



## ~~Wisconsin Shares Child Care Subsidy Program~~

~~Policy and Process Handbook~~ **Wisconsin Shares Handbook**  
– Chapter 4  
Program Integrity

**April 5, 2021**

Division of Early Care and Education

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## 4.1 **Bureau of Program Integrity Unit Overview**

~~The Bureau of Program Integrity (BPI)~~ The Program Integrity Unit of the Bureau of Child Care Subsidy Administration (BCCSA) within the Division of Early Care and Education (DECE) develops and leads the Department of Children and Families (DCF) statewide Wisconsin Shares child care **subsidy program** and YoungStar program integrity efforts. ~~BPI~~ The Program Integrity Unit upholds the policies and procedures ~~for~~ of the Wisconsin Shares ~~Child Care Subsidy~~ and YoungStar programs. ~~BPI~~ The Program Integrity Unit operates on five guiding principles.

### 1. Prevention

- Ensure that all preventative elements of the program are being upheld across state and local agencies. This process includes eligibility determination, child care authorizations, provider applications, and/or local agency verifications and approvals.

### 2. Detection

- Maintain a variety of data and reports to detect potential red flags that may require further technical assistance or investigation. These specific items are flagged weekly, monthly, or quarterly to identify any unusual activity.

### 3. Investigation

- Audit and investigate matters that appear to be in violation of Wisconsin Shares and/or YoungStar policies and regulations. Investigations are initiated by specific referrals, ~~reported to BPI~~, stipulation reviews, data exchanges, or through Red Flag Reports (see Section 4.3.3 and 4.9.4.1) that trigger concern for further monitoring.

### 4. Sanction

- Assess and establish appropriate penalties for any violation of Wisconsin State Statute, Administrative Rule or policies discovered during an investigation. Enforcement actions are communicated with an explanation of the evidence and consequence(s).

### 5. Collection

- Establish overpayments if Wisconsin Shares ~~Child Care~~, or YoungStar funds were issued inappropriately. All Wisconsin Shares ~~Child Care~~ payments issued in error when the client or provider was not eligible for the amount of funds received, or used inappropriately must be recovered.

#### 4.1.1 Achievement of Goals and Principles

Working in conjunction with local agencies, ~~BPI~~ **BCCSA** adheres to and achieves these five guiding principles through a multitude of processes.

**Note:** Throughout this **chapter Handbook**, the term local agency refers to county agencies and tribal agencies.

### 1. Prevention

- Provide technical assistance (TA) to local agencies on program integrity efforts.
- Require and review local agency fraud plans.
- Implement program integrity checkpoints through eligibility, authorization, and post-authorization processes.

### 2. Detection

- Participate in the investigation of Public Assistance Reporting Information System (PARIS) matches.
- Lead the production of the Federal Improper Payment (FIP) Report.
- Identify and review Targeted Case Reviews (TCRs).
- Develop and utilize various monitoring reports (such as Red Flag Reports (see Section 4.3.3 and 4.9.4.1)).
- Process fraud referrals through the Child Care Fraud Mailbox [DCFMBCHILDCAREFRAUD@wisconsin.gov](mailto:DCFMBCHILDCAREFRAUD@wisconsin.gov).

### 3. Investigation

- Conduct client and provider investigations.
- Provide guidance on investigation procedures to local agencies.
- Investigate potential overpayments and intentional program violations (IPVs).

### 4. Sanction

- Monitor and establish intentional program violations (IPVs).
- Determine and issue sanctions to clients and providers who commit Wisconsin Shares and/or YoungStar violations.
- Provide guidance on sanction creation and determination to local agencies.
- Approve all permanent suspensions and IPVs.
- Refer egregious cases of fraud for criminal investigations.

### 5. Collection

- Enter overpayments **into the automated systems**. ~~for investigations completed by BPI.~~
- Track investigation appeal outcomes.
- Collaborate with DCF Bureau of Finance.

Local agencies are contractually responsible for:

- Identifying discrepancies in client-reported information at eligibility determination and authorization assessment,

- Preventing and correcting improper Wisconsin Shares ~~Child-Care~~ subsidies,
- Establishing and collecting overpayments, and
- Determining cases that will be referred for overpayment **recoupment** and cases that will be referred for fraud investigation or to the District Attorney's office for criminal prosecution (as established in Child Care Contract Scope of Services Exhibit 1).

These responsibilities encompass eligibility **determination**, **creating** authorizations, ~~YoungStar~~, and all other activities related to the expenditure of Wisconsin Shares ~~Child-Care~~ subsidies.

**Note:** Wis. Stat. **ss.49.155**, and ~~s.48.659~~, ~~Administrative Rule Chapters~~ **Wis. Admin. Code** DCF **ss. 101, 201, 202, 250, 251** and **252**; and Chapter 4 of the [Wisconsin Shares Child Care Policy and Process Handbook](#) provide authority, guidance, and direction as it relates to program integrity efforts for the Wisconsin Shares ~~Child-Care Subsidy~~ and YoungStar programs.



## PART A: CLIENT PROGRAM INTEGRITY

### 4.2 Prevention

The primary goal of Program Integrity prevention actions is to ensure accurate subsidy fund issuance, and to prevent improper payments and fraud. ~~The results of the~~ ~~These~~ Program Integrity prevention actions are used ~~in-determining to determine~~ subsidy eligibility, accurate authorizations, and ~~determining to determine~~ the need for further fraud control actions.

Program Integrity prevention actions involve a review of specific elements or circumstances of individual cases that exhibit evidence or characteristics of potential program violation(s). Prevention actions are intended to ensure accuracy of subsidy funds, and commonly involve more in-depth verification than the routine verification used during program eligibility determination and authorization assessment.

#### 4.2.1 Front End Verification

Front end verification (FEV) is a method of fraud prevention. FEV is a process of additional scrutiny of cases that exhibit characteristics of potential program violations or errors. FEV focuses on particular elements or circumstances of a specific case, as defined by ~~their~~ a local agency's Error-Prone Profile (EPP) (see Section 4.2.1.1). When a case is referred by an ~~local~~ agency worker for ~~an~~ FEV, the ~~identified-local~~ agency worker ~~who receives the referral~~ (whether an authorization worker or FEV specialist) performs a more in-depth verification than the routine verification for eligibility determination. The ~~identified-local~~ agency worker will confirm or verify the accuracy of information provided by the client at application, review, or time of a change. The ~~identified-local~~ agency worker will then provide the eligibility staff with their results for use in verifying eligibility for program services or for fraud investigation referrals, when applicable.

