

**OFFICE OF INVESTIGATIVE SERVICES
POLICY & PROCEDURE #910**

CHILD CARE PROVIDER INVESTIGATIONS

POLICY:

It is the policy of OIS to conduct Child Care Provider investigations in a timely and professional manner. Agents will review the allegations upon receipt of the assignment and make initial contacts with the referring agency as appropriate to determine the priority and develop investigative plans.

OIS will determine losses to the program using the CAPS rules and regulations, pursue disposition of these claims through criminal prosecution or administrative repayment, as appropriate, and report investigative results to the OIS case tracking systems.

REFERRAL PROCESS:

Requests for an investigation of a Child Care Provider will be made in writing to OIS on a **Request for Child Care Provider Investigation**, Form 5667-B. Occasionally, referrals for Provider investigations may also be received by OIS through the CAPS Unit, Child Care Licensing, or by a memorandum from the county DFCS Director or designee.

REVIEW AND ASSIGNMENT:

Investigations of Child Care Providers may follow one of two paths. Based on the referral source or certain referral factors that indicate a possible protracted investigation or possible prosecution, the investigation will be assigned to an Inspector through the Child Care Case Tracking System (in addition to the regular OIS Case Tracking System). Investigations assigned through the Child Care Case Tracking System must be completed within 60 days of assignment. Or, based on certain referral factors that indicate a routine or less involved case, the investigation will be assigned to the Agent through the regular OIS Case Tracking System requiring completion within 12 months of assignment.

Upon receipt of the referral by OIS, the referral will be reviewed by OIS administration for appropriate routing and initial assignment:

- Normally, referrals with the following factors will be routed by the Administrative Assistant to EDP for assignment to a regional Agent and processed through the OIS Case Tracking System:
 - referrals with an estimated overpayment of less than \$5,000, and
 - referrals with no indication that the Provider has any prior offenses.
- Referrals with the following factors will be processed by the Administrative Assistant through the Child Care Case Tracking System and assigned to an Inspector:
 - referrals with an estimated overpayment of \$5,000 or more, or
 - referrals indicating aggravated circumstances or Providers with prior offenses.
- Referrals assigned through the Child Care Case Tracking System are given a Log Number and generate a **Child Care Investigation Work Plan** and **Child Care Investigation Time Report**. The Administrative Assistant immediately faxes the referral, supporting documents, and **Child Care Investigation Work Plan** to the Inspector to initiate the investigation.
- Cases assigned through the Child Care Case Tracking System are also routed by the Administrative Assistant through EDP to obtain a TR. EDP will record the Child Care case information from the referral and assign the TR to the Inspector listed on the **Child Care Investigation Work Plan**.

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- For all cases, the TR, **Child Care Investigation Work Plan** (if applicable), **Child Care Investigation Time Report** (if applicable), referral, and supporting documents are mailed by OIS administration to the assigned OIS region.
- The regional Program Assistant will review all incoming investigations to assure that Child Care Provider cases are promptly routed to the assigned Agent for immediate review.

INVESTIGATIVE PROCESS:

For cases assigned to the regional Agent, the Agent will review the referral upon receipt to determine the course of action. The Agent will have the same time period as routine investigations to complete the case, if no urgency is indicated.

If the investigation appears to be particularly involved, the Agent will review the case with the supervisor within 10 days of assignment for possible re-assignment to or assistance from the Inspector. Likewise, Investigations assigned to the Inspector may also need to be reassigned to or assisted by the Agent based on workload or training. Regional case assignments are determined by the supervisor. When cases are reassigned between the Inspector and Agent, the reporting requirements and time standards that applied to the initial assignment will be followed until the investigation is completed.

For all cases assigned through the Child Care Case Tracking System, the Inspector will make initial contact with the county DFCS office or referring agency within 10 days of being assigned the investigation. The Inspector and supervisor are responsible for assuring the investigation is completed within 60 days of receipt.

