one instance where three hours of sick leave were not properly recorded on an employee's time sheet and into the LARS system. Lastly, we noted the annual leave balances for three employees were overstated due to the use of incorrect accrual rates.

Auditors' Recommendation

We recommend the West Virginia Children's Home comply with the West Virginia Division of Personnel Administrative Rule Title 143, Series 1; Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended; and, the Home's procedures. In addition, we recommend the Home recover the overpayments from the two employees and adjust the annual and sick leave balances for each employee accordingly. Also, we recommend the Home adjust the annual and sick leaves balances, as necessary, for the additional employees noted in this finding.

Spending Unit's Response

We will comply with the audit recommendations. (See pages 9 - 25.)

II. Proper Pay and Overtime

During our testing of proper pay and overtime, we noted 11 overpayments of overtime totaling \$223.85 and seven underpayments of overtime totaling \$412.93. We noted that

one employee is shown as having only worked 32 hours during the workweek ended February 4, 2005; however, the employee was paid for a 40-hour workweek resulting in payment of salary before services were rendered totaling \$95.72. Lastly, we observed where one employee failed to submit a claim for overtime pay in the pay period immediately following the period in which the overtime was worked and a total of five instances where the West Virginia Department of Health and Human Resources failed to pay employees' overtime in a timely manner.

Auditors' Recommendation

We recommend the West Virginia Children's Home and the Department of Health and Human Resources comply with the Federal Fair Labor Standards Act, as amended, Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, DHHR Policy Memorandum 2102, (Pilot Policy), other internal DHHR policy memorandums. We also believe the Home should strengthen internal controls over overtime and/or additional straight-time compensation payments, record retention and payment authorizations.

Spending Unit's Response

We will comply with the audit recommendations. (See pages 25 - 40.)

III. Purchasing Card Policies and Procedures

Our testing of Purchasing Card (P-Card) transactions showed evidence of card delegation at the Home, instances where the Home did not make purchases using available Statewide contracts and card holders are not personally reconciling their purchasing card statements. In addition, we noted for 12 transactions out of 25 tested that no one signed or dated the receipt showing the goods were received, in all 25 transactions tested no log sheet was prepared, in all 25 transactions tested a West Virginia Children's Home Purchase Request could not be located.

Auditors' Recommendation

We recommend the West Virginia Children's Home comply with the State Auditor's "State Purchasing Card Program Policies and Procedures" and the West Virginia Division of Purchasing Rule Title 148, Series 1.

Spending Unit's Response

We will comply with the audit recommendations. (See pages 40 - 49.)

IV. Food Inventory Records

We noted differences between the quantities of inventory on hand and the recorded quantities for 16 different food items in the Home's food inventory listing. We were unable

to trace four food purchases totaling \$412.10 from the vendor invoice to the Home's food inventory listing. Lastly, the Home does not maintain a perpetual food inventory which causes the Home to lack records of inventory on hand in the kitchen, as well as, those records necessary to determine whether the food items are only being used to provide authorized meals.

Auditors' Recommendation

We recommend the West Virginia Children's Home comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code; Section 7.1 of the State Auditor's "State Purchasing Card Program Policies and Procedures"; and the Home's documented procedures. We further recommend the Home strengthen internal controls over food inventory.

Spending Unit's Response

We will comply with the audit recommendations. (See pages 49 - 53.)

V. Stockroom Inventory Records

The Home maintains a stockroom of personal hygiene items, pharmaceuticals, clothing, and linens purchased by the Home for use of the residents. We noted the Home failed to keep a perpetual inventory system regarding such items which causes a lack of accurate records of inventory on hand in the Home's stockroom, as well as, those records needed to determine whether the stockroom supplies were being used only for the benefit of the residents.

Auditors' Recommendation

We recommend the West Virginia Children's Home comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code and the Home's inventory procedures.

Spending Unit's Response

We will comply with the audit recommendations. (See pages 53 - 57.)

VI. Separation Pay

We noted one employee was underpaid a total of \$86.69 relating to the payment of the prorated share of annual increment due the employee when they left employment with the Home.

Auditors' Recommendation

We recommend the West Virginia Children's Home comply with Chapter 5, Article 5, Section 1; Chapter 5, Article 5, Section 2, as amended, of the West Virginia Code; all applicable opinions issued by the Attorney General; and, the Division of Personnel Annual Increment Policy.

Spending Unit's Response

We will comply with the audit recommendation. (See pages 57 - 59.)

VII. Free Meals

We were informed by Home personnel that individuals working at the Home are allowed to eat meals (breakfast, lunch and dinner) without being charged. In addition, teachers employed by the West Virginia Department of Education who provide instruction to the Home's residents are likewise allowed to eat meals free of charge.

Auditors' Recommendation

The Home should draft a formal policy to be considered by the West Virginia Ethics Commission which would specify the reasons for which these meals are provided to employees at no charge.

Spending Unit's Response

We will comply with the audit recommendation. (See pages 59 - 61.)

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

GENERAL REMARKS

INTRODUCTION

We have completed a post audit of the West Virginia Children's Home. The examination covers the period July 1, 2003 through June 30, 2006.

SPECIAL REVENUE ACCOUNTS

During our audit period the Home operated the following special revenue accounts:

<u>Account Number</u>	<u>Description</u>
5050-099.....	National School Lunch Program Fund
5065-001.....	Human Services Personal Services Fund
5072-010.....	Employee Benefits Fund
5362-099.....	Human Services Administrative Expense Fund

National School Lunch Program Fund - Account 5050

This account consists of monies received from the Department of Health and Human Resources (DHHR) and consists of Federal dollars. The Home uses this money to pay personal service expenditures, employee benefits, and current expenses.

Human Services Personal Services Fund - Account 5065

This account consists of Federal and State monies appropriated by the DHHR. The Home uses this account to pay personal services.

Employee Benefits Fund - Account 5072

This account consists of Federal and State monies received from the DHHR. The Home uses this money for employee benefits expenditures.

Human Services Administrative Expense Fund - Account 5362

This account consists of Federal and State monies appropriated to the Home from DHHR. The Home uses this money to pay for current expenses, repairs and alterations, assets, and other disbursements.

COMPLIANCE MATTERS

We tested applicable sections of the West Virginia Code, and the spending unit's legislatively approved rules and regulations, as well as, other rules, regulations, policies, and procedures as they pertain to fiscal matters. Our findings are discussed below.

EMPLOYEE LEAVE

The Fair Labor Standards Act of 1938 (the Act), as amended, requires a State spending unit to maintain records containing the hours worked by each employee. The Home employs both exempt and non-exempt employees as defined by the Fair Labor Standards Act. Exempt employees are those employees exempt from all but the record keeping provisions of the Act. Non-exempt employees are those employees whose work is regulated by the Act's minimum wage, overtime, and record keeping provisions. Therefore, all Home employees are covered under the record keeping provisions of the Act.

We performed a test of the Home's Sick, Annual, and Holiday Equivalent Leave records for employees to determine whether the system of internal controls was functioning as described and employees' leave was properly calculated and administered in accordance with the West Virginia Code and the Division of Personnel's Administrative

Rule. During fiscal years 2006, 2005, and 2004 the Home's personal services' expenditures and employee benefits totaled \$3,511,188.62.

We were informed when an employee wants to take annual leave, they are required to complete an Application for Leave With Pay (Leave Application) before the annual leave is taken. The employee must complete the form and sign the Leave Application and then submit it to the Social Services Supervisor/Assistant Director. The Social Services Supervisor/Assistant Director approves and signs all employees' Leave Applications, except those leave applications pertaining to the Director of the Home. The Region III Regional Director of the West Virginia Bureau for Children and Families approves the leave applications submitted by the Home Director.

A Leave Application must also be completed and signed by the employee upon return from sick leave. The Social Services Supervisor/Assistant Director also approves this Leave Application. If an employee is absent for three days or more and is using sick leave, the employee is required to submit a doctor's excuse along with the Leave Application upon returning to work.

Each employee keeps a monthly time sheet listing the hours worked and any leave taken. The employee must sign and date the time sheet and they are forwarded to the Director of the Home for signature approval. Leave taken is entered into the LARS (Leave Attendance Reporting System) from the time sheets. The LARS system is an automated leave accrual system maintained by the DHHR. The system automatically accrues sick and annual leave for each employee. If a Leave Application is completed and the time sheet lists the employee as working, it is assumed the employee decided to not take the leave and they worked instead. Therefore, the leave would not be entered into LARS.

While testing Sick, Annual, and Holiday Equivalent Leave; Proper Pay and Overtime; and Retirement and Resignations we noted several inconsistencies in the Home's leave procedures. The items noted are as follows:

1. We noted leave applications for a total of 370 hours of leave were not approved by the proper supervisory authority. In addition, we noted leave applications for a total of 109 hours of leave were not signed by the employee requesting the leave.
2. During our sick, annual and holiday equivalent leave test of controls; our proper pay and overtime test of controls; and our retirement and resignations test of controls of the Home, spending unit personnel could not provide us with leave applications to support 433.5 hours of leave taken by 17 employees.
3. During our sick, annual and holiday equivalent leave test of controls of the Home, spending unit personnel could not provide us with physicians' statements to support 72 hours of family sick leave taken by two employees.
4. During our testing of sick, annual and holiday equivalent leave we noted 45 hours of annual leave were not requested by employees in advance of the leave being taken.
5. We noted nine time sheets were not approved by the proper supervisory authority.
6. During our testing of sick, annual and holiday equivalent leave, we noted one instance in which an employee took eight hours of holiday equivalent leave when the employee had no available balance of accrued holiday leave.
7. We noted one instance where three hours of sick leave were not properly recorded on an employee's time sheet and into the LARS system.
8. During our test of sick, annual and holiday equivalent leave, we noted the annual leave balances for three employees were overstated due to improper accrual rates.

The following paragraphs provide additional comments regarding these aforementioned eight items concerning our sick, annual, and holiday equivalent leave testing are:

Unsigned and Missing Leave Applications and Unsigned Time Sheets

During our sick, annual and holiday equivalent leave test of controls; our proper pay and overtime test of controls; and our retirement and resignations test of controls we noted leave applications for a total of 370 hours of leave were not approved by the proper supervisory

authority and leave applications for a total of 109 hours of leave were not signed by the employee requesting the leave. We also noted spending unit personnel could not provide us with leave applications to support 433.5 hours of leave taken by 17 employees and 45 hours of annual leave were not requested by employees in advance of the leave being taken. Additionally, we noted nine employees' time sheets, for April 2005, were not approved and signed by the Home Director.

We believe the above instances are in noncompliance with The West Virginia Division of Personnel Administrative Rule Title 143, Series 1. The West Virginia Division of Personnel Administrative Rule Title 143, Series1, 14.3(c), states in part:

- A. . . Accrued annual leave shall be granted at those times that will not materially affect the agency's efficient operation . . . The employee shall request annual leave in advance of taking the leave except as noted elsewhere in this subdivision. Annual leave may not be granted in advance of the employee's accrual of the leave . . .”