FEV occurs during any application, review or ~~reported~~ change ~~submission~~. If the results uncover an error that ~~affects~~ ~~would have affected~~ eligibility, subsidy amount, copayment amount, or authorization, the worker must take the appropriate action to deny or pend eligibility and/or authorization(s), and possibly assess sanctions, up to and including overpayments and intentional program violations (IPVs).

~~**Note:** Authorization workers who specialize in FEV may also complete FEV activities, per local agency discretion. Eligibility and authorization workers have the authority to request that the client submit additional materials to verify their information if the provided documentation or information is questionable. BPI encourages eligibility and authorization workers to pursue this course of action before referring a case for FEV by an FEV specialist. The FEV process should be made available for authorization workers to pursue after initial verification requests are made or if a worker continues to have program integrity concerns, per local agency discretion.~~

#### 4.2.1.1 FEV Error-Prone Profile

Local agencies must establish an error-prone profile (EPP) for use by all intake staff and program eligibility and authorization workers to determine which criteria meet the requirements for an FEV referral. Local agencies must measure all cases against the EPP in a consistent manner to avoid biased selection for FEV.

An EPP is a list of characteristics recognized by the local agency as common to cases containing errors frequently resulting in overpayments. Cases demonstrating two or more of these characteristics should be referred for FEV. The EPP allows the local agency to allocate administrative and investigative resources to those cases according to their potential for error.

The local agency's EPP should be evaluated annually to determine if it is properly identifying error-prone cases. The recommended target is 30% of cases referred to FEV would result in a referral for fraud investigation. If the EPP does not meet the 30% target, the local agency should remove or replace individual EPP characteristics as needed. This revision process will ensure relevance of the EPP.

The following characteristics must **not** be used as part of an EPP:

- Race
- Color
- National Origin
- Ethnic Background
- Sexual Orientation
- Religion
- Age
- Political Belief
- Disability
- Association with a person with a disability
- Marital Status
- Gender Identification (including gender expression)

#### 4.2.1.2 Criteria for an Error-Prone Profile

The following are examples of "high risk" characteristics that may be helpful in the development of a local agency's EPP.

##### 4.2.1.2.1 Required Error-Prone Profile (EPP) Criteria

The following criteria are required to be on a local agency's EPP. These have been identified as frequent identifiers of fraudulent activity:

1. Reported income does not coincide match with IRS data, Wage Match, SWICA, DXQW (State Wage Match), SUITES, or State Tax Forms
2. Questionable presence of an absent parent/spouse in the household
3. Questionable shared placement or custody arrangement
4. Client works for or is related to the requested child care provider
5. Past overpayment, IPV, allegation, or conviction of fraud in a government program
6. Three or more hardship requests in a year
7. Three or more Approved Activity Search periods (ACTS) or Temporary Break periods (TBRK) in a year

8. Client has provided contradictory information or made statements inconsistent with information provided by him/her during a previous contact, ~~in~~ on the application form, or during a review or change
9. Case previously was referred for FEV which resulted in either denial or reduction of subsidy funds
10. Multiple EVF-Es submitted rather than paystubs, W2 Wage and Tax Statements, or tax documents

#### **4.2.1.2.2 Residence Criteria**

Suggested error-prone residence indicators include:

1. Conflicting documentation or verification differing from that reported by the applicant
2. Highly mobile families who rarely stay in one location for more than two or three months (except migrant farm workers and the homeless)
3. Frequently returned mail to the local agency
4. Handwritten lease agreements or other residency verification that appears questionable

#### **4.2.1.2.3 Household Composition Criteria**

Suggested error-prone indicators for household composition include:

1. Household reports large increase or decrease in household size or a frequently fluctuating household size
2. Unusual or questionable household composition
3. Landlord is the absent parent, provider, friend, family or ex-spouse of the applicant
4. The landlord's address is the same as the client, but the landlord is not listed as a household member
5. The client's address is the same as the child care provider (authorization must not be written if the client's address is same as the provider's address).
6. Employable household members listed on the application, and then later reported as having moved
7. Collateral contact statement is inconsistent with the client's statement of household size
8. Client reports someone else pays the rent for several months, but that person is not listed in the home
9. The client's rent amount ~~does not make sense with~~ is not supported by reported income

#### **4.2.1.2.4 Income Criteria**

Suggested error-prone indicators for income include:

1. Quarterly income significantly greater or less than reported income
2. No prior state wages reported after six months of working

3. No new hire reporting
4. Client reports zero income and claims that someone else pays the bills
5. Suspicion of unreported income
6. Paycheck stubs and/or EVF-Es appear fraudulent or modified

#### 4.2.1.3 FEV Referral Steps

~~Local agency staff~~ Agency workers may initiate the FEV referral in the Benefit Recovery Investigation Tracking System (BRITS) on the referral screen. The procedure for an FEV referral is as follows:

1. Specify any error-prone reason(s) of concern and refer the case using the FEV filter in the BRITS referral.\*
  - a. In the referral, provide specific information on why the case is being referred (this may be done in the comment field).
2. Conduct the client interview for eligibility and compare case characteristics to the EPP. The applicant will be contacted and given an opportunity to resolve discrepancies between the information provided and the information obtained through FEV.
3. Adjust or deny eligibility after receiving the results of FEV prior to the final determination.

**\*Note:** ~~Eligibility and/or authorization~~ Agency workers may attempt to gather this information prior to requesting an FEV. An FEV referral should be requested if any of the general criteria are met, or if the worker has additional program integrity concerns that were not resolved through the documentation provided by the client.

#### 4.2.1.4 FEV Specialist Functions

FEV specialist functions can be performed by any local agency employee or contracted service provider(s). It is recommended that a local agency have a minimum of one staff assigned to complete FEV tasks and a trained staff to serve as backup.

The FEV specialist tasks may include:

1. Verify that a case meets the criteria for an FEV referral. If it does not, the FEV specialist should close the referral.
2. Determine which FEV activities are appropriate for the referred case.
3. Estimate the approximate time needed to perform FEV activities. When possible, complete FEV activities prior to the issuance of subsidy funds.
4. Verify the information that prompted the referral.
5. Report the results of the FEV to the local agency supervisor who will notify the ~~eligibility~~ agency worker and/or supervisor of the findings. These individuals should take appropriate action based on the findings.
  - a. If the FEV results show a possible prior overpayment or IPV, include that information in the report.