During the course of the investigation, Agents may need to coordinate efforts and resources with Headstart, Community Action for Improvement (CAFI), the Office of School Readiness, the School Lunch Program, Child Care Licensing, or other state and federal agencies.

In most situations, the following investigative steps will be taken:

- Review the 5667-B or referral and supporting documents
- Contact with the county DFCS or referral source to obtain additional information, if needed
- Complete **Child Care Investigation Work Plan**, if assigned through the Child Care Case Tracking System
- Review the CAPS files and related records in the DFCS office
- Review information on Maxstar (for Maxstar counties)
- Obtain CAPS invoices for the period
- Obtain attendance records for the period
- Interview witnesses
- Calculate the loss on a **CAPS Report of Claim Determination**
- Determine administrative or legal disposition
- Discuss the case with the supervisor, if criminal prosecution is indicated
- Discuss the case with the Chief of Investigations, if criminal prosecution is approved by the supervisor
- Complete the **Summary of Investigation**, if prosecution is approved by the Chief of Investigations
- Meet with the county DFCS and CAPS Consultant, if prosecution is being pursued
- Pursue appropriate disposition
- Report disposition to DFCS by **Disposition Letter**
- Report disposition on TR
- If assignment was received through Child Care Case Tracking System, submit memo describing investigative results and **Child Care Investigation Time Report** to Chief of Investigations
- Submit **Summary of Investigation** to the Chief of Investigations for prosecution referrals

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Throughout the course of the investigation, the Agent will keep the supervisor updated on the progress of the investigation and any important developments. The supervisor and Agent share the responsibility to keep the Chief of Investigations informed of the progress of the investigation. Completion of the **Child Care Investigation Work Plan** is required for all investigations assigned through the Child Care Case Tracking System. The completion of progress reports (as indicated on the Work Plan) may be required by the supervisor or OIS administration.

For particularly sensitive cases, the supervisor is responsible to keep the OIS administration informed of all major developments, and the Agent may be required to submit interim reports. A written report must be submitted to OIS administration for all cases assigned through the Child Care Case Tracking System that are not completed within 90 days.

PROVIDER COOPERATION WITH THE INVESTIGATION:

The reverse side of the Child Care Certificate states that the Child Care Provider agrees to “furnish reports or provide access to information concerning the child care program as requested by the Department, such as attendance records, copies of operational policies and procedures, and verification of social security or federal identification number” (#7). The last statement in the Provider agreement section states, “that violations of these provisions may result in the immediate termination of all child care certificates.”

Similar language is on the Provider’s Responsibilities Form that all Providers are required to sign if they receive management and payment services from MAXIMUS, Inc. The Provider agrees, “To supply reports or provide access to information about the child care program as requested by the County DFCS, DHR, or its representatives. This includes things such as attendance records, copies of operational policies and procedures, and verification of Social Security or Federal Identification Number.” The Child Care Provider understands, “That the client, the provider, or DFCS may terminate subsidized child care services at any time for any reason by giving written notice. The termination will become effective immediately when the written notice is received, unless a different effective date is stated in the notice.”

Since OIS Agents are employees of the Department of Human Resources, a Child Care Provider who refuses to cooperate with the investigation can result in the immediate termination of all child care certificates in the Provider’s care. Given the severity of this action, Agents will not request DFCS to dismiss the Provider unless absolutely necessary.

For purposes of this policy, cooperation with OIS is to be defined as a Provider responding to a written request by providing reports or records (or access to reports or records) that should be in the Provider’s possession that are necessary for the completion of the investigation. Before initiating any request to terminate a CAPS Provider for refusing to cooperate, the Agent must assure that the Provider receives proper written notice of the requirement to cooperate with the investigation, the Provider understands what information is needed and how the information is to be provided, and that a reasonable deadline is given for the Provider to meet these expectations. Requests of DFCS to terminate a CAPS Provider for failing to cooperate with an investigation are made in writing to the county DFCS Director on a **CAPS Provider Non-Compliance Notice** from the Agent. All requests to terminate a CAPS Provider must receive prior approval by the supervisor on the **Case Review Checklist**.