The West Virginia Division of Personnel Administrative Rule Title 143, Series1, 14.4(f), states in part:

- A. . . Sick leave may not be granted in advance of the employee's accrual of the leave . . .”

The West Virginia Division of Personnel Administrative Rule Title 143, Series1, 14.6, states in part:

- “ . . .When an employee is absent from work without authorization for sick or annual leave, the appointing authority shall dock the employee's pay in the next pay period for an equal amount of time paid during which no work was performed. The appointing authority shall notify the employee in writing that his or her pay is being docked and that the unauthorized leave is misconduct for which discipline is being imposed. The appointing authority shall use unauthorized leave only in cases when the employee fails to obtain the appropriate approval, according to agency policy, for the absence . . .”

Section 14.14 of the West Virginia Division of Personnel Administrative Rule states in part,

“Leave Records - Each agency shall maintain a current leave record of its employees' accrued and used leave . . . ”

Due to the fact that an employee could be on leave, not complete a leave application, and state on their time sheet they had worked, we could not determine the provisions of Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, were complied with. Specifically, Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended states in part:

“ . . . No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered . . . ”

Due to the absence of approval by a proper supervisory authority and the earlier mentioned lack of leave applications, we were unable to determine whether annual leave was granted in advance of the leave being taken. Evaluating annual leave requests prior to the employee taking the leave allows the spending unit to ensure the employee had sufficient leave balance available prior to granting the leave request. If an employee takes annual leave without prior proper supervisory approval, it is possible the employee could take leave that they have not yet accrued and that the employee would, therefore, be paid for services not rendered.

In addition, evaluating annual leave requests prior to the employee taking the leave also allows the spending unit the opportunity to disallow the leave request if honoring the leave request results in scheduling conflicts for the spending unit. However, if an employee takes annual leave without proper approval by a supervisory authority, the leave should be charged as unauthorized leave and the appointing authority should dock the employee's pay in the next pay period for an equal amount of time paid during which no work was performed.

During our documentation of the Home's procedures, we were told by spending unit personnel that monthly time sheets are completed by employees and signed and approved by the Home Director. We determined even though annual and sick leave are to be documented on each employee's time sheet, the approved time sheet is not sufficient evidence that the above-mentioned leave was properly approved and granted. This situation is due to the fact that the time sheets are only submitted and approved at the end of each month and any leave recorded on them would have already been taken by the employee. Therefore, we cannot determine from the approved time sheet whether any instances of sick and annual leave were approved and granted by the proper supervisory authority and whether annual leave was requested in advance.

Also, we determined it is possible for an employee to receive compensation for services not rendered even though their time sheet is approved. This situation can happen when an employee takes leave without approval from a proper supervisory authority, however, they do document the leave taken on their time sheet. By the end of the month (when the employee submits their time sheet) it is possible the employee would have already received their payday for the pay period during which the leave was taken. Accordingly, an employee may also be able to receive compensation for leave taken when they did not have sufficient accrued leave to cover the absence and when the leave would have been disallowed if the request had been evaluated by the spending unit prior to the absence.

Having an appropriate supervisory authority sign and approve an employee's time sheet helps to ensure the hours reported by the employee, both for time worked and leave taken, are complete and accurate. However, due to the absence of proper supervisory approval, we determined the nine unapproved time sheets which were relied upon as the employees' official attendance reports and leave recording documents could have been incomplete and inaccurate.

We recommend the West Virginia Children's Home comply with the West Virginia Division of Personnel Administrative Rule Title 143, Series 1; Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended and the Home's procedures.

Spending Unit's Response

We concur with the finding(s) and will take corrective action to comply with the West Virginia Children's Home comply with the West Virginia Division of Personnel Administrative Rule Title 143, Series 1; Chapter 12, Article 3, Section 13 of the West Virginia Code.

Missing Physician Statement

According to the West Virginia Division of Personnel Administrative Rule Title 143, Series 1, within two days of returning to work after being on sick leave, an employee must furnish a prescribed physician's statement form from the attending physician/practitioner for all consecutive days of sick leave granted beyond three working days. During our test of sick, annual and holiday equivalent leave, Home personnel could not provide us with physicians' statements to support 72 hours of family sick leave taken by two employees.

In addition, without proper physicians' statements on file, these specific absences should have been charged to unauthorized leave, and the employee's pay should have been docked the following pay period for the entire period of absence. We noted the Home did not dock the employee's pay or prorate the employees' sick and annual leave accrual rates to reflect the non-pay periods which should have resulted from the employees failing to provide physicians' statements.

The Home is also in noncompliance with Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, which states in part:

“ . . . No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered . . . ”

Due to the Home not pro-rating the employees' leave accruals, the Home is also in noncompliance with The West Virginia Division of Personnel Administrative Rule Title 143, Series 1. The West Virginia Division of Personnel Administrative Rule Title 143, Series 1, 14.3(a), states in part:

“ . . . Annual leave cannot be accrued for hours not paid nor for hours worked beyond the normal workweek which shall not exceed 40 hours. . . ”

The West Virginia Division of Personnel Administrative Rule Title 143, Series 1, 14.4(a), states in part:

“ . . . Sick leave cannot be accrued for hours not paid nor for hours worked beyond the normal workweek which shall not exceed 40 hours. . . ”

The West Virginia Division of Personnel Administrative Rule Title 143, Series 1, 14.4(f), states in part:

A. . . Sick leave may not be granted in advance of the employee's accrual of the leave. Appointing authorities shall grant accrued sick leave requested by employees for the following reasons: . . .
6. Illness and/or Routine Dental and Medical Appointments-Immediate Family - Absence for illness or routine medical and dental appointments of a member of an employee's immediate family as defined in this ruleshall be charged to accrued sick leave, not to exceed 40 hours per calendar year . . . ”

The West Virginia Division of Personnel Administrative Rule Title 143, Series 1, 14.4(g), states in part:

“ . . . Within two days of return to work, an employee shall furnish a prescribed physician's statement form from the attending physician/practitioner for all consecutive days of sick leave granted beyond three working days . . . The physician's statement form shall

specify the period of incapacity and state that the employee was unable to perform his or her job or that the employee's absence was due to reasons provided in Paragraph 14.4(f)6 of this rule for a member of the employee's immediate family.

3. In the absence of a prescribed physician's statement form, the entire absence shall be charged to unauthorized leave as provided in subsection 14.6 of this rule, and the employee's pay shall be docked the following pay period for the entire period of absence. The appointing authority shall notify the employee in writing that his or her pay is being docked . . . ”

The West Virginia Division of Personnel Administrative Rule Title 143, Series 1,

14.6, states in part:

“ . . . When an employee is absent from work without authorization for sick or annual leave, the appointing authority shall dock the employee's pay in the next pay period for an equal amount of time paid during which no work was performed. The appointing authority shall notify the employee in writing that his or her pay is being docked and that the unauthorized leave is misconduct for which discipline is being imposed. The appointing authority shall use unauthorized leave only in cases when the employee fails to obtain the appropriate approval, according to agency policy, for the absence . . . ”

Furthermore, the Home does not follow their own documented procedures, which

state in part:

“ . . . Ms. Siler stated that when an employee wants to take annual leave, they are required to complete an Application for Leave With Pay (Leave Application) (**Exhibit A**) before the annual leave is taken. She said that the employee must complete the form and sign the Leave Application and then submit it to her. Ms. Siler told us that she approves and signs all employees' Leave Applications (except Mr. Markley's).

Ms. Siler stated that a Leave Application must also be completed and signed by the employee upon return from sick leave. Ms. Siler further stated that if an employee is absent for three days or more and is using sick leave, they are required to submit a doctor's excuse along with the Leave Application upon returning to work . . . ”

We determined in the absence of physicians' statements, the 72 hours of family sick leave taken should have been charged as unauthorized leave and each employee should have had their proceeding pay docked for the entire period of their absence. Therefore, we determined the two employees received compensation in the amounts of \$304.15 and \$351.88, respectively, for services not rendered.

We further determined during these periods of unauthorized leave, for which the employees should not have received compensation, they should not have accrued any sick or annual leave. However, we noted the Home did not prorate the employees' sick and annual leave accrual rates to reflect the non-pay periods which should have resulted from the employees failing to provide physicians' statements. Therefore, we determined one employee erroneously accrued 2.38 hours of annual leave and 2.86 hours of sick leave during the unauthorized period of absence. In addition, the second employee accrued 2.91 hours of annual leave and 2.18 hours of sick leave for which he was ineligible to receive.

We recommend the West Virginia Children's Home comply with Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended; the West Virginia Division of Personnel Administrative Rule Title 143, Series 1; and, the Home's procedures. In addition, we recommend the Home recover the overpayments from the two employees and adjust the annual and sick leave balances for each employee accordingly.

Spending Unit's Response

We concur with the finding(s) and will take corrective action to comply with the West Virginia Children's Home comply with the West Virginia Division of Personnel Administrative Rule Title 143, Series 1; Chapter 12, Article 3, Section 13 of the West Virginia Code.

Holiday Leave Taken but Not Accrued

Employees of the Home are eligible to receive Holiday Equivalent Leave (holiday leave). When an employee works on a holiday, they earn holiday leave equal to the number of hours worked on that day which can be used by the employee at a later date. Any holiday leave earned and used are documented on the employee's monthly time sheet which is then entered into the LARS.

We noted one instance where an employee took eight hours of holiday leave, however, had no available balance of such leave. We noted the employee's August 2003 time sheet recorded eight hours of holiday leave taken by the employee on August 30, 2003. However, per the State-issued 2003 Holiday/Payday calendar there were no State holidays in August. Additionally, the employee's July 2003 time sheet and LARS printout shows no available balance of holiday leave at the end of July. Furthermore, we noted even though the employee recorded the use of eight hours of holiday leave on their time sheet, it was not entered into the LARS system.

The Home is in noncompliance with Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, which states in part:

“ . . . No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered . . . ”

The Home is also in noncompliance with The West Virginia Division of Personnel Administrative Rule Title 143, Series 1. The West Virginia Division of Personnel Administrative Rule Title 143, Series1, 14.3(a), states in part:

“ . . . Annual leave cannot be accrued for hours not paid nor for hours worked beyond the normal workweek which shall not exceed 40 hours. . . ”

The West Virginia Division of Personnel Administrative Rule Title 143, Series 1,

14.4(a), states in part:

A. . . Sick leave cannot be accrued for hours not paid nor for hours worked beyond the normal workweek which shall not exceed 40 hours . . . ”

Furthermore, the Home does not follow their documented procedures, which state in part:

“ . . . Ms. Rowe told us that Home employees are eligible to receive Holiday Equivalent Leave (HEL). As the name implies, an employee earns the number of hours worked on a holiday. Ms. Rowe told us that the employee is not required to fill out an application or receive approval prior to working on the holiday. She further said that if an employee works on a holiday, they are entitled to another day off within the same month. Ms. Rowe also told us that the employee documents on their time sheet both the holiday worked and the additional day taken because of it . . . ”

We determined the employee received compensation for services not rendered in the amount of \$86.68, for the eight hours of holiday leave taken for which the employee did not have sufficient accrued leave to cover. Additionally we determined the employee should not have accrued any sick or annual leave during this unpaid period of absence. Therefore, we determined the employee’s annual and sick leave balances were each overstated by .57 hours.