#### 4.2.1.5 Front End Verification for Authorizations

At the time of authorization assessment, ~~additional consideration shall be given to~~ the agency worker must ensure that the authorized hours are for the appropriate duration, and that the authorization would not put the child care provider in violation of licensing, certification, or subsidy regulations (For licensing, certification, and subsidy requirements, see Chapters 1 and 2).

If an authorization is likely to result in an agency error, client error, or intentional program violation (IPV), ~~de~~ agency workers must not issue or re-issue the authorization. ~~This~~ The decision to issue or re-issue an authorization should be determined by reviewing and verifying the clients' documents and all information used ~~to complete~~ in the authorization assessment.

The local agency has the authority to:

- Refuse to issue new child care authorizations (see [DCF s. 201.04\(5\)\(c\)1](#))
- Require the client to clarify or correct a concern prior to issuing the authorization (see [DCF s. 201.039\(2\)\(c\)](#))
- Revoke an existing authorization (see [DCF s. 201.04\(5\)\(C\)\(2\)](#))

Additional information on requirements for creating a child care authorization may be found in Chapter 2.

##### 4.2.1.5.1 Local Agency Refusal to Issue an Authorization

The ~~child care administrative~~ local agency may refuse to issue an authorization to a client if:

- The client is requesting an authorization for their child to attend another child care provider during the current month, when the child already has an authorization for the current month, without proper notice or approval (see [2.4.9 Section 2.4.9 for details](#)).
- The client has not verified all required and/or requested information (see [DCF s. 201.039\(2\)\(c\)](#)).
- The client has been denied benefits from the Wisconsin Shares program (see [Section 4.5.4.3.56](#)).
- When the child care need does not align with the provider's hours of operation.

##### 4.2.1.5.2 Subsidy Funds Utilization

To assist with utilization monitoring efforts, local agencies should monitor the Expungement Red Flag Report, and the Inactive EBT Cards For More Than 30 Days With a Balance Amount report which are available online through [Web Intelligence](#) (WebI). These reports detail cases in which funds have aged off of the EBT cards after not being utilized within a 90-day period (Expungement), and cards that have not been utilized for 30 days and have a balance. If cases are identified, the local agency should perform a detailed case review. This includes, but is not limited to: interviewing the parent and/or the provider, and completing employment verification.

The authorization may be adjusted if the parent ~~informs the local agency that the parent wishes requests~~ requests to have fewer authorized hours because the child will be attending fewer hours than originally authorized. The parent may choose to have a reduction in authorized hours in order to avoid overpaying the provider in situations where a child is attending fewer hours than originally authorized.

An authorization may be ~~terminated ended~~ and all subsidy funds in the parent's account must be retracted if the parent has not paid any of the subsidy to the provider within the previous 90 days ([see 3.3.1.3](#) and [DCF s. 201.04\(3\)](#)).

**Note:** When a parent makes a payment to a provider the funds are deducted from the parent's subsidy balance in a last-in/first-out system. For example: if a parent receives their subsidy on March 1, and their following month's subsidy on April 1, the remaining March funds will not be accessible until the April funds have been utilized ([see 3.3.1.3](#)). ~~See Section 3.3.1.3 for additional details.~~

#### **4.2.2 Children who Reside in the Household of a Child Care Provider**

Children who reside in the household of a licensed or certified child care provider may not be authorized to receive care at the center operated by the provider with whom the child resides (per Wis. Stat. [s.49.155\(3m\)\(d\)1](#)), regardless of whether the provider is the child's parent or another other adult in the household.

If a provider requires child care for their own child, they must apply for and receive a waiver. The waiver authorizes care for the provider's child(ren) at another provider. The waiver request shall be in writing on ~~the form provided by~~ DCF [form \(DCF-F-432-E\)](#). The waiver shall be granted or denied by the local agency within 10 business days of receipt of the completed waiver application. Waivers must be granted for individual children under the following circumstances:

- The parent/provider is a foster parent.
- The parent/provider is a kinship care relative with a court order for placement and is receiving a kinship care ~~benefit~~ [payment](#) for the child.
- The parent/provider is a legal guardian receiving subsidized guardianship payments for the child.
- The child has a ~~special-need~~ [disability](#) and the child's parent/provider is unable to care for the child at the provider's own home or group center, as verified by a physician or other qualified medical professional.
- The child's parent is a dependent minor parent who is enrolled in high school or a course that is approved by the state superintendent of public instruction for granting a high school graduation equivalency and resides with a person who is considered a parent and also a child care provider.

The waiver may be granted in the following situation, but additional criteria must be met.

- The parent is requesting child care assistance to participate in an approved activity in Wis. Stat. [s.49.155\(1m\)\(a\)](#), other than providing child care. This does not apply to certified providers (per [DCF s. 201.039\(8\)](#)) who are not allowed to

hold outside employment during the facility's hours of operation. **Require** For the parent to receive an authorization, the activity ~~to~~ must be outside the hours of operation ~~with proper~~ and the parent must provide valid verification.

**Note:** For any questions about granting a waiver, please contact **BPI BCCSA** through the online technical assistance from at <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>. (DCFBPITArequest@wisconsin.gov).

**Note:** Policy in Section 4.2.2 was temporarily suspended from April 2020 – July 2020 due to COVID-19, per the Governor's [Executive Order #72](#) and suspension of several Administrative Rules (see [Operations Memo 20-15](#)).

### 4.2.3 Local Agency Fraud Plans

Local agencies are required to **annually** submit an **annual** Agency Fraud Plan for review to **BPI BCCSA** ~~The submission of the annual Fraud Plan to the Department is as~~ required by the annual Child Care Contract Scope of Services Exhibit 1. The Scope of Services requires that the Fraud Plan identify local agency operations, outline procedures and show responsibility for ensuring program integrity as required under the Child Care Fraud Plan Guidelines. Under the contract, local agencies must follow all policy and procedural requirements in Wis. Stat. s.[49.155](#), ~~Administrative Rule~~ **Wis. Admin. Code [DCF s. 201](#)**, sections of [DCF s. 101](#) that apply to Wisconsin Shares ~~Child Care~~, and the Wisconsin Shares Policy and Process Handbook Chapters 1-4.