Once the Agent requests DFCS to dismiss a Provider for failing to cooperate with an investigation, the county staff will issue notices to the clients and Provider so that the families can choose new Providers. If the Provider contacts OIS and expresses an intention to cooperate with the investigation within the 10-day timely notice period, the Agent will immediately meet with the Provider to obtain the necessary information. After the Provider has cooperated, the Agent will notify the county DFCS Director to stop the dismissal of the Provider on a **CAPS Provider Compliance Notice**. Once the Provider is terminated from CAPS, the children in care will be moved, and no children eligible for subsidies will be placed with the Provider until the Provider cooperates with OIS. If the Provider chooses to cooperate with

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OIS before the CAPS dismissal is completed, then the clients may choose to continue to receive care from the Provider or move care to a different Provider.

Once the OIS investigation is closed or the CAPS Provider has been referred for criminal prosecution, the Agent will send a **CAPS Provider Compliance Notice** to the county DFCS to inform the agency that closure of the Provider for non-cooperation is no longer applicable.

DOCUMENTATION REQUIREMENTS OF INVESTIGATION:

The findings of a Child Care Provider investigation are documented in the OIS file. All documentation should be clear and easily located in the file. All overpayment claims should be based on CAPS policy as determined by the Childcare and Parent Services Manual using regulations in effect at the time of the overpayment.

The **Case Review Checklist** will be used for documentation purposes with additional sheets attached, if necessary. The Agent will take the following actions and document the information in the OIS file:

1. Address all allegations on the 5667-B or referral document.
2. Document the Date of Discovery and how the agency became aware of the information.
3. Document the verification provided by the agency to support the allegations.
4. Document the review of the associated CAPS Provider file, recipient files, and other public assistance records to determine the information that was known to the DFCS program or personnel.
5. Document the profile of the Provider listing any bilingual requirements or special considerations.
6. Document the review of any prior IPV's against the Provider in order to determine knowledge and intent of the Provider.
7. Assure that both the Provider and the agency have signed all pertinent applications, certificates, and requests for payment of services.
8. Obtain CAPS invoices for the period.
9. Obtain attendance records (if questionable) for the period.
10. Document how each allegation was investigated and resolved.
11. Document all interviews/telephone contacts of witnesses indicating names, dates, and a synopsis of the information obtained.
12. Document the Provider's failure to cooperate, if applicable, and the steps taken to resolve.
13. Document how the information was budgeted, if a claim is developed.
14. Interview the Provider prior to the establishment of a claim if clear and convincing evidence is not obtained.
15. Identify the claim disposition and the reason for selecting the disposition.

REFERRAL DISPOSITION CRITERIA:

For Screen Outs/No IPV found:

- The Agent will fully and succinctly describe the findings and conclusion to the county DFCS on a **Disposition Letter**.
- The Agent will submit a copy of the **Case Review Checklist**, with attachments as necessary, attached to the **Disposition Letter**, to support the referral disposition.
- The Agent will maintain a copy of the disposition response in the OIS file and update the TR with a code 2 indicating the date of the referral disposition.

For All Claims:

- The claim must meet the definition of suspected IPV.
- The claim must be substantiated by evidence contained or documented in the OIS file.
- The claim must be computed on either a **CAPS Report of Claim Determination**.

CLAIM CALCULATION AND REQUIRED CLAIM DOCUMENTATION:

The Agent will include the following information in the Summary of Circumstances on the **CAPS Report of Claim Determination**:

- Date of the referral
- Statement of the allegations
- Summary of the findings
- Description of the evidence that supports suspected IPV
- Description of the overpayment

CLAIM DISPOSITION CRITERIA:

Any claim exceeding \$500 can be evaluated for criminal prosecution based on the case circumstances. A misdemeanor warrant can be pursued for aggravated cases involving claims less than \$500.

