



Department of Human Resources  
311 West Saratoga Street  
Baltimore MD 21201

## FIA ACTION TRANSMITTAL

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**TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES  
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT  
FAMILY INVESTMENT SUPERVISORS AND ELIGIBILITY STAFF  
PURCHASE OF CHILD CARE PROGRAM ADMINISTRATORS**

**FROM: CHARLES HENRY, EXECUTIVE DIRECTOR, FIA  
LINDA HEISNER, EXECUTIVE DIRECTOR, CCA**

**RE: PURCHASE OF CHILD CARE (POC) INTENTIONAL PROGRAM  
VIOLATIONS**

**PROGRAM AFFECTED: PURCHASE OF CHILD CARE**

**ORIGINATING OFFICE: CHILD CARE ADMINISTRATION**

**SUMMARY:** The procedures in this action transmittal are used to disqualify customers and child care providers from participation in the Purchase of Child Care program when there is sufficient evidence to substantiate the decision that the individual has committed an intentional violation of the Child Care Subsidy regulations.

### Definition of Intentional Program Violation (IPV)

A violation is defined as intentionally:

- Making a false or misleading statement for the purpose of establishing or maintaining eligibility; or
- Misrepresenting, concealing or withholding facts in an attempt to receive payments to which the individual is not entitled.

### **ACTION REQUIRED:**

#### Notification

If it is suspected that an individual has intentionally provided false or misleading information in an attempt to obtain payments which they would otherwise not be entitled, the local department verifies the information by phone call or letter when

possible. The local department then makes a determination whether a field investigation is needed. If a field investigation is needed, the case manager refers the case to the local fraud investigator or the Office of the Inspector General (OIG) using the DHR/OIG 10.

OIG can accept or reject the referral of an IPV case. Once OIG accepts the case referral from the local department the fraud case becomes OIG's responsibility. The local department is no longer responsible for the fraud part of the case. The Office of the Inspector General:

- conducts an investigation of the suspected intentional program violations;
- prepares a report on the completed investigation showing the methods used to obtain information; and
- obtains a signed Administrative Disqualification Hearing Waiver, if possible.

OIG notifies the local department of the result of the investigation by a report or a letter. OIG refers the case to the State's Attorney's office for prosecution if appropriate. If the State's Attorney decides that the case does not warrant prosecution, OIG notifies the local department to initiate the administrative disqualification process. The local department will then begin the administrative process. If a State's Attorney decision or an ADH is pending, do not process the overpayment until a determination is made.

### Waiver Process

Either the local department or the OIG must notify the individual of their intent to refer the case to the Office of Administrative Hearings (OAH) using the DHR/OIG 7 form. The individual's notification of the referral to OAH includes a summary of the charge against the individual and the rights and responsibilities of the customer or the provider in an ADH.

If the local department has enough documentation to substantiate fraud without an OIG investigation, they must ensure that:

- the designated person reviews the evidence against the individual; and
- the evidence warrants scheduling of a disqualification hearing.

### Disqualification Penalties

If an individual suspected of intentional program violation waives the right to an administrative disqualification hearing and the signed waiver is received before the hearing, the local department:

- applies the disqualification penalty; and
- provides written notice to the individual informing them of the effective date of disqualification using a CCAMIS POC letter.

When the individual waives the right to an administrative disqualification hearing, the administrative process terminates.

### Referral for an Administrative Disqualification Hearing

The local department refers the individual to the OAH for a hearing if the local department has not received a signed waiver within 20 days of the notification to the individual of the local department's intent to pursue a hearing.

The referral must include:

- identifying case information;
- a summary of the alleged intentional program violation; and
- a copy of the local department's supporting documentation.

The local department also submits documentation to show whether the individual has been disqualified previously for an intentional program violation, or convicted by a court of committing fraud involving purchase of child care.

### Schedule of Hearings

The OAH sends written notice to the individual at least 30 days prior to the date a disqualification hearing has been scheduled. The local department sends the individual a written summary of the evidence and explains how and where the evidence can be examined. If an individual requests legal representation, the local department provides them with the Legal Aid Bureau's contact information.

### Combined Hearings

A purchase of child care ADH may be combined into a single hearing with cash assistance or food stamps, if:

- facts rise out of the same circumstances; and
- the individual receives prior notice that the hearings will be combined.