#### 4.2.3.1 Subcontracting

Under the terms of the **Child Care** Contract, local agencies may subcontract for all or part of the required program integrity activities. The local agency is responsible for ensuring that subcontractors are following all required fraud investigation and overpayment procedures as required by Wis. Stat. s.[49.155](#), ~~Administrative Rule~~ **Wis. Admin. Code [DCF 201](#)**, sections of [DCF 101](#) that apply to Wisconsin Shares ~~Child Care~~, and the Wisconsin Shares Policy and Process Handbook Chapters 1-4.

### 4.2.4 Technical Assistance

**BPI** **The Program Integrity Unit** provides Technical Assistance (TA) to all Wisconsin local agency staff that may have Wisconsin Shares program integrity procedural questions.

Examples of requests to submit to the TA mailbox include, but are not limited to questions regarding:

- Front End Verification (FEV)
- How to conduct client investigations
- How to conduct provider investigations
- Investigation support
- Overpayment calculations

- Retraction and Voluntary Repayment Agreement (VPA) requests
- Submissions for IPV approvals (Section 4.5.4.3)
- Program Integrity systems such as: BRITS, CSAW, PLBC, and CWW (for IPV's)
- Development of local agency policies and procedures
- Requesting BPI a Program Integrity Subject Matter Expert for investigation assistance
- Request resources for the [Child Care Program Integrity Resource Library](#)
- Request access to BPI BCCSA SharePoint Fraud Plan and [Child Care Program Integrity Resource Library](#)
- EBT card deactivations

Local agencies may submit technical assistance requests to BPI the Program Integrity Unit by accessing <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or by email to [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov).

When requesting technical assistance using the [online BCCSA Technical Assistance form](#), local agencies must: **include:**

- All Include all contact information
- Select a the request type from the drop-down list
- Compose the request in the Question/Request text box:
  - Include the name of any Bureau or individual that has also been contacted and/or individuals to be copied with the inquiry response
  - Always include case number(s) and/or the provider number and provider location number with the request
  - Any relevant documents may be attached at the bottom of the form.
    - Select Choose File and upload the document

All submitted technical assistance requests will receive an automated confirmation message. A member of the BPI Program Integrity Technical Assistance Team will reach out to the sender within 4 business days.

#### 4.2.5 Child Care Program Integrity Resource Library

BPI The Program Integrity Unit provides a variety of resources to local agencies through the online [Child Care Program Integrity Resource Library](#). If unable to log in, please contact the BPI BCCSA Technical Assistance Mailbox to obtain assistance (<https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov)). BPI The Program Integrity Unit encourages all local agency workers who complete child care program integrity related activities to have access to the [Child Care Program Integrity Resource Library](#).



## 4.3 Detection

### 4.3.1 Referrals

**BPI** The Program Integrity Unit collects child care client and provider fraud referrals for ~~the state of~~ Wisconsin and disperses the referrals to the appropriate locations. This is managed through the Fraud Mailbox ([DCFMBCHILDCAREFRAUD@wisconsin.gov](mailto:DCFMBCHILDCAREFRAUD@wisconsin.gov)). The mailbox is primarily utilized by private citizens, child care providers, local agencies, state departments, and divisions to report activities that may be fraudulent (see Operations Memo [18-09](#)).

#### Client Investigation Referrals

Local agencies are not required to submit all of their client referrals to the Department. However, if the local agency requires assistance with investigative resources or the referral cannot be worked by the local agency, the local agency must submit the referral to [DCFMBCHILDCAREFRAUD@wisconsin.gov](mailto:DCFMBCHILDCAREFRAUD@wisconsin.gov). **BPI** The Program Integrity Unit will accept responsibility for the investigation once referred. ~~will assist with the reassignment of referrals.~~ Examples of child care client fraud referrals (~~see Operations Memo 17-14~~) that may be entered in BRITS and/or submitted to the **BPI** **BCCSA** Fraud Mailbox include, but are not limited to:

- Frequent provider changes (4 or more in a year)
- Employment and/or income cannot be confirmed through data exchange
- Employer has refused to complete an EVF-E, send an acceptable letter, or confirm the parent's employment and/or income through collateral contact
- Client shares the same address as their provider
- Client is the provider and fails to report self-employment
- Client in possession of a MyWICChildCare EBT card that is not their own
- Client has given their EBT card to an unauthorized person including the provider
- Requests that require further investigation:
  - Client requests funds to be loaded back on to card post expungement
  - 3 or more hardship requests in a year
  - 3 or more Approved Activity Search periods (ACTS) or Temporary Break periods (TBRK) in a year
- Client attempting to maximize authorized hours (i.e. suspiciously high travel times ([see 2.4.3.10](#)))
- Client overstates child care need in order to avoid paying a copayment or parent share ([see 2.4.3.1](#))
- **Suspicious** child care need, such as the child(ren) are not attending the center but payments are being made
- Parent approved activity is questionable (see [1.5.11.2](#)) due to:
  - Failure to respond to a request for verification following a report of a change in employment
  - Questionable EVF-E
  - Fraud report

- Parent is not in their approved activity, and ACTS or TBRK period ~~has~~ would have expired
- Suspicion of fraudulent documentation
- Report of parent and provider colluding to commit fraud (including kickbacks)
- Confidential case
- Conflict of interest

**Note:** The Department has the authority to review and assess referrals pursuant to: Wis. Admin Code ~~DCF ss. 250.12(1), and 251.12(1).~~, Wis. Admin Code.

#### 4.3.1.1 Screenings

~~BPI~~ The Program Integrity Unit encourages local agencies to develop an internal screening process for determining which referrals should be closed prior to investigation, or opened for a full investigation.

#### 4.3.2 Data Exchanges

CARES ~~data is exchanged with~~ receives data from other automated databases maintained by Federal, State and other agencies. ~~Data is exchanged and verifies that demographics, income, eligibility criteria, and eligibility status are accurate.~~ These data exchanges serve to ensure that eligibility has been determined correctly. ~~primarily help workers cross-reference information to verify income and eligibility factors.~~ These help to avoid errors in with issuing incorrect subsidy funds.

Local agencies are required to examine review data exchange information on a timely basis to determine if an overpayment has occurred. Data Exchange Reports to review for referrals include Prisoner Data Match, and State Wage ~~Income~~ Information Collection Agency (SWICA). Local agencies must take action on SWICA matches within 45 days of receipt of the match.

If a Prisoner Data Match is received that indicates a parent receiving Wisconsin Shares was out of the household in jail or prison for more than 30 days, an investigation should be conducted to determine if an overpayment occurred.

~~The SWICA process in GWW creates an income discrepancy for Child Care if:~~

- ~~1. The income reported by the employer(s) to the Department of Workforce Development (DWD) is \$250 per month or more greater than the income reported by all included members in the assistance group for two (2) consecutive months in a quarter, or~~
- ~~2. All included members in the assistance group was \$250 per month or more greater than the income reported for the month of application or renewal~~

## SWICA Discrepancies

~~When a discrepancy is created, local agency workers are expected to research the case to determine if:~~

When a SWICA match is received for a case (see [1.5.12.3](#)), the local agency should review the case for a potential overpayment by determining if the parent failed to report an increase in income that would have affected eligibility or the subsidy amount.

Situations that may have affected eligibility or the subsidy amount include:

- Household income exceeded 85% of the State Median Income (SMI) for two (2) consecutive months, or
- The case was in Gradual Phase Out or Exit copayment period (190% FPL or above) and the household income exceeded the next 5% of the Federal Poverty Level (FPL) above reported income for two (2) consecutive months, or
- The case had an initial application or annual renewal in the quarter and the household income was \$250 or more above reported income for two (2) consecutive months

If any of the above ~~criteria are met~~ situations occurred, the local agency must take corrective action. Workers are expected to contact the client or a third-party source to resolve the discrepancy and to request verification when necessary. An overpayment may be assessed if the parent met one of the criteria above resulting in incorrect eligibility or an incorrect subsidy amount and the subsidy was paid to the provider. If ongoing eligibility may be affected, see Section [1.5.12.3](#).

~~Action to resolve the discrepancy must be completed within 45 days of the SWICA match date (per Federal Regulation 45 C.F.R. §205.56(a)(1)(iv), unless third party collateral evidence is outstanding. The case record must be updated with any new information gathered.~~

The local agency should utilize the Post Load Benefit Correction (PLBC) module in CSAW to determine if the subsidy amount received by the parent was correct.

Case comments must be added in CWW to explain the actions taken and overpayments completed if appropriate. Overpayments related to the SWICA match are not required to be completed within the 45-day timeframe.

~~When a SWICA match is received for a case, the local agency should review the case for a potential overpayment by determining if the parent failed to report an increase in income that would have affected eligibility, subsidy amount, or copayment amount. An overpayment may be assessed if the parent received an incorrect subsidy amount which was paid to the provider and:~~

- ~~The parent failed to report a change in income that would have put the family over 85% of the State Median Income (SMI), for two (2) consecutive months; or~~
- ~~The local agency failed to enter reported information timely; or~~

- ~~The family was in Gradual Phase Out or Exit copayment period (190% FPL or above), and the parent failed to report an increase in income that would have put the family above the next 5% FPL above reported income for two (2) consecutive months; or~~
- ~~The parent had an initial application or annual renewal in the quarter and the household income was \$250 or more above reported income for two (2) consecutive months~~

An overpayment will not be assessed if the parent failed to report an increase in income that would not have affected eligibility, subsidy amount, or copayment amount.

~~If the local agency determines that the income indicated in the SWICA discrepancy may have affected eligibility, subsidy amount, or copayment amount, the local agency must pend Child Care eligibility for income verification on the Employment page in CWW and send the Notice of Proof Needed to the parent. Agency workers must also manually send the Employer Verification of Earnings (EVFE) to the employer(s) at the same time that the Notice of Proof Needed is generated in CWW.~~

~~Income verification must be received by the local agency within seven (7) calendar days. If income verification is not received within seven (7) calendar days, the local agency must update the current income on the Employment page in CWW with the most accurate information available from the SWICA match or the verification provided and run eligibility for Child Care. If household income exceeds 85% SMI for two (2) consecutive months, ongoing eligibility for Wisconsin Shares Child Care will end due to the assistance group being over the income limit.~~

~~The local agency should utilize the Post Load Benefit Correction (PLBC) module in CSAW to determine if the subsidy amount received by the parent was correct in the following circumstances:~~

- ~~The assistance group was over 85% SMI for two (2) consecutive months (or more); or~~
- ~~The assistance group was in Gradual Phase Out (GPO) or Exit period and the difference in income exceeded the reporting requirement for two (2) consecutive months (see 1.8.1); or~~
- ~~The assistance group completed an initial application or annual renewal during the quarter of the SWICA match and the difference in income was \$250 or more for two consecutive months~~

~~If any of the above situations occurred, an overpayment may be assessed if the parent received an incorrect subsidy amount and made payment to the provider.~~

<p><b>Note:</b> <del>SWICA matches are displayed on the CWW Dashboard that identifies discrepancies that need to be worked by the local agency. SWICA discrepancies may identify any bonuses, commissions, or overtime that the client may not have reported</del></p>
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to the local agency. This income may affect the client's eligibility, subsidy amount, or copayment amount, and therefore warrants an investigation.

#### 4.3.3 Client Red Flag Reports

Red Flag Reports are system-atically generated reports that identify potential program integrity issues. Each report identifies a set list of criteria that have been flagged for review. Local agencies should utilize these reports as a source of referrals for further review. The client red flag reports are located in Web Intelligence (WebI).

Examples of The following are titles of client Red Flag Reports available in WebI:

- Unusual Parent Schedule (parent schedule does not align with child care need)
- Current authorized hours greater than 50
- Current Schedules for Approved Parent Activity
- Cards Replaced Within 12 Months
- Funds About to Expire
- Inactive EBT Cards For More Than 30 Days With a Balance Amount
- Expungement
- Multiple Providers Including Child Care Need Schedule

#### 4.3.4 Public Assistance Reporting Information System (PARIS) Report

The PARIS report is a quarterly report that displays information for individuals who are receiving public assistance in multiple states. In Wisconsin, this report matches individuals who are receiving FoodShare, Wisconsin Shares **Child Care**, **BadgerCare Health Care**, and/or Wisconsin Works (W-2) with individuals receiving public assistance in other states. The PARIS report helps to identify individuals who are not eligible to receive child care subsidy, due to the fact that they are a resident of a different state (who originally claimed to be a resident of Wisconsin), or a resident of Wisconsin who is also identified as receiving the same subsidy funds in another state. Cases identified as fraudulent receive a sanction as described in Section 4.5. ~~A parent who is convicted in a Federal or State court of receiving benefits simultaneously in two or more states can also be denied assistance in all states for a period of 10 years (see Wis. Stat. s.49.141(7)(c)).~~

Local agencies are required by Wis. Stat. [ss.49.155\(3\)\(e\)](#) and [49.155\(3g\)\(a\)4](#) to investigate cases sent to them for review as a result of a PARIS report. Local agencies should follow established procedures and timelines to determine residency of the client and if the client received Wisconsin Shares subsidy while residing in another state. Referrals will be assigned via BRITS, the state match will be indicated under the BRITS PARIS drop-down. ~~Please note that the local agency will only need to work CC portion; DHS OIG (office 5373) and W-2 Fraud (9173) offices will investigate PARIS match for FoodShare, Medical, and/or W-2.~~

**Note:** Any instances discovered of a client receiving benefits from multiple states must be entered as a BRITS referral. The local agency only needs to work the Wisconsin Shares portion; DHS OIG (office 5273) and W-2 Fraud (office 9173) offices will investigate PARIS match for FoodShare, Health Care, and/or W-2.

#### **4.3.5 Federal Improper Payment Report**

Every three years, BPI BCCSA must submit the Federal Improper Payment (FIP) Report to the federal government. This report documents how the Child Care Development Funds (CCDF) are being spent. The report also identifies errors associated with client eligibility, authorizations, subsidy payments, and what program integrity efforts are being implemented to ~~protect the funds~~ prevent improper payments.

Local agencies are required by Wis. Stat. [ss.49.155\(3\)\(e\)](#) and [49.155\(3g\)\(a\)4](#) to cooperate with Department staff to identify and correct any discovered errors. Local agencies may be required to complete a corrective action plan in order to prevent future errors of the same manner.

#### **4.3.6 Targeted Case Reviews**

Targeted Case Reviews (TCRs) are reviews of local agency eligibility and authorization determinations. TCRs are completed on a quarterly basis and consist of a random sample of cases from local agencies. The randomly selected cases are reviewed by the Department to ensure local agencies are following established policy and procedure, and to verify the accuracy of subsidy fund issuance.

Local agencies are required by Wis. Stat. [ss.49.155\(3\)\(e\)](#) and [49.155\(3g\)\(a\)4](#) to address and/or correct any discovered errors. Local agencies may be required to complete a corrective action plan in order to prevent future errors of the same manner.

#### **4.3.7 Audits**

Additional audits may be performed by BPI the Program Integrity Unit to further support the local agencies ~~in removing errors from~~ in identifying errors in the Wisconsin Shares ~~Child Care~~ program, and to recognize their accomplishments in correctly completing case eligibility and authorization processes.

Local agencies are required by Wis. Stat. [ss.49.155\(3\)\(e\)](#) and [49.155\(3g\)\(a\)4](#) to correct any discovered errors. Local agencies may be required to complete a corrective action plan in order to prevent future errors of the same manner.

### **4.4 Client Investigations**

Client investigations are conducted in order to determine whether a client is receiving subsidy funds that they are not eligible to receive, or if the client has violated any statute or administrative rule related to the Wisconsin Shares ~~Child Care Subsidy~~ program

under Wis. Stat. s. [49.155](#), or Wis. Admin. Code [DCF ss. 101](#), ~~or~~ and [201](#). Local agencies should have an established process for completing client investigations.

It is recommended that local agencies attempt to contact the client before establishing an overpayment.

It is required that local agencies contact BCCSA through the Technical Assistance Mailbox (<https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov)), and attempt to contact the client before establishing an intentional program violation (IPV). All attempts to contact a client ~~in regard to~~ regarding an overpayment or IPV must be recorded in CARES Worker Web (CWW) case comments. It is recommended that local agencies complete client investigations within 30 calendar days once assigned.

The subsidy funds in a parent's account may only be used to compensate a provider for child care ~~provided~~ authorized to the child listed on the parent's authorization notice (~~Administrative Rule~~ Wis. Admin. Code [DCF s. 201.04\(1\)](#)).

#### 4.4.1 Evidence and Tools

Client investigations should result from a BRITS referral that identifies a reason for review. The fraud investigator will analyze documents, conduct interviews, review case files, and review policy to determine whether a client is receiving subsidy funds that they are ineligible for (overpayment due to agency error or client error), ~~and~~ The fraud investigator will also review whether ~~they have~~ the client submitted false information or materials to the Department or local agency to obtain, maintain, or maximize the subsidy funds. All of the investigation materials ~~and tracking should be maintained in BRITS.~~ must be uploaded to BRITS or Electronic Case File (ECF) upon completion of the investigation.

#### 4.4.2 Information to Verify for the Investigation

There are various types of errors and evidence investigators should seek to gather during an investigation. Several examples of evidence to gather and sources to consult are described below.

##### 4.4.2.1 Questionable Approved Activity

If a parent's approved activity is questionable due to failure to respond to a request for verification following a report of a change in employment, questionable EVF-E, or fraud referral, ~~the following steps must be taken by the local agency~~ the local agency must follow the policy and process described in ~~(see Section 1.5.11)~~.

- ~~• Pend the case for Approved Activity on the Child Care Activity Status page in CWW~~
- ~~• The system will generate a Notice of Proof Needed
  - ~~○ The local agency must add a note to the Notice of Proof Needed asking the parent to contact the local agency if the parent intends to continue to utilize child care while engaging in an approved activity search period (ACTS)~~~~

- ~~If the parent indicates they do not want the approved activity search period, do not intend to utilize child care, or if the parent does not respond, the Child Care Activity Status must be changed to “No” and Child Care eligibility for the Assistance Group will systematically end for lack of an approved activity.~~

If the referral was created due to notification that the client is no longer participating in their approved activity and the client was not in an approved activity search period (ACTS), or temporary break period (TBRK), **the agency worker must** verify that the client's wages reflect this for the referral period. ~~Please note that~~ Investigators are not limited to the following actions:

1. Check wages in DXQW or SUITES.
  - a. Determine if the client is self-employed.
  - b. View the Electronic Case File (ECF).
  - c. Review income related notes and case summary details.
  - d. Verify that a signature was collected at the most recent eligibility interview.
2. Verify employment.
  - a. Mail an Employment Verification Form of Earnings (EVF-E) and a Request for Information Letter.
  - b. Verify that the employer's phone number provided by the client is the correct phone number.
3. Verify that child care was utilized and paid for during the time period in question.
  - a. If child care services were not utilized or paid for, an overpayment should not be assessed, and the case can be closed in BRITS. Document the closure reason in the BRITS comments section.

Clients who experience a permanent loss of approved activity, or a temporary break from an approved activity may be eligible for up to three months of child care subsidy ~~in order to search for another approved activity, or for a break from an approved activity~~ (see [Sections 1.3.9.2](#), and [2.4.3.4](#)).

If eligibility and authorizations are ending according to adverse action following a completed renewal because an Activity Break Period cannot begin the first month of the new eligibility period, see [4.5.2.2.1](#).

If the loss of approved activity, or temporary break is not reported or discovered until after the ~~search period or break period~~ **Activity Break Period would have** expired, a BRITS referral must be created as this may result in an overpayment for any subsidy issued and paid to the provider after the ~~Approved Activity Search period (ACTS) or Temporary Break period (TBRK)~~ **Activity Break Period would have** expired.

If a parent is in an ~~ACTS or TBRK period~~ **Activity Break Period** and fails to report to the local agency that they began an approved activity during the break, a loss of this



unreported approved activity will not result in another ~~ACTS or TBRK~~ Activity Break Period because the approved activity was never reported or verified.

If a client who is in an ~~ACTS, or TBRK~~ Activity Break Period fails to report within 10 calendar days that they have begun a new approved activity, or resumed an approved activity, the client may be responsible for an overpayment if the subsidy or copayment amount would have changed based on the client's updated income.

If a client informs the local agency that ~~the client intends~~ they intend to utilize child care during an ~~ACTS or TBRK period~~ Activity Break Period, and subsequently fails to notify the local agency within 10 calendar days when a child has been absent for 20 days, or fails to report a change in child care need when a child has significantly underutilized care, the client may be responsible for an overpayment.

An investigation must be conducted to determine the reason for the child's absence, or underutilization before an overpayment could be established. Overpayments for underutilization may be assessed in egregious cases of underutilization in which a parent failed to report a change in child care need and continued to overpay the provider for multiple months (per Wis. Stat. s.49.155(1m)(a) and ~~Administrative Rule~~ Wis. Admin. Code ~~DCF s.~~ [201.04\(5\)\(a\)\(2\)](#)).

**Note:** Local agencies may submit Technical Assistance requests to ~~BPI~~ BCCSA by accessing <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or by email to [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov).

#### 4.4.2.2 Questionable Household Composition

If there is an investigation questioning household composition, investigators may utilize the following resources to verify household composition. Investigators are not limited to the following actions.

1. Verify with other programs if the members listed in their household are the same as in the ~~Child Care~~ Wisconsin Shares AG which could be an indication that a client failed to report another adult moving into the household.
2. Conduct a client interview (preferably recorded).
3. View public records such as voter registration, social media\*, Department of Transportation records, Child Support records, probation and parole records, and CCAP.
4. Request a copy of the utility bill.
5. Request a copy of the lease.
6. Conduct surveillance.
7. Conduct a home visit.

**\*Note:** Please consult the local agency's social media policies before conducting searches **of on** social media. Information discovered through social media should not be used as primary evidence, but may be used as supplemental evidence.

#### **4.4.2.3 Questionable Need for Child Care**

Investigators may utilize the following resources to verify the need for child care. Investigators are not limited to the following actions.

1. Verify if another parent or individual filling the parent role who was not reported as residing in the household was available to provide care when the child was in care. Employment verification can be utilized for this.
2. Conduct interviews with the parent and the provider to confirm the child's attendance.
3. Conduct surveillance to confirm attendance of children.

#### **4.4.2.4 Fraudulent Documents**

Documents that are frequently falsified and/or are submitted as fraudulent documents include leases, Employer Verification of Earnings (EVF-Es), and/or pay stubs. In cases in which fraudulent documents have been submitted by the client, investigators may take any of the following actions (but are not limited to):

1. Contact the landlord to determine accuracy of the lease.
2. Verify household composition using child support **(KIDS)**, CLEAR, Credit Reports, voter registration, Department of Transportation records, or CCAP (see **Section 4.4.2.2**).
3. Verify EVF-E and/or pay stubs with the employer.
4. Conduct interviews (this may include current or previous employers, and the client).

#### **4.4.3 Data Tracking Requirements**

Local agencies must maintain records of the total number of client investigations completed as well as the types and amounts of errors that were the result of investigations. This information may be tracked and monitored in BRITS **(see 4.5.7)**.

~~See Section 4.5.7 for more details.~~

#### **4.4.4 Future Cost Saving (FCS)**

FCS is the total benefit amount that might have been issued had overpayments and fraud not been identified.

##### **4.4.4.1 FCS Formula**

To determine the FCS amount, workers must multiply the average monthly overpayment amount (the total overpayment amount divided by the number of months where issued payments were in error) by the remaining number of months in the current eligibility period:

*(Average Monthly Overpayment x Months Remaining in Current Eligibility Period)*

Once the FCS amount has been determined, **agency** workers should enter the amount in the BRITS referral Post Investigation tab for Child Care, in the CC Future Cost Saving Field.

**Note:** See the FCS Calculator in in the [Child Care Program Integrity Resource Library](#)

**Note:** The tool tip for the CC Future Cost Saving field is not current. Do not follow the tool tip instructions. Refer to the formula listed in this section.

## 4.5 Sanctions

The sanctioning process allows the Department and local agencies to establish the appropriate penalties for any discovered violations. The authority for these actions is established under Wis. Stat. [ss.49.151\(2\)](#), [and 49.195\(3\)](#), and ~~Wisconsin Administrative~~ **Wis. Admin.** Code [DCF ss. 101.21](#), and [101.23](#).

Sanctions include (but are not limited to):

- Retractions
- Overpayments (for Administrative Error, Client Error, and Intentional Program Violations)
- Intentional Program Violations (IPV)
  - Program suspensions
- Referrals for criminal prosecutions

### 4.5.1 Retractions

Funds may be retracted (removed) from a parent's MyWICChildCare EBT card in limited circumstances. Examples of situations when funds may be removed include:

- Funds loaded (but not spent) to an incorrect provider or incorrect provider location
- Provider closures of more than one (1) week in a calendar year, temporary closure, or permanent closure
  - Funds issued for a period of time when a provider has a temporary closure of up to 14 consecutive calendar days due to a COVID-19 exposure will not be retracted
- Cases of agency error (if the parent was not eligible for the amount of subsidy received)
- Parent ineligible for funds (such as)
  - Not participating in an approved activity (~~including AGTS or TBRK~~)
  - Income change that exceeds eligibility limit
  - Change in Assistance Group (AG) (if the change affects eligibility or authorization)
  - Non-cooperation with Child Support Agency (CSA)

- Cases of hardship where it is possible to calculate a removal amount for the time period when the child is not attending the provider location
- Child not attending the provider location
- History of expungements
- Midmonth change in provider;
  - Parents may choose a different provider midmonth if the child has not attended the provider in the current month, the parent has not spent any of the current month's subsidy funds, and the funds remaining on the card for the current provider are retracted. ~~if funds are remaining on the card and the child will no longer be attending, the funds to previous provider should be retracted for future dates.~~
  - If funds have been paid for the current month, ~~then~~ the local agency should review the case to determine if an overpayment should be established. ~~after provider explanation~~

All funds must be retracted from the parent's EBT card if the parent has not paid any of the subsidy to the provider within the previous 90 days (See Section [3.3.1.3](#), [4.2.1.5.2](#), and ~~administrative rule~~ Wis. Admin. Code [DCF s. 201.04\(3\)](#)).

Other instances may be approved by ~~BPI~~ the Program Integrity Unit for removal if sufficient reason is provided to demonstrate that leaving the funds on the card may result in an overpayment ~~due to client error~~.

If funds are not approved for removal it is either because the parent is eligible to spend the funds or ~~BPI~~ the Program Integrity Unit anticipates that the funds will be expunged from the card within 90 days. If a retraction request is denied by ~~BPI~~ the Program Integrity Unit and the client spends the funds after the denied request, local agencies must not create an overpayment without first consulting ~~BPI~~ the Program Integrity Unit via the Technical Assistance mailbox: <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form> ([dcfbpitarequest@wisconsin.gov](mailto:dcfbpitarequest@wisconsin.gov)).

#### 4.5.2 Overpayments

Overpayments are issued when a client received subsidy funds for which they were not eligible. Overpayments may be a result of: Administrative Errors ~~that affect eligibility~~, Client Errors, and/or Client Intentional Program Violations (IPV).

The Department, ~~and~~ local agencies shall take all reasonable steps to recover any overpayment made due to administrative error ~~that affects eligibility~~, client error, or intentional program violation, as established in [DCF 201.04\(5\)\(a\)](#), when the client was not eligible for the level of subsidy received.

The client is liable for all overpayments and sanctions described in Section 4.5 (see Administrative Rule [DCF 101.23\(1\)\(g\)](#)) ~~unless otherwise noted~~.

#### 4.5.2.1 Establishing a Client Overpayment

The Department and local agencies shall establish all client overpayments. Claims for incorrect payments due to an intentional program violation (IPV) or client error may be established for up to six (6) years prior to the notification date of the overpayment, also known as the date of discovery (see Wis. Stat. s. [893.43](#)). Administrative error overpayments may be established for errors that occurred up to one year prior to the date of discovery. The claim ends the month the error last occurred, and extends back 12 months or when the error first became effective, whichever is most recent. The overpayment period for an administrative error cannot begin more than 12 months prior to the date of discovery of the overpayment ([Wis. Admin. Code DCF s. 101.23\(3\)\(c\)](#)).

All Client overpayments should be entered into the Benefit Recovery (BV) subsystem of CARES Worker Web (CWW) within 30 days after the overpayment has been determined. An overpayment notices will be systematically generated by BV, however and a manual overpayment notices must be sent to the client as well (see Section 4.6.1.2 for additional details).

#### 4.5.2.2 Overpayment Calculations

To calculate an overpayment:

1. Determine Overpayment Period
2. Verify funds have not been recovered from the provider for the same overpayment period
3. Apply Credits (see [Section 4.5.2.2.2](#))

##### 4.5.2.2.1 Overpayment Period

The overpayment period must be established with a begin date and end date. The overpayment period depends on whether:

1. The change was reported timely or untimely, or
2. The client presented false information, or withheld information, at the time of the application, review, or ~~notice of~~ reported change.

Timely reported changes will not result in an overpayment, unless an administrative error occurs that affects eligibility. ~~in situations where~~ If a local agency fails to enter reported information timely, ~~or enters reported information incorrectly~~ resulting in the parent receiving an incorrect subsidy amount, ~~the client may be responsible for an overpayment~~ and if the parent makes a payment to the provider (see section 4.5.4.1).

Any timely reported changes, that are entered into the system timely by the local agency, ~~that~~ which result in a reduction in subsidy amount will not be applied in CSAW until the first of the next month. This includes instances in which an individual is no longer eligible or if ~~their~~ the circumstances ~~in~~ of their case have changed. See Section 4.5.2.2.1.1.2 for adverse action directions.

If a parent reports a permanent loss or temporary break from approved activity after adverse action in the month that an annual renewal had been completed, and the local

agency is not able to end the authorization until the following month, the parent will not be responsible for an overpayment for paying the following month's subsidy to their provider, unless it is determined that the parent committed an intentional program violation (see 4.5.2.2.1, 4.5.4.2.2, and 4.5.4.3.1.5).

**Example 1:** John completes his annual eligibility renewal on March 10. On March 31, John reports online through ACCESS that his employment ended on March 30. The local agency receives the notice of loss of approved activity on April 1. The local agency ends the authorization because ACTS cannot start the month following a renewal. Due to the fact that the authorization was not ended until April 1, funds had already loaded to John's EBT card for the month of April. John will not be responsible for an overpayment of April funds unless a determination is made that John committed an intentional program violation.

**Example 2:** Terri completes her annual eligibility renewal on March 10. Terri experiences a permanent loss of approved activity on March 30, but does not report the change to her local agency. The local agency discovers on July 10 that Terri has not been in an approved activity since her employment ended on March 30. Terri is not eligible for ACTS because she lost her approved activity during the renewal month and failed to report