Claims that exceed \$5,000 will be evaluated for possible criminal prosecution. When evaluating a case for possible prosecution, the Agent will consider the Provider's education of rules and regulations of the agency, the number of signed/false statements, the available evidence, and the number/type of previous offenses.

Claims of \$10,000 or more should be referred to the prosecutor for criminal prosecution.

Whenever prosecution is recommended, the Agent will complete a **Summary of Investigation** and seek approval of the disposition through the supervisor. The supervisor must initial the **Case Review Checklist** to document agreement with the disposition. The supervisor will also assure that the Chief of Investigations supports the decision. Prior to providing the case to the local prosecutor, the Agent will meet with the county DFCS and the CAPS Consultant to discuss the decision to refer the case for prosecution.

Provider claims of \$5,000 or less and claims over \$5,000 that do not have sufficient evidence to support criminal prosecution will be resolved administratively.

When the claim is to be settled administratively, the Agent schedules a meeting with the Provider and pursues a **Child Care Repayment Agreement**. The Agent will make at least two attempts to obtain an agreement. If unable to obtain an agreement, the Agent may release the claim to the county DFCS for administrative recoupment.

The cooperation of a participating Provider to sign a repayment agreement is not essential, as the county DFCS or Maxstar will automatically withhold future payments to the Provider to repay the claim, once released by OIS. A non-participating Provider that refuses to cooperate with the investigation or agree to repay the claim should be evaluated for legal action based on the strength of the evidence in the case.

Claim dispositions that deviate from these criteria must be explained on the **Case Review Checklist**.

REPORTING INVESTIGATIVE RESULTS TO DFCS AND THE OIS CASE TRACKING SYSTEMS:

Within 5 days of obtaining a repayment agreement, referring the case for prosecution, or deciding to release the claim to DFCS for collection, the Agent will provide the following documents to the county DFCS:

- Original Form 5667-B or referral document
- Original **Disposition Letter** with disposition and attachments documented
- Original **Child Care Repayment Agreement** (if obtained)
- Copy of **Summary of Investigation** (for prosecution referral)

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- Copy of **CAPS Report of Claim Determination**
- Copy of **Case Review Checklist**, with supporting documents attached
- Original verification or evidence used to substantiate claim
- Copies of CAPS invoices/attendance records (as applicable)
- Copies of screen prints from Maxstar or from county automated system to substantiate claim

For all cases, the Agent will promptly report the results of a Child Care Provider investigation on the case TR and route the TR to EDP.

When the Child Care Provider investigation was also made through the Child Care Case Tracking System, the Inspector will complete and route the following documents through the supervisor to the Chief of Investigations at the conclusion of the investigation:

- A cover memo to the Chief of Investigations citing the investigation name and number, the date of completion, the amount of overpayment (if any), and the date and type of disposition.
- The **Child Care Investigation Time Report** to include the signatures of the Inspector and assisting Agents.
- If criminal prosecution of the Provider is being pursued, the Inspector will attach the **Summary of Investigation** to the cover memo and time report.
- Based on certain extenuating or unusual factors, the OIS administration may also require a full written report of the investigation.

For CAPS Provider cases that are identified for referral for prosecution that were not assigned through the Child Care Case Tracking System, the Agent will forward a copy of the **Summary of Investigation** under cover memo from the supervisor to the Chief of Investigations.

The Chief of Investigations is responsible to send notice to the CAPS Unit of the impending prosecution referral.

REPORTING FINAL LEGAL DISPOSITIONS TO DFCS AND OIS CASE TRACKING SYSTEM:

The Agent will monitor all CAPS Providers referred for prosecution on a regular basis (annually at a minimum) until a final disposition is obtained.

Within 5 working days of notification of the court's final disposition, the Agent will notify the county DFCS and CAPS Consultant of the action. DFCS may initiate termination of subsidized child care upon conviction of an active Child Care Provider.

The Agent will also promptly report the final claim disposition to EDP on the case TR.