We recommend the West Virginia Children’s Home comply with Chapter 12, Article 3, Section 13, of the West Virginia Code, as amended; the West Virginia Division of Personnel Administrative Rule Title 143, Series 1; and, the Home’s procedures.

Spending Unit’s Response

We concur with the finding and will take corrective action to comply with the West Virginia Children’s Home comply with Chapter 12, Article 3, Section 13 of the West

Virginia Code, as amended; the West Virginia Division of Personnel Administrative Rule Title 143, Series 1.

Leave Usage Not Recorded

During our testing, we noted one employee failed to properly record sick leave on their time sheet. We observed that attached to the employee's February 2004 time sheet was a completed and approved leave application for three hours of sick leave to be taken on February 5, 2004, however, this leave was not documented on the employee's time sheet. We further noted a physician's statement was attached to the time sheet stating that the employee was at the doctor's office the afternoon of February 5, 2004. Due to this employee failing to record this leave on their time sheet, the leave taken was not recorded into the LARS system and the leave was not deducted from the employee's sick leave balance.

The Home is in noncompliance with Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, which states in part:

“ . . . No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered . . . ”

Furthermore, the Home does not follow their documented procedures, which state in part:

“ . . . Ms. Rowe stated that she does not use the Leave Application to enter the employee's leave into the LARS system, because an employee may not end up taking the leave that was originally requested. She further said that she uses the employee's time sheet to record time taken into the LARS system and that the time sheet is the official record of when an employee worked.

Ms. Rowe said that she reconciles each employee's Leave Applications to the LARS system each month. She further stated that each month she compares each employee's time sheet to the work schedule that is posted in the medicine room . . . She compares the time sheets to the work schedule and to the approved Leave Applications to ensure that employees report the

appropriate amount of leave. Ms. Rowe said that she attaches the Leave Applications to the corresponding employee's time sheet and files them together... ”

The Home's personnel told us this leave was inadvertently omitted from the employee's time sheet and that the leave should have been both recorded on the time sheet and entered into the LARS system. Since these three hours were not recorded into the LARS system as sick leave taken by the employee, the employee's sick leave balance was overstated by three hours and the employee received compensation for time for which they were absent from work and were not on paid leave.

We recommend the West Virginia Children's Home comply with Chapter 12, Article 3, Section 13 of the West Virginia Code and the Home's procedures. In addition, we recommend the Home adjust the employee's sick leave balance accordingly.

Spending Unit's Response

We concur with the finding and will take corrective action to comply with the West Virginia Children's Home comply with Chapter 12, Article 3, Section 13 of the West Virginia Code.

Improper Leave Accrual

Annual leave accrual is based on the employee's length of service. Annual leave is accrued at the end of each pay period or on the last workday for separating employees. Prorated leave is computed in proportion to normal hours worked and/or hours of paid annual and/or sick leave during the pay period.

We noted the following instances where the employee's annual leave balance was overstated due to the improper calculation of annual leave accrual:

<u>Employee</u>	<u>Actual Accrual</u>	<u>Audited Accrual</u>	<u>Difference</u>
#1	13.94	13.00	0.94
#2	15.66	15.00	0.66
#3	14.19	14.00	<u>0.19</u>
		Total	<u>1.79</u>

In the first instance, we determined the Home did not properly accrue annual leave for Employee Number 1 in August 2005. We noted the employee was originally hired by the Home on August 1, 1995, however, at this time the employee was hired on a 90-day temporary/30 day emergency status. The employee's 90 day temporary/30 day emergency status was converted to a permanent full-time status effective August 16, 1995. Based upon the employee's years of service, we determined the employee's annual leave accrual rate should have changed on August 16, 2005 from 1.5 days per month to 1.75 days per month. We calculated the employee should have earned 13 hours of annual leave in August 2005; however, the employee improperly accrued 13.94 hours. Therefore, we determined the employee's annual leave balance was overstated by .94 hours.

In addition, we also determined Employee Number 2's annual leave balance was overstated due to the employee's annual leave accrual being improperly accrued. We noted this employee was originally hired by the Home on August 31, 1988 as a 90-day exempt employee and that the employee's status was then changed to 30 day emergency on January 4, 1989. We further noted the employee became a permanent full-time employee effective February 15, 1989. Therefore, we determined based upon the employee's years of service the employee's annual leave accrual rate should have changed on February 15, 2004 from 1.75 days per month to 2.00 days per month. We calculated the employee should have accrued 15.00 hours of annual leave during the

month of February 2004. However, we noted the employee improperly accrued 15.66 hours and therefore we determined the employee's annual leave balance was overstated by .66 hours.

In the third instance, the annual leave balance for employee three was overstated by .19 hours. We noted the employee was originally hired by the Home on April 1, 1989. Based upon the employee's years of service, we determined the employee's annual leave accrual rate should have changed from 1.75 days per month to 2.00 days per month on April 1, 2004. However, we noted the employee's annual leave accrual rate changed during March 2004 instead. We determined in March 2004 the employee's annual leave accrual rate should have remained 14.00 hours, however, the employee actually accrued 14.19 hours. Therefore, we determined the employee's annual leave balance was overstated by .19 hours.

The Home is in noncompliance with the West Virginia Division of Personnel Administrative Rule Title 143, Series1, 14.3(a), which states in part:

A. ..Amount, Accrual – Except as otherwise noted in this rule, each employee is eligible to accrue annual leave with pay and benefits. The table below lists the rates of accrual according to the employee's length of service category and the number of hours of annual leave that may be carried from one calendar year to another.. ”

“ . . . Length of Service Category Hours	Accrual Rate: Equal To:	Carry-forward Hours: Hours Equal To. . .
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. . . 5 years but less than 1.50 days/month 30 days . . .

10 years of qualifying service

. . .10 years but less than 1.75 days/month 35 days. . .

15 years of qualifying service

. . .15 years or more of 2.00 days/month 40 days. . .
of qualifying service”

Additionally, the West Virginia Division of Personnel Administrative Rule Title 143, Series 1, 14.3(d), states in part:

“1. 30-day emergency, per diem, student, seasonal, or 90-day exempt employees shall not accrue annual leave.”

The Home's personnel were unable to provide us with an explanation as to how the annual leave accrual rates were calculated. They told us the LARS (Leave Attendance Reporting System) automatically accrues the leave for each of the Home's employees and that no related calculations are performed by Home personnel. Annual leave balances for the three employees were overstated by a total of 1.79 hours due to improper accrual rates.

We recommend the West Virginia Children's Home comply with the West Virginia Division of Personnel Administrative Rule Title 143, Series 1. We further recommend the employees' annual leave balances be adjusted accordingly.

Spending Unit's Response

We concur with the finding and will take corrective action with the West Virginia Children's Home to comply with the West Virginia Division of Personnel Administrative Rule Title 143, Series 1.

PROPER PAY AND OVERTIME

Employees of the Home must obtain verbal permission prior to working overtime. We were informed employees must complete an Overtime and Additional Straight-Time Pay Request (Overtime Request) after the overtime has been worked. The employee must sign and date the Overtime Request and submit it to the Office Assistant II.

The Office Assistant II then forwards the Overtime Requests to the Director of the Home for his signature approval. After it has been approved, the Overtime Requests are returned

to the Office Assistant II. She makes and maintains a copy of the Overtime Request. The copy of the Overtime Request is attached to the corresponding time sheet and they are filed together. The Office Assistant II further stated that she sends the original Overtime Requests to the Department of Health and Human Resources (DHHR), Human Services Payroll, for processing the overtime payment. The Human Services Payroll Department determines the overtime payment calculations.

While testing Proper Pay and Overtime we noted the following:

1. During proper pay and overtime test of controls, we noted seven overtime payments which were not properly supported.
2. We noted eleven overpayments of overtime totaling \$223.85, and seven underpayments of overtime totaling \$412.93.
3. We noted one employee was paid \$95.72 for services not rendered.
4. During proper pay and overtime test of controls, we noted where one employee failed to submit the Overtime and Additional Straight-Time Pay Request form (Overtime Request) in the pay period following the period in which the overtime was earned and five instances where the Department of Health and Human Resources (DHHR) Human Resources Payroll employees failed to pay overtime in a timely manner.

The details of the items we noted during our sick, annual, and holiday equivalent leave testing are as follows:

Improperly Supported Overtime

During our testing of overtime payments, we noted three instances where employees were not paid for overtime and/or straight-time in which there was no Overtime and Additional Straight-Time Pay Request to support the time worked and one instance in which an employee was incorrectly paid for overtime and there was no Overtime and Additional Straight-Time Pay Request to support the time worked. These instances are detailed as follows:

<u>Employee</u>	<u>Audited Amount Paid</u>	<u>Actual Amount Paid</u>	<u>Difference</u>
#1	\$67.36	\$0.00	\$ 67.36
#1	16.84	0.00	16.84
#2	53.91	71.70	(17.79)
#2	197.67	0.00	<u>197.67</u>
Total			<u>\$264.08</u>

We also noted three instances where an employee's time sheet showed different hours worked than those hours listed on the Overtime and Additional Straight-Time Pay Request. These instances are detailed as follows:

<u>Employee</u>	<u>Time Sheet Hours</u>	<u>Overtime Request Hours</u>	<u>Difference in Pay Underpay/(Overpay)</u>
#1	13	14	\$31.21
#1	5	6	0.00
#1	9	10	<u>0.00</u>
Total			<u>\$31.21</u>

Part 516 of the Fair Labor Standards Act of 1938, as amended, requires certain records be maintained for non-exempt employees as follows:

- A. . . Every employer shall maintain and preserve payroll or other records containing the following information ...(7) Hours worked each workday and total hours worked each workweek...Each employer shall preserve for at least 3 years:
 - ...(a) *Payroll records...*"

The DHHR Policy Memorandum 2102 - Hours of Work/Overtime (Pilot Policy) Section IX, F. (1) states:

“1. Maintenance of Certain Records Is Required:

Employment, under the FLSA and WV Labor Law, is broadly defined to include all hours that an employee is “suffered”: or “permitted” to work for the employer. Therefore, accurate time sheets must be kept for each employee to be in compliance with wage and hour laws. Also in accordance with the Fair Labor Standards Act, WV labor Law and Division of Personnel policy, the Department must keep and preserve, for a period of no less than 3 years, the following information for each employee:

. . . e. regular hourly rate of pay for any workweek in which overtime compensation is due (the basis for the regular rate, and any exclusion thereof, must be explained.);

f. hours worked each workday and each workweek, with the employee and supervisor signatures;

g. total daily or weekly straight-time earnings or wages due for hours worked during the workday or workweek;

h. total overtime pay for overtime hours;

. . . l. all written documents that affect employees’ wages and salaries in the form of certificates, agreements, plans, and notices, as well as, all wage rates in the form of tables or schedules used in computing straight-time earnings, wages and salary, or overtime pay.”

Without supporting documentation and evidence of management approvals, we are unable to determine if the payments were accurate and authorized. The result of overtime payments not being properly supported could result in and did result in employees not being paid the correct amount owed to them. Therefore, the employee’s time sheets being relied upon as the employee’s official attendance report and leave recording document (time record) could be incomplete and inaccurate. We determined it is possible that as much as 11.76% of overtime pay paid to employees in fiscal years 2006, 2005, and 2004 may not be properly supported.

We recommend the West Virginia Children’s Home and the Department of Health and Human Resources comply with the Fair Labor Standards Act, as amended, and internal policy

memorandums. We also believe the Home should strengthen internal controls over record retention and payment authorizations.

Spending Unit's Response

We concur with the finding and will take corrective action with the West Virginia Children's Home to comply with the Fair Labor Standards Act, as amended, and internal policy memorandums.

Incorrect Overtime Payments

Using the time sheets and Overtime Requests, we determined whether the Home properly compensated employees for overtime worked. Forty hours is the maximum number of hours that an employee covered by the Fair Labor Standards Act of 1938, as amended, may work for an employer in any workweek without receiving additional compensation at not less than the statutory rate for overtime. Under the Act, an employee must be compensated for all hours worked. Therefore, we calculated employees' regular hour rate of pay and overtime rate of pay using a 40-hour workweek and the salary, including annual increment, reflected on the employees' WV-11 Personnel Action Form. We did not include the annual increment in calculating straight time pay. For any hours in a workweek worked beyond 40 hours, we calculated employees' pay at overtime time and a half pay. We noted overtime payments were overpaid totaling \$223.85.

These instances are detailed below:

<u>Item</u>	<u>Employee</u>	<u>Pay Period Ending Date</u>	<u>Difference</u>
#1	#1	July 16, 2003	\$ 31.59
#2	#1	August 15, 2003	1.40
#3	#1	September 30, 2003	17.79
#4	#1	November 14, 2003	95.84

<u>Item</u>	<u>Employee</u>	<u>Pay Period Ending Date</u>	<u>Difference</u>
#5	#1	December 16, 2003	35.94
#6	#1	February 14, 2006	2.15
#7	#1	March 16, 2006	4.30
#8	#2	December 16, 2003	13.13
#9	#2	February 27, 2004	8.08
#10	#2	November, 15, 2005	5.15
#11	#2	March 16, 2006	<u>8.48</u>
Total			<u>\$223.85</u>

In the first instance above, Employee Number 1 worked five hours of overtime during the week of May 31, 2003 - June 6, 2003 and five hours of straight time during the week of June 7, 2003- June 13, 2003. However, she was paid for 10 hours of overtime at time and a half. She was paid \$179.25 instead of \$149.46 which is an overpayment of \$29.79.

In the second instance above, the DHHR did not use the correct Hourly Rate for Straight Time. They included the annual increment in the calculation. According to DHHR Policy Memorandum 2102, Hours of Work/Overtime (Pilot Policy) the Regular Hourly Rate for Straight-Time does not include the annual increment in the calculation. Employee Number One was paid \$47.80 for her Straight-Time hours and should have been paid \$46.40. Therefore, the employee was overpaid by \$1.40. We determined an additional \$.27 underpayment in the overtime pay which may be due to rounding. However, the difference was less than two percent, of the amount tested, which we determined was an immaterial amount.

In the third occurrence above, Employee Number One was paid for 12 hours of overtime (four hours at time and a half, and eight hours of straight time) on September 30, 2003 for working the week of August 30 - September 5, 2003. However, her time sheets indicate she only

worked 11 additional hours (three hours at time and a half, and eight hours of straight time) during that week. There was no Overtime and Additional Straight-Time Pay Request attached to her time sheet showing the overtime worked. The work schedule indicates she did, however, work 12 hours. Yet, the time sheet is the official time document.

In the fourth occurrence above, Employee Number One worked a holiday on September 1, 2003 and was also paid an additional eight hours of straight time for it (a total of 16 hours of pay) instead of choosing to carry the holiday worked over to take holiday leave at another time. Her LARS report indicated, however, that the holiday was in fact carried over through October and November. It appears she was paid for the holiday again on November 14, 2003 for the week of October 11 - 17, 2003.

In the fifth instance listed above, during the week of November 22 - 28, 2003, Employee Number One worked six hours of straight time because she took three hours of holiday leave during this week as well. However, she was paid six hours at time and a half on pay period December 16, 2004.

In the sixth occurrence of an overpayment, the DHHR did not use the correct Hourly Rate for Straight Time. They included the annual increment in the calculation. According to DHHR Policy Memorandum 2102, Hours of Work/Overtime (Pilot Policy) the Regular Hourly Rate for Straight-Time does not include the annual increment in the calculation. Employee Number One was paid \$62.30 for her Straight-Time hours and should have been paid \$60.15. Therefore, the employee was overpaid by \$2.15. We determined an additional difference in the overtime pay which was due to rounding.

In the seventh instance listed above, the DHHR did not use the correct Hourly Rate for Straight Time. They included the annual increment in the calculation. According to DHHR

Policy Memorandum 2102, Hours of Work/Overtime (Pilot Policy) the Regular Hourly Rate for Straight-Time does not include the annual increment in the calculation. Employee Number One was paid \$124.60 for her Straight-Time hours and should have been paid \$120.30. Therefore, the employee was overpaid by \$4.30. We determined an additional difference in the overtime pay which was due to rounding.

In the eighth instance of an overpayment, the DHHR did not use the correct Hourly Rate for Straight Time. They included the annual increment in the calculation. Employee Number Two was paid \$232.05 for her Straight-Time hours and should have been paid \$218.92. Therefore, the employee was overpaid by \$13.13.

In the ninth instance above, the DHHR did not use the correct Hourly Rate for Straight Time. They included the annual increment in the calculation. Employee Number Two was paid \$142.80 for her Straight-Time hours and should have been paid \$134.72. Therefore, the employee was overpaid by \$8.08.

In the tenth instance above, the DHHR did not use the correct Hourly Rate for Straight-Time or Overtime in their calculation. They included the annual increment in the Straight-Time hourly rate calculation. Employee Number Two was paid \$89.45 for Straight-Time and should have been paid \$84.20. She was also paid \$214.68 for Overtime and should have been paid \$214.78. Therefore, she was overpaid a total of \$5.15.

In the 11th instance of an overpayment, the DHHR did not use the correct Hourly Rate for Straight Time. They included the annual increment in the calculation. Employee Number Two was paid \$148.40 for her Straight-Time hours and should have been paid \$139.92. Therefore, the employee was overpaid by \$8.48

We noted seven overtime payments were underpaid totaling \$412.93. These instances are detailed below:

<u>Item</u>	<u>Employee</u>	<u>Pay Period Ending Date</u>	<u>Difference</u>
#1	#1	July 15, 2005	(\$ 1.40)
#2	#2	December 16, 2003	(197.67)
#3	#2	May 31, 2006	(31.21)
#4	#3	July 16, 2003	(64.06)
#5	#3	December 31, 2003	(93.86)
#6	#3	April 29, 2005	(16.84)
#7	#3	November 30, 2005	<u>(7.89)</u>
			<u>(\$412.93)</u>

In the first instance above, Employee Number One earned three hours of overtime, however, it appears his hourly rate of pay was miscalculated. The employee earned his overtime during the pay period ending on June 15, 2005 and his salary at that time was \$22,608. His annual increment was \$650. Therefore his hourly pay was $(22608 + 650)/2080 = \$11.18$. His rate of pay at time and a half would be $11.18 * 1.5 = \$16.77$. Therefore, he should have been paid $16.77 * 3 = \$50.32$. The employee was paid \$48.92 which amounted to three hours at \$16.30. We believe this employee's rate of pay did not take into account his annual increment. Therefore, he was underpaid \$1.40 on July 15, 2005.

In the second instance above, Employee Number Two worked 11 hours of overtime during the week of November 15 - 21, 2003, however, she was not paid for this overtime. Therefore, she is underpaid \$197.67.

In the third instance of an underpayment, Employee Number Two worked 13 hours of overtime (to be paid at time and a half) during the week of April 29 - May 5, 2006, however, her

Overtime and Additional Straight-Time Pay Request stated she worked 14 hours of overtime. She also worked an additional 13 hours of overtime (to be paid at time and a half) during the week of May 6 - May 12, 2006. The employee was paid for 19 hours of overtime at time and a half and eight hours of straight time on May 31, 2006.

In the fourth occurrence above, Employee Number Three worked four hours of straight time during the week of June 28 - July 4, 2003. However, she was not paid for these additional four hours and there is no Overtime and Additional Straight-Time Pay Request attached to her time sheet showing the straight time worked. She should have been paid for a total of eight hours of Straight-Time. Additionally, the DHHR did not use the correct Hourly Rate for the four hours of Straight Time they did pay her for. They included the annual increment in the calculation. The employee was paid \$71.28 for her Straight-Time hours and should have been paid \$134.72. Also, the DHHR calculated her time and a half pay incorrectly for the an additional 13 hours of overtime she worked during this period and for which she was paid. She was paid \$347.49 for her overtime and should have been paid \$348.14. Therefore, she was underpaid a total of \$64.06.

In the fifth instance listed above, Employee Number Three worked 13 hours of overtime during the week of December 3, 2003 - December 12, 2003. She was paid for the 13 hours at a rate of \$19.56 which totaled \$254.28. However, she should have been paid time and a half at \$26.78 per hour for a total of \$348.14. Therefore, she was underpaid a total of \$93.86.

In the sixth instance above, Employee Number Three worked one hour of straight time during the week of April 9 - 15, 2005. However, she was not paid for this hour of straight time. There is also no Overtime and Additional Straight-Time Pay Request attached to her time sheet indicating the straight time worked.

In the seventh underpayment instance, Employee Number Three's overtime hourly rate of time and a half is \$27.82. However, she was paid at \$26.835 per hour. Therefore, she was underpaid \$7.89 for eight hours of overtime work paid on November 30, 2005.

Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, states in part:

“ . . . No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered . . . ”

The Fair Labor Standards Act of 1938, as amended, §778.223, states in part:

“ . . . Under the Act an employee must be compensated for all hours worked. As a general rule the term “hours worked” will include (a) all time during which an employee is required to be on duty or to be on the employer's premises or at a prescribed workplace and (b) all time during which an employee is suffered or permitted to work whether or not he is required to do so . . . ”

The Fair Labor Standards Act of 1938, as amended, §778.109, states in part:

“ . . . The regular hourly rate of pay of an employee is determined by dividing his total remuneration for employment (except statutory exclusions) in any workweek by the total number of hours actually worked by him in that workweek for which such compensation was paid . . . ”

The Fair Labor Standards Act of 1938, as amended, §778.107, states in part:

“ . . . The general overtime pay standard in section 7(a) requires that overtime must be compensated at a rate not less than one and one-half times the regular rate at which the employee is actually employed . . . ”

The Fair Labor Standards Act of 1938, as amended, §778.101, states in part:

A. . . As a general standard, section 7(a) of the Act provides 40 hours as the maximum number that an employee subject to its provisions may work for an employer in any workweek without receiving additional compensation at not less than the statutory rate for overtime . . . ”

In addition, Chapter VIII. "Definitions" of the DHHR Policy Memorandum 2102, (Pilot Policy) computes overtime and/or additional straight-time compensation as follows:

"... **A. Additional Straight-Time:** Hours logged in excess of the 40 hour workweek which, due to other compensated time used (sick, annual, compensatory leave, or a holiday), do not incur overtime, and thus, would be compensated at the regular hourly rate. . . .

. . . **M. Overtime Compensation:** Overtime compensation is pay due nonexempt employees at a rate of 1 ½ times their regular hourly rate of pay for time actually worked in excess of 40 hours in a workweek. . . .

. . . **N. Regular Hourly Rate:** Hours paid are based upon the West Virginia Department of Administration, Schedule of Salary Grades **less tenure increment. (Emphasis added)** . . .

. . . **O. Regular Hourly Rate of Pay For the Purpose of Overtime Compensation:** An employee's yearly gross wage (base salary plus Increment pay) divided by 2080 hours, or proportionate hours for which employed, i.e. an FTE of .50 divided by 1040. . . ."

For the overtime and straight-time hours not paid, DHHR stated they do not receive the time sheets of employees. Therefore, if an Overtime and Additional Straight-Time Pay Request is not forwarded to them for payment, the overtime and straight-time does not get paid. Also, the DHHR personnel agreed they were calculating Straight-Time incorrectly according to their own internal policy.

The instances of overpayments of overtime and/or straight-time resulted in the employees being paid for services not rendered. The instances of underpayments of overtime and/or straight-time resulted in the employees not being paid for services rendered. We determined as much as 13.18% of overtime pay paid to employees in fiscal years 2006, 2005, and 2004 may be improperly calculated.

We recommend the West Virginia Children's Home comply with Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended; the Fair Labor Standards Act of

1938, as amended; and the DHHR Policy Memorandum 2102, (Pilot Policy). We believe the DHHR should strengthen internal controls over overtime and/or additional straight-time compensation payments.

Spending Unit's Response

We concur with the finding and will take corrective action with the West Virginia Children's Home to comply with Chapter 12, Article 3, and Section 13 of the West Virginia Code, as amended; the Fair Labor Standards Act of 1938, as amended; and the DHHR Policy Memorandum 2101, (Pilot Policy).

Paid for Services Not Rendered

West Virginia Children's Home (Home) employees work 40 hour workweeks from Saturday through Friday. Their salary is based on the 40-hour workweek. During our review of one employee's January and February 2005 time sheets and leave applications we noted for the week beginning on January 29, 2005 and ending on February 4, 2005, the employee only worked 32 hours. Therefore, her February 14, 2005 paycheck should have been short eight hours of pay. Her paycheck should have amounted to \$1,092.12 instead of \$1,187.84, which would have been a \$95.72 difference.

Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, states in part:

“ . . . No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered. . . .”

Home personnel stated the result of paying an employee for hours not worked may be the result of an incorrect time sheet. They stated, on January 31, 2005 the employee possibly worked from 4 a.m. - 8 p.m., a total of 16 hours, which would have been a total of 40 hours for the

entire week. However, upon review of the employee's work schedule it states she worked from 4 p.m. - 7 p.m. which is only three hours and was difference from the time sheet.

The employee being paid for a full week of work, meaning 40 hours, instead of the 32 hours they actually worked resulted in the employee being paid for services not rendered.

We recommend the West Virginia Children's Home comply with Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended.

Spending Unit's Response

We concur with the finding and will take corrective action with the West Virginia Children's Home to comply with Chapter 12, Article 3, and Section 13 of the West Virginia Code, as amended.

Overtime Not Submitted and Paid in a Timely Manner

Our testing revealed one out of 61 overtime and/or straight time payments tested, or 1.64%, where a Home employee failed to submit the Overtime and Additional Straight-Time Pay Request form in the pay period following the period in which the time was earned in noncompliance with the DHHR Policy Memorandum 2102 (Pilot Policy). This instance totaled \$48.92. The employee worked overtime during the pay period ending on June 15, 2005, however, he did not turn the Overtime Request form in to the Home until July 1, 2005.

Moreover, we noted 8.20% or five out of 61 overtime and/or straight time transactions tested where the DHHR Human Services Payroll employees failed to pay overtime in a timely manner. The instances are detailed as follows:

<u>Employee</u>	<u>Hours Earned</u>	<u>Pay Period Ending in which Overtime Earned</u>	<u>Date Paid</u>	<u>Amount Paid</u>
#1	5	06/15/03	07/16/03	\$ 89.70
#1	3	10/16/03	11/14/03	53.91
#1	11	02/14/06	03/16/06	174.44
#2	8	05/16/06	06/15/06	148.80
#2	<u>4</u>	05/16/04	06/15/04	<u>107.10</u>
	<u>31</u>			<u>\$573.95</u>

The instance of an employee failing to submit the Overtime Request in the pay period following the period in which the time was earned is in noncompliance with DHHR Policy Memorandum 2102 (Pilot Policy), Section IX, Subsection E (1) which states:

“1. Overtime Calculated On A Workweek:

Overtime is calculated and paid on a workweek basis. There is no requirement that overtime compensation be paid weekly; however, submission for payment should not be delayed beyond the pay period following the period in which the overtime occurred.”

The instances of the DHHR employees not paying overtime and/or straight time in a timely manner was in noncompliance with the Fair Labor Standards Act, Part 778, subsection 106, as amended, which states in part:

“Time of payment.

There is no requirement in the Act that overtime compensation be paid weekly. The general rule is that overtime compensation earned in a particular workweek must be paid on the regular pay day for the period which such workweek ends. When the correct amount of overtime compensation cannot be determined until some time after the regular pay period, however, the requirements of the Act will be satisfied if the employer pays the excess overtime compensation as soon after the regular pay period as is practicable. Payment may not be delayed for a period longer than is reasonably

necessary for the employer to compute and arrange for payment of the amount due and in no event may payment be delayed beyond the next payday after such computation can be made . . . ”

According to our prior special report on overtime and additional compensation of the West Virginia Department of Health and Human Resources for the period of July 1, 2003 through June 30, 2005, the DHHR’s Central Office Payroll Supervisor stated all employees do not submit the Overtime and/or Additional Straight-Time Pay Request forms timely, therefore, the payments are not processed until the employee submits the request. By failing to keep up-to-date documentation of the overtime employees worked, employees could earn the overtime and never get paid.

We recommend the West Virginia Children’s Home comply with the Department of Health and Human Resources Policy Memorandum 2101 (Pilot Policy), Section IX, Subsection E (1), and the Department of Health and Human Resources comply with the Fair Labor Standards Act, as amended.

Spending Unit’s Response

We concur with the finding and will take corrective action with the West Virginia Children’s Home to comply with the Department of Health and Human Resources Policy Memorandum 2101 (Pilot Policy), Section IX, Subsection E (1), and the Department of Health and Human Resources comply with the Fair Labor Standards Act, as amended.

PURCHASING CARD POLICIES AND PROCEDURES

We performed a test of the purchasing card (P-card) transactions at the Home to determine the transactions were made in accordance with the State Auditor’s “State Purchasing Card Program Policies and Procedures” handbook. The instances we noted are as follows:

1. During our review and substantive testing of the P-card transactions at the West Virginia Children's Home (the Home), we noted card delegation occurring.
2. We noted the card holders are not reconciling their purchasing card statements.
3. We noted the Home did not make purchases from available Statewide contracts.
4. During our review of the P-card transactions at the Home, we noted for 12 transactions out of 25 tested no one signed or dated the receipt showing the goods were received, one invoice out of 25 was not dated by the receiver of goods when the goods were received, one out of 25 was not signed by the cardholder, 12 out of 25 invoices were not dated by the cardholder showing when the goods were received, for 25 out of 25 transactions tested a log sheet was not prepared, and a WVCH Purchasing Request could not be located for 25 out of 25 transactions.

These items are detailed below:

Purchasing Card Delegation

A requirement in the State Auditor's "State Purchasing Card Program Policies and Procedures" handbook is that card delegation is prohibited. During our review of the purchasing cards at the Home we noted card delegation had occurred. During our audit period, the Home had two purchasing card holders, the Social Services Supervisor/Assistant Director, and one Juvenile Detention Officer I. However, during our audit period until February 2006, the Social Services Supervisor/Assistant Director was the only cardholder. We were informed by Home personnel when an employee needs to make a purchase on a P-card they will then request the Social Services Supervisor/Assistant Director's P-card, take the card to the vendor, and make the purchase. The employee would sign the cardholder's name at the point of purchase. The Social Services Supervisor/Assistant Director may make purchases on her card as well as a Maintenance employee; and three Juvenile Detention Officers. If the cardholder is not going to be in the office she gives her card to the Office Assistant to maintain until she is available. If the cardholder has stepped out of the office for a few minutes, the Office Assistant may present the card to the employees.

While reviewing P-card transactions we noted P-card delegation had occurred relating to the following transaction:

<u>S-Document Number</u>	<u>Vendor Name</u>	<u>Date of Purchase</u>	<u>Amount of Purchase</u>
S002573467	SWECO FURNITURE	04/14/04	\$348.00

We noted an employee other than the cardholder signed the Sales Order for this order and the Sales Order contained the card number. Additionally, while testing P-card transactions we noted P-card delegation had occurred relating to the following transactions:

<u>S-Document Number</u>	<u>Vendor Name</u>	<u>Date of Purchase</u>	<u>Amount of Purchase</u>
S003721773	Wendling Foodservice	06/14/06	\$1,898.59
S003481820	Liberty Distributors Inc.	01/06/06	<u>1,022.50</u>
		Total	<u>\$2,921.09</u>

We were informed by the Secretary I that she places orders which are on the Statewide contract. She places the order by fax and includes the cardholder's card number and card expiration date in the fax. The Secretary I is not a cardholder.

We believe these instances are in noncompliance with State Purchasing Card Program Policies & Procedures Section 3.4 Card Delegation, which states:

“3.4 Card Delegation

Card delegation is the practice of allowing an individual other than the cardholder whose name appears on the front of the Pcard to have access to the card or card number to initiate or complete a transaction. Card delegation is prohibited.

Card Delegation includes allowing an individual other than the cardholder to:

- have physical possession of the card to make payments to point of sale vendors;
- have access to the card number and expiration date to make payments via telephone, internet, or in person;
- have access to receipts or invoices that display the card number and expiration date.

Pcards are issued in an individual employee's name. Only that person named on the card is an authorized user. Card delegation increases the risk of fraud and cardholder liability."

With other employees using the Social Services Supervisor/Assistant Director's card and signing her name, there is a possibility additional card delegation has occurred, other than those instances noted above, however, we are unable to determine if the signatures on the receipts are the cardholder's or another employee's. Cardholders allowing other employees to utilize their purchasing card or have access to documents with purchasing card numbers may result in unauthorized purchases being charged to their card. Card delegation increases the chance for fraud and unauthorized purchases to occur.

The Social Services Supervisor/Assistant Director during our audit period has, as of September 2006, retired from the Home, therefore, the Juvenile Detention Officer I is the sole P-card holder.

We recommend the West Virginia Children's Home comply with the State Auditor's "State Purchasing Card Program Policies and Procedures."

Spending Unit's Response

We concur with the finding and will take corrective action with the West Virginia Children's Home to comply with the State Auditor's "State Purchasing Card Program Policies and Procedures."

Purchasing Card Reconciliation

Each month, the Secretary I receives the purchasing cardholders' individual statements detailing all purchasing card activity within the spending unit. She reconciles the invoices/receipts to the cardholders' statements. The cardholders do not receive the invoices/receipts unless they make the purchase. They also do not receive their individual statements. She then reconciles each purchase card transaction in the West Virginia Financial Information Management System (WVFIMS). Once reconciled, she writes each "S document" number onto each invoice/receipt, the date it was reconciled, and the DHHR Object Expenditure Code used for that purchase. However, the Secretary I is not a cardholder. Therefore, cardholders are not reviewing the purchases charged to their purchasing card or reconciling their own purchasing card statements.

Section 8.1 of the West Virginia State Auditor's "State Purchasing Card Program Policies and Procedures" states in part,

"Each cardholder is responsible for ensuring that his or her statement is reconciled every month. The agency card coordinator or chief financial officer is responsible for ensuring the reconciliation of the master statement/account. The cardholder must review all transactions to ensure that they are legitimate and for official state business, and that all required documentation is included."

We recommend the West Virginia Children's Home comply with the State Auditor's "State Purchasing Card Program Policies and Procedures."

Spending Unit's Response

We concur with the finding and will take corrective action with the West Virginia Children's Home to comply with the State Auditor's "State Purchasing Card Program Policies and Procedures."

Purchases Not Made from Statewide Contracts or Internal Resources

During our substantive testing of P-card transactions, we noted the Home did not consistently make purchases from available Statewide contracts or purchase products provided by internal resources, for example, West Virginia Correctional Industries. Section 6.1 of the Purchasing Division's "Policies and Procedures Handbook" requires state agencies to purchase from Statewide contracts, unless specifically exempted in writing by the Purchasing Director and internal resources, such as Correctional Industries. Our testing revealed seven instances totaling \$562.32 where purchases were not made from Statewide contracts which were available. The Home did not receive prior written approval from the Purchasing Director to be exempt from using a Statewide contract or West Virginia Prison Industries in any of these instances.

In the first instance, an employee for the Home purchased liquid soap totaling \$32.64, from Wall-Mart during June 2006. One vendor, the West Virginia Association of Rehab Facilities, was an authorized vendor under the WVARF Statewide contract at the time of the purchase.

The second purchase consisted of dishwashing and dishwasher detergent totaling \$16.35 from Wall-Mart during June 2006. One vendor, Ecolab Inc, was an authorized vendor under the DWASH Statewide contract at the time of the purchase.

The third instance consisted of the Home purchasing a cart and shelf from Office Products Inc. for \$379.80. Several vendors were authorized dealers for office furniture under the

SYSFURN and OFFICE Statewide contracts at the time of the purchase. However, Office Products Inc. was not on of those authorized vendors. Additionally, West Virginia Prison Industries could have possibly provided these items to the Home.

In the fourth purchase, the Home purchased laundry detergent from Wal-Mart for \$33.82. One vendor, Ecolab, Inc, was an authorized vendor under the LAUNDRY Statewide contract at the time of the purchase.

The fifth instance consisted of the Home purchasing swiss cheese for \$8.00, crackers for \$10.17, and honey for \$4.99 from Elkins Shop 'n Save. There is a Statewide contract under FOOD, for these items.

In the sixth instance the Home purchased crackers from Kroger for \$28.01. There is a Statewide contract for crackers under the FOOD Statewide contract.

The seventh purchase consisted of the Home purchasing batteries from Wal-mart in the amount of \$48.54. One vendor, WV Electric Supply Company, was an authorized vendor under the DCBATT Statewide contract at the time of the purchase.

Section 6.1.1 of the West Virginia Purchasing Division's "Policies and Procedures Handbook" states in part,

“. . .Agencies must first check mandatory contracts or internal resources, such as statewide contract or agency open-end contract exists for the commodity or service or if Surplus Property, Correctional Industries or the West Virginia Association of Rehabilitation Facilities is able to supply the need . . . ”

We also believe the aforementioned purchases would be in noncompliance with the Division of Purchasing Rule Title 148, Series 1, Section 7.4, which states:

“7.4. Open End Contracts.
The State may secure open end contracts to obtain commodities and/or printing to supply the repetitive needs of the State spending

units in the form of statewide contracts, blanket orders, or price agreements. The Director may solicit requirements for similar commodities, printing, and services to determine the best methods for acquisition. The Director may grant exceptions to spending units from utilizing existing statewide contracts, blanket orders, price agreements, etc., on a case-by-case basis if the Director determines these exceptions are in the best interest of the State.”

We recommend the West Virginia Children’s Home comply with the State Auditor’s “State Purchasing Card Program Policies and Procedures” and the Division of Purchasing Rule Title 148, Series 1.

Spending Unit’s Response

We concur with the finding and will take corrective action with the West Virginia Children’s Home to comply with the State Auditor’s “State Purchasing Card Program Policies and Procedures”, and the Division of Purchasing Rule Title 148, Series 1.

Lack of Documentation and Incomplete Documentation

A requirement in the State Auditor’s “State Purchasing Card Program Policies and Procedures” handbook is the person receiving the goods shall state in writing the date the goods were received. If the person receiving the goods is not the cardholder, the cardholder shall also acknowledge receipt of the merchandise by signature. Additionally, each cardholder is required to maintain a log sheet containing the date, vendor name, and an item description, as well as the appropriate object code for each purchase. We were informed by Home personnel that log sheets are not prepared for any purchasing card transactions.

While performing substantive testing on the Home’s purchasing card purchases we noted for 12 transactions out of 25 tested no one signed or dated the receipt showing the goods were received, one invoice out of 25 was not dated by the receiver of when the goods were received, one out of 25 was not signed by the cardholder, 12 out of 25 invoices were not dated by

the cardholder showing when the goods were received, for 25 out of 25 transactions tested a log sheet was not prepared, and a WVCH Purchasing Request could not be located for 25 out of 25 transactions.

We believe these instances are in noncompliance with State Purchasing Card Program Policies & Procedures Section 7.1, Receipts, which states in part:

“ . . . The person receiving the goods shall sign the receipt and state in writing the date the goods or services were received. If the person receiving the goods is not the cardholder, the cardholder shall also acknowledge receipt of the merchandise by electronic or physical signature. . . .”

State Purchasing Card Program Policies & Procedures Section 7.2, Log Sheets, also states in part:

“ . . . 7.2 Log Sheets

Each cardholder is required to maintain a log sheet (see Appendix 8) containing the date, vendor name, and an item description, as well as the appropriate object code for each purchase . . .

. . . Log sheets may be computerized or manual and must be signed by both the cardholder and the agency coordinator acknowledging that all entries have been reconciled and are legitimate . . .”

With the cardholder not acknowledging receipt of the goods with a physical signature we were unable to determine if the cardholder knew the items had been received. Since log sheets are not prepared and signed by the cardholder or the purchasing card coordinator, we were unable to determine if the transactions had been reconciled and were legitimate. We projected the overall percent error rate for the Proper Documentation Attribute within the substantive testing of purchasing card transactions which includes the aforementioned items noted to be 100.00%.

We recommend the West Virginia Children’s Home comply with the State Auditor’s “State Purchasing Card Program Policies and Procedures.”

Spending Unit's Response

We concur with the finding and will take corrective action with the West Virginia Children's Home to comply with the State Auditor's "State Purchasing Card Program Policies and Procedures."

FOOD INVENTORY RECORDS

During our substantive testing of the Home's food inventory, we noted the following 16 food items had differences between the quantities of inventory on hand and the quantities per the inventory list:

<u>Item Description</u>	<u>Measured In</u>	<u>Quantity per Actual Count</u>	<u>Quantity per Inventory List</u>	<u>Difference</u>
Potato Slices	Bags	5	7	(2)
Turkey Breast	Breasts	14	13	1
Chocolate Coco Pops	N/A	0	3	(3)
Frosted Flakes	Bags	13	16	(3)
Grits	N/A	0	8	(8)
Cranberry Juice	Cans	15	19	(4)
Coffee	Bags	12	20	(8)
Maraschino Cherries	Jars	18	23	(5)
Walnut Halves	Bags	11	9	2
Pancake Syrup	Bottles	8	6	2
Grape Jelly	Cans	23	12	11
Chocolate Syrup	Cans	16	8	8
Red Sweet Peppers	Cans	3	7	(4)
Lima Beans	Cans	9	4	5
Chicken Noodle Soup	Cans	18	0	18
Chicken Nuggets	Bags	7.5	17	(10)

We also noted six instances where the running balances maintained by Home personnel on Running Inventory sheets did not recalculate. The following table details the inventory item; the units of measurement; the starting balance, amount in/out, and the ending balance per the item's Running Inventory sheet; the audited ending balance; and the difference between the ending balance and audited ending balance:

<u>Item</u>	<u>Measured In</u>	<u>Starting Balance</u>	<u>Amount In/(Out)</u>	<u>Ending Balance</u>	<u>Audited Ending Balance</u>	<u>Difference</u>
Coffee	Bags	46	(3)	33	43	(10)
Coffee	Bags	15	(2)	14	13	1
Lima Beans	Cans	15	(3)	7	12	(5)
Chicken Noodle Soup	Cans	46	(4)	32	42	(10)
Chicken Nuggets	Bags	12	(2)	8	10	(2)
Chicken Nuggets	Bags	18	(2)	13	16	(3)

Additionally, the Home's cooks were unable to provide us with food inventory records regarding all food inventory purchased and distributed during our audit period. The cooks told us that they only maintain records of current food inventory items.

Also, we were unable to trace four food purchases from the vendor invoice to the Home's food inventory listing. The purchases are detailed below:

<u>Item Description</u>	<u>Date Purchased</u>	<u>Amount</u>
Bacon and Sausage	N/A	\$167.32
Chicken	06/02/03	149.70
Pop, corn, and cantaloupe	06/30/05	32.98

<u>Item Description</u>	<u>Date Purchased</u>	<u>Amount</u>
Bread	06/27, 06/28, and 6/30/05	<u>62.10</u>
	Total	<u>\$412.10</u>

Home personnel were unable to provide us with an invoice to support the purchase of the bacon and sausage. Home personnel were also unable to provide us with an itemized invoice to support the purchase of chicken, which was charged to the Home's purchasing card. The Home's cooks told us they do not maintain food inventory records for bread, milk, and produce purchased by the Home. They further told us that purchases made for pop are also not recorded into the food inventory listing.

The Home is in noncompliance with Chapter 5A, Article 8, Section 9, of the West Virginia Code which states in part:

“The head of each agency shall: . . .(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities. . . .”

In the instance of Home personnel being unable to provide us with an itemized invoice to support the purchase made by the Home using the Home's purchasing card, we determined the Home is in noncompliance with Section 7.1 of the State Auditor's "State Purchasing Card Program Policies and Procedures" which states in part:

A. . . Except where otherwise exempted by statute or rule, an itemized receipt must be obtained for each transaction placed on the card. The purchaser is required to obtain a legible, itemized receipt or listing detailing the goods or services purchased, the vendor name, and the date of purchase. Receipt documentation may be hard copy or electronic and shall be retained by the spending unit. A receipt description, which only states

“Miscellaneous”, or “Merchandise”, or only includes a vendor’s stock or item number is not acceptable. The person receiving the goods shall sign the receipt and state in writing the date the goods or services were received. If the person receiving the goods is not the cardholder, the cardholder shall also acknowledge receipt of the merchandise by electronic or physical signature. In the event that an acceptable form of receipt is not available, the purchaser shall create, either in paper or electronic form, an itemized list which satisfies the requirements set forth in this subsection. The purchaser’s signature, physical or electronic, shall be affixed to the form, inclusive of the date the goods were received, along with whatever receipt is available.”

Furthermore, the Home’s documented procedures are not being followed, which

state in part:

“ . . . The Home’s Cooks told us that they maintain an inventory book to record the receipt and disbursement of food. They told us that each item purchased is given its own Running Inventory Sheet (**Exhibit A**) within the inventory book. When the Home receives food, they said that on the Running Inventory Sheet they record the type of item purchased, the unit cost, the date, and the amount received. Anytime that food is used, the Home’s Cooks said that the amount is recorded on the corresponding item’s Running Inventory Sheet. They also told us that a running balance of the item is maintained on this sheet.

The Home’s Cooks said that they complete a physical inventory twice per year. They stated that any changes made to individual Running Inventory Sheets are separately identified as corrections. A form is used when items are removed from the food stockroom; however, when a cook is ill and a staff member is assigned to prepare the meal, they are not familiar with the inventory process and may not list items used for that meal. Adjustments are made to the running inventory upon the cooks return to duty. Additionally, the cooking instructor who teaches cooking to the residents, prepares a list of items needed for weekly skills cooking class and the cooks provide them with the items. The cooks adjust the food inventory listing as the items are pulled for the instructor. . . .”

The failure of Home personnel to keep a perpetual food inventory causes the Home to lack records of inventory on hand in the kitchen at the Home, as well as, those records necessary

to determine whether the food items were being used only to provide meals to the residents. The Home's cooks told us when an item is taken from the storeroom in the basement and brought upstairs, they document the removal of the item on a separate paper downstairs and update the item's Running Inventory sheet when they have time.

As for the six instances where the perpetual balances on the Running Inventory sheets did not recalculate, Home personnel told us that four instances were clerical errors. In regards to the two instances noted for the chicken nuggets, Home personnel said the number of bags per case varies depending upon the vendor used. Even though the Running Inventory sheet for the chicken nuggets records that there are six bags per case, Home personnel said that some cases may only have four bags. They said it is possible the differences in bags per case could be the cause of the recalculation differences.

The Home's cooks told us they do not maintain food inventory records for bread purchased by the Home; they told us this is due to these items being purchased twice per week. Additionally, they told us they did not inventory the purchase of the corn and cantaloupe. The Home's cooks said that produce purchases are not recorded into the food inventory listing since these purchases are made on a weekly basis. They further told us purchases of soda pop are also not recorded into the food inventory listing. They said soda pop is generally used soon, if not immediately, after it is purchased; therefore, it is not accounted for in the inventory listing.

We recommend the West Virginia Children's Home comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code; Section 7.1 of the State Auditor's "State Purchasing Card Program Policies and Procedures"; and the Home's documented procedures. We further recommend the Home strengthen internal controls over food inventory.

Spending Unit's Response

We concur with the finding and will take corrective action with the West Virginia Children's Home to comply with Chapter 5, Article 8, Section 9, of the West Virginia Code; Section 7.1 of the State Auditor's "State Purchasing Card Program Policies and Procedures".

STOCKROOM INVENTORY RECORDS

The West Virginia Children's Home maintains a stockroom of personal hygiene items, pharmaceuticals, clothing, and linens purchased by the Home for use of the residents. An inventory book is maintained in which are recorded the ordered items received, items distributed out, and a running balance. Each category has its own individual sheet within the inventory book where receipts and disbursements are recorded. Although donated items may be kept in the stockroom, they are not recorded in the book.

The stockroom is kept locked and the key is maintained in the Home's front office. Only three Juvenile Detention Officers and the Director of the Home have access to the stockroom. In the evenings if a resident needs an item, normally the Director will go into the stockroom and get the item. He writes what was taken on a note pad so the withdrawal of the item(s) can be recorded in the inventory book the following day.

Additionally, the Home begins a new stockroom inventory sheet for each item each year. They do not maintain copies of the prior year's inventory sheets. The majority of the sheets in the stockroom book have a starting date of June 15, 2006.

While performing a physical count of 20 items in the stockroom, we noted 16 of those items listed on the stockroom inventory did not agree to the physical count. These instances are detailed as follows:

<u>Item Description</u>	<u>Measured In</u>	<u>Quantity Per Actual Count</u>	<u>Quantity Per Inventory List</u>	<u>Difference</u>
Pads (menstrual)	Packages	14	12	2
Razors (Boys)	Packages	4	5	-1
Soap (Liquid)	Jugs	5	7	-2
Tampons	Boxes	7	14	-7
Dayquil (Equate)	Boxes	9	8	1
Belts (Boys)	Item	9	8	1
Socks (Girls)	Pair	75	41	34
Shower curtains	Item	0	10	-10
Notebooks (70 page)	Item	56	45	11
Q-tips	Box	9	10	-1
Deodorant (Girls)	Item	4	12	-8
Cepacol	Box	4	5	-1
Wash Cloths	Item	696	360	336
Towels	Item	216	276	-60
Hydrogen Peroxide	Bottle	3	4	-1
Chapstick	Item	4	7	-3

Additionally, we could not trace any of the ten invoices chosen for testing, to the stockroom inventory listing.

<u>Item Description</u>	<u>Date Purchased</u>	<u>Amount of Purchase</u>
10 Men's Boxers, 4 Pairs Men's Socks	04/30/04	\$ 51.64
Personal Hygiene Items	08/19/03	209.70
Personal Hygiene Items	08/31/03	219.70
Personal Hygiene Items	09/17/04	116.85
Personal Hygiene Items	07/14/05	343.37
Manicure, Mouthwash, Body Wash, Suncare	07/25/05	109.61
Envelopes	05/23/06	65.00
Tablecloth	09/4/03	47.86
IB Caplets	04/19/04	15.94

<u>Item Description</u>	<u>Date Purchased</u>	<u>Amount of Purchase</u>
Belts	01/22/04	<u>332.16</u>
	Total	<u>\$1,511.83</u>

We believe these instances are in noncompliance with the provisions of Chapter 5A, Article 8, Section 9 of the West Virginia Code which states, in part:

“The head of each agency shall:

. . .(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities. . . .”

Additionally, these instances are in noncompliance with the Home’s Inventory procedures which state, in part,

“ . . . Ms. Chewning told us that once a month either herself or Ms. Simmons takes an inventory of the items in the stockroom by comparing the balances of the sheets in the book to the actual inventory on hand for each particular item. She stated that if there is a difference between the amount on hand and the amount recorded in the book, she first checks the note pad to see if there are any notes left to account for the difference. Ms. Chewning told us that she then makes an adjustment to the book balance to reflect the actual amount on hand.”

The failure of Home personnel to keep a perpetual inventory system causes the Home to lack accurate records of inventory on hand in the stockroom at the Home, as well as, those records necessary to determine whether the stockroom supplies were being used only for the benefit of the residents. We believe the lack of accurate perpetual inventory records regarding stockroom inventories represents a material weakness in the system of internal controls of the Home. When we spoke with Home personnel, we were informed it is difficult to keep track of the items being used because items are taken from the stockroom each day.

We recommend the West Virginia Children's Home comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, and the Home's Inventory procedures.

Spending Unit's Response

We concur with the finding and will take corrective action with the West Virginia Children's Home to comply with Chapter 5A, Article 8, Section 9, of the West Virginia Code, as amended.

SEPARATION PAY

When an employee terminates employment due to retirement, resignation, or transfer, they are entitled to payment of services rendered up to their date of separation, taking annual leave into account. In addition, employees who retire or resign from employment, that meet eligibility requirements, are entitled to prorated annual increment and/or annual leave lump sum payment. In determining such calculations, we noted one employee was underpaid a total of \$86.69.

The employee was underpaid \$86.69 due to the proration of annual increment calculation, performed by the Human Services Payroll personnel for the Deputy Secretary for Administration for the Department of Health and Human Resources (DHHR), using the incorrect annual increment amount.

Chapter 5, Article 5, Section 1 of the West Virginia Code, states in part:

“ . . . “Years of service” means full years of totaled service as an employee of the state of West Virginia . . . ”

Chapter 5, Article 5, Section 2 of the West Virginia Code, as amended, states in part:

“ . . . Every eligible employee with three or more years of service shall receive an annual salary increase equal to fifty dollars times the employee's years of service. In each fiscal year and on the first

day of July, each eligible employee shall receive an annual increment increase of fifty dollars for that fiscal year. . . .”

Attorney General's opinion dated June 27, 1990 states, in part:

“ . . . Considering that the W. Va. Code §5-5-2 incremental increase constitutes part of an eligible state employee's regular pay for services previously rendered, any such employee has a statutory right to any accrued pro rata share of that increment owing but not due on his final day of employment. By entitlement to a pro rata share, it is meant that an employee who does not work an entire fiscal year is entitled to a fractional portion of the total increment to which the employee would have been entitled had he been employed during the entire fiscal year. The fraction would have as a numerator the number of pay periods employed, and as a denominator the number twenty-four if the employing agency pays its employees twice monthly. . . .”

This Attorney General's Opinion further states:

A. . . the W. Va. Code § 5-5-2 increase is an integral part of an employee's gross annual salary, and such increment is not to be deleted or subtracted in the course of determining the value of payment for accrued and unused annual leave days upon termination of employment. It remains the position of this office today that such a deletion or subtraction for any purpose would unlawfully reduce the value due and payable for past services rendered. . . .”

The West Virginia Division of Personnel, Annual Increment Policy states, in part:

“ . . . Separating employees shall be paid the annual increment on a pro rata basis for the portion of service rendered by the employee during the current fiscal year of employment. . . .”

. . . The prorated portion an employee receives upon separation prior to June 30, shall be based on his or her totaled full years of service, and shall be computed based on the months of service rendered in the fiscal year in which the employee terminates. . . .”

Upon speaking with Human Services Payroll for the Deputy Secretary for Administration for the Department of Health and Human Resources (DHHR), they agreed the

employee was underpaid. They stated they must have used the incorrect increment amount when calculating the pro-rata share.

This employee was not correctly compensated for services rendered. The employee was underpaid a total of \$86.69. We determined there is a possibility that as many as one-third of the termination pay calculations made during fiscal years 2006, 2005 and 2004 may have contained calculation errors. In addition, we determined there is a possibility that as much as 1.60% of the fiscal year 2006, 2005 and 2004 total gross payments due to retirement, resignations, and transfers could be incorrectly understated.

We recommend the West Virginia Children's Home comply with Chapter 5, Article 5, Section 1; and Chapter 5, Article 5, Section 2, as amended, of the West Virginia Code; all applicable opinions issued by the Attorney General; and the Division of Personnel Annual Increment Policy.

Spending Unit's Response

No response by the West Virginia Children's Home.

FREE MEALS

We were informed by Home personnel that individuals working at the Home may eat meals (breakfast, lunch, and dinner) without being charged. Home personnel told us that Home employees are allowed to eat meals provided by the Home at no charge, while at work. In addition, we were told teachers employed by the West Virginia Department of Education (whom teach the Home's residents at a facility adjacent to the Home) may also eat meals provided by the Home at no charge.

Chapter 6B, Article 2, Section 5 of the West Virginia Code outlines ethical standards for public employees and states in part,

“. . . A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. . . .”

We determined the employees of the Home and the Department of Education receive additional compensation, beyond their salaries, from the meals which are provided to them free-of-charge at the Home’s expense. During our audit period, we noted there were a total of 40 individuals employed by the Home. Since there is no log kept of who ate in the cafeteria, we were unable to determine how many of those employees and employees of the Department of Education took advantage of free meals provided by the Home.

Due to the absence of records regarding the individuals who were provided meals, we were also unable to determine the extent of which the Home’s food purchases were used in the preparation of free meals which were ultimately provided to employees of the Home and Department of Education. We did note the Home paid \$37,664.02, \$39,641.51, and \$40,733.35 for food purchases during fiscal years 2006, 2005, and 2004, respectively. The policy of allowing Home employees to eat in the cafeteria for free prevents the Home from recovering the costs incurred by the Home in providing those meals and is specifically not allowed by State law where the beneficiary of the free meal is an employee of the Home. We determined allowing individuals (other than residents) to eat in the cafeteria at no charge causes the Home to be without the use of funds that could be used to benefit both the Home and residents of the Home.

The Home should draft a formal policy to be considered by the West Virginia Ethics Commission which would specify the reasons for which these meals are provided to employees at no charge.

Spending Unit's Response

We concur with the finding and will take corrective action with the West Virginia Children's Home to comply with Chapter 6B, Article 2, Section 5 of the West Virginia Code, as amended.

INDEPENDENT AUDITORS' OPINION

The Joint Committee on Government and Finance:

We have audited the statement of cash receipts, disbursement and changes in cash balances of the West Virginia Children's Home for the years ended June 30, 2006 and June 30, 2005. The financial statement is the responsibility of the management of West Virginia Children's Home. Our responsibility is to express an opinion on the financial statement based on our audit.

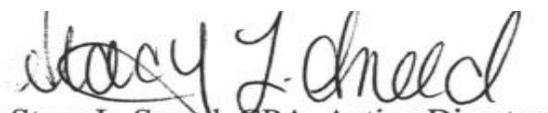
We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note A, the financial statement was prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues collected and expenses paid of the West Virginia Children's Home for the years ended June 30, 2006 and June 30, 2005 on the basis of accounting described in Note A.

Our audit was conducted for the purpose of forming an opinion on the basic financial statement taken as a whole. The supplemental information is presented for the purpose of additional analysis and is not a required part of the basic financial statement. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statement and, in our opinion, is fairly stated in all material respects in relation to the basic financial statement taken as a whole.

Respectfully submitted,


Stacy L. Sneed, CPA, Acting Director
Legislative Post Audit Division

November 29, 2006

Auditors: Michael E. Sizemore, CPA, Audit Manager
Stacy L. Sneed, CPA, Auditor-in-Charge
Amy M. Thorne
Alla A. Long

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS

AND CHANGES IN CASH BALANCE

	<u>Year Ended June 30,</u>	
	<u>2006</u>	<u>2005</u>
Cash Receipts:		
Statutory Transfers	\$ 570,397.37	\$ 509,969.88
Non-Federal Grants	0.00	1,003.82
Other Collections, Fees, Licenses and Income	13,985.29	12,448.39
Operating Funds Transfer	814,146.59	795,575.07
Inter-Agency Federal Payments	<u>33,773.08</u>	<u>31,151.86</u>
	1,432,302.32	1,350,149.02
Disbursements:		
Personal Services	806,958.94	843,600.06
Employee Benefits	354,568.26	352,262.84
Current Expenses	176,877.16	150,384.02
Repairs and Alterations	17,128.37	16,057.70
Assets	76,027.34	(12,400.00)
Medical Service Payments	<u>550.00</u>	<u>2,793.00</u>
	<u>1,432,110.07</u>	<u>1,352,697.62</u>
Cash Receipts Over/(Under) Disbursements	192.25	(2,548.60)
Beginning Balance	<u>22,106.29</u>	<u>24,654.89</u>
Ending Balance	<u>\$ 22,298.54</u>	<u>\$ 22,106.29</u>

See Notes to Financial Statement

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

NOTES TO FINANCIAL STATEMENT

Note A - Accounting Policy

Accounting Method: The cash basis of accounting is followed for all accounts. Therefore, certain revenues and related assets are recognized when received rather than when earned, and certain expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the financial statement is not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

Combined Totals: The combined totals contain the totals of similar accounts of the various funds. Since the appropriations and cash receipts of certain funds are restricted by various laws, rules and regulations, the totaling of the accounts is for memorandum purposes only and does not indicate that the combined totals are available in any manner other than that provided by such laws, rules and regulations.

Note B - Pension Plan

All eligible employees are members of the West Virginia Public Employees' Retirement System. Employees' contributions are 4.5% of their annual compensation and employees have vested rights under certain circumstances. The Home matches contributions at 10.5% of the compensation on which the employees made contributions. The Home's pension expenditures for fiscal years 2006 and 2005 fiscal years were as follows:

	<u>Year Ended June 30,</u>	
	<u>2006</u>	<u>2005</u>
National School Lunch Program (5050-099)	\$ 2,582.05	\$ 2,618.76
Employee Benefits Fund (5072-010)	<u>82,919.57</u>	<u>86,884.32</u>
	<u>\$85,501.62</u>	<u>\$89,503.08</u>

SUPPLEMENTAL INFORMATION

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS AND

CHANGES IN CASH BALANCE

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>2006</u>	<u>2005</u>
<u>National School Lunch Program Fund 5050-099</u>		
Cash Receipts		
Inter-Agency Federal Payments	\$33,773.08	\$31,151.86
Disbursements:		
Personal Services	24,590.00	24,940.00
Employee Benefits	8,990.83	8,760.46
Current Expenses	<u>0.00</u>	<u>0.00</u>
	<u>33,580.83</u>	<u>33,700.46</u>
Cash Receipts Over/(Under) Disbursements	<u>192.25</u>	<u>(2,548.60)</u>
Beginning Balance	<u>22,106.29</u>	<u>24,654.89</u>
Ending Balance	<u>\$22,298.54</u>	<u>\$22,106.29</u>

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS AND

CHANGES IN CASH BALANCE

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>2006</u>	<u>2005</u>
<u>Human Services Personal Services Fund 5065-001</u>		
Cash Receipts		
Statutory Transfers	\$328,594.95	\$315,020.39
Non-Federal Grants	0.00	163.73
Other Collections, Fees, Licenses and Income	7,823.69	8,841.53
Operating Funds Transfer	<u>445,950.30</u>	<u>494,634.41</u>
	782,368.94	818,660.06
Disbursements:		
Personal Services	<u>782,368.94</u>	<u>818,660.06</u>
Cash Receipts Over/(Under) Disbursements	(0.00)	(0.00)
Beginning Balance	<u>0.00</u>	<u>0.00</u>
Ending Balance	<u>(\$ 0.00)</u>	<u>(\$ 0.00)</u>

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS AND

CHANGES IN CASH BALANCE

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>2006</u>	<u>2005</u>
<u>Employee Benefits Fund 5072-010</u>		
Cash Receipts		
Statutory Transfers	\$141,686.75	\$138,191.01
Non-Federal Grants	0.00	824.41
Other Collections, Fees, Licenses and Income	3,455.77	2,885.42
Operating Funds Transfer	<u>200,434.91</u>	<u>201,601.55</u>
	345,577.43	343,502.38
Disbursements:		
Employee Benefits	<u>345,577.43</u>	<u>343,502.38</u>
Cash Receipts Over/(Under) Disbursements	0.00	0.00
Beginning Balance	<u>0.00</u>	<u>0.00</u>
Ending Balance	<u>\$ 0.00</u>	<u>\$ 0.00</u>

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES

WEST VIRGINIA CHILDREN'S HOME

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS AND

CHANGES IN CASH BALANCE

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>2006</u>	<u>2005</u>
<u>Human Services Administrative Expense Fund 5362-099</u>		
Cash Receipts:		
Statutory Transfers	\$100,115.66	\$ 56,758.49
Non-Federal Grants	0.00	15.68
Other Collections, Fees, Licenses and Income	2,705.83	721.44
Operating Funds Transfer	<u>167,761.38</u>	<u>99,339.11</u>
	270,582.87	156,834.72
Disbursements:		
Current Expenses	176,877.16	150,384.02
Repairs and Alterations	17,128.37	16,057.70
Assets	76,027.34	(12,400.00)
Other Disbursements	<u>550.00</u>	<u>2,793.00</u>
	<u>270,582.87</u>	<u>156,834.72</u>
Cash Receipts Over Disbursements	0.00	0.00
Beginning Balance	<u>0.00</u>	<u>0.00</u>
Ending Balance	<u>\$ 0.00</u>	<u>\$ 0.00</u>

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

I, Stacy L. Sneed, CPA, Acting Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this day of 20th day of August 2007.


Stacy L. Sneed, CPA, Acting Director
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the Department of Health and Human Resources; The West Virginia Children's Home; Governor; Attorney General; State Auditor; and, Director of Finance, Department of Administration.