If the hearings are combined, the OAH follows the timeframes for conducting purchase of child care disqualification hearings. When the hearings are combined, the OAH will, upon the individual's request, waive the 30 day advance notice period.

### Hearing Decision and Postponement Procedures

The individual may have one postponement of the scheduled hearing, if the request is made before the date and time of the hearing. The hearing may not be postponed for more than 30 days beyond the original hearing date. Within 90 days of the date the notice was sent the OAH will:

- conduct the hearing;
- reach a decision; and
- notify the individual and the local department of the decision and of the right to judicial review.

If the hearing is postponed, the 90 day time limit is extended for as many days as the hearing is postponed.

### Prehearing Procedures

A pending disqualification hearing does not affect an individual's right to participate in the program. Both providers and customers may continue benefits until a decision is made.

### Disqualification Penalties

An individual who has signed the waiver or who was found to have committed intentional program violations, is ineligible to participate in the Purchase of Child Care program for the following periods of time:

- 6 months or until full repayment for the first violation (disqualification penalties still count as an incident even if full repayment is made immediately)
- 12 months or until full repayment for the second violation; and
- permanently for the third violation and repayment must still be made in full.
- 10 years for persons that have been convicted in a Federal or State court to have made a fraudulent statement or representation about residence or identity of the individual in order to receive multiple payments simultaneously.

If an administrative law judge finds that the individual committed the IPV, the local department provides written notice of the effective disqualification date to the individual before imposing the sanction using the CCAMIS disqualification letter. The sanction period begins the first month following the month in which the individual received written notification of the disqualification. Once a disqualification penalty has been imposed, the period of disqualification continues uninterrupted until the payment is fully repaid or the time period is completed, whichever occurs first.

When a sanction is imposed, the local department sends a demand letter for repayment. The current CCAMIS overpayment letters can be used to notify the customer or the provider of the repayment amount and process.

## **CCAMIS PROCEDURES:**

A separate menu option will be added to CCAMIS to enter fraud information for customers and providers. There will be a full screen for each fraud investigation. Each screen will have demographic data for the customer / provider and the following data elements:

- Referral for Investigation:  
Yes / No. The date and referral reason should be entered.
- OIG / POC Finding:  
The date, finding code and estimated overpayment amount should be entered.
- Waiver:  
Yes / No. The send date and sign date should be entered.
- ADH refer date, hearing date and decision date:  
If the customer / provider files an appeal, the date and Yes / No should be entered.
- Decision of the investigation:  
The date and decision should be entered.
- Effective date of the disqualification:  
The exact date of disqualification and the disqualification code should be entered.
- Sanction period:  
The month and year of the start date should be entered. The end date will be automatically filled in by the system based on the sanction rules with an override capability if the sanction end date needs to be changed because of early or late repayment.
- There will be a section for free-form notes.

### Edits

At case re-opening and at invoice processing, there will be edits (statewide) to block the progression if a fraud sanction is in place. The block will be for the period of the disqualification.

### Letters

- A disqualification notice to the customer
- A disqualification notice to the provider
- A notice to families saying the provider may no longer be paid by the department and that they may chose another provider
- The termination letter to providers saying that vouchers will be expiring for a particular family
- A confessed judgement notice for the customer or provider to sign agreeing to a repayment plan and amount

## Reports

- Reports of customers / providers with referrals for investigation for fraud for tracking their status in the fraud process to include the OIG finding, if the case was appealed, the decision, if disqualified - the date of disqualification and the sanction start and end dates
- Reports of fraud occurrences historically and currently, indication which occurrence
- Tickler reports of customers / providers with fraud sanction timelines ending in the date range selected by the user

## OIG Forms

Purchase of Child Care will use some of the existing OIG forms for fraud cases. The forms are:

- OIG 7 - Waiver to an Administrative Disqualification Hearing
- OIG 10 - Referral for Investigation

**INQUIRIES:** Direct policy or procedures inquiries to Betsy Blair at 410-767-7845 or [bblair@dhr.state.md.us](mailto:bblair@dhr.state.md.us). Direct CCAMIS inquiries to Anne Webster at 410-767-7815 or [awebster@dhr.state.md.us](mailto:awebster@dhr.state.md.us).

cc: DHR Executive Staff  
CCA Management Staff  
CCA Program Management Staff  
CCA Program Standards Staff  
FIA Management Staff  
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OIM Help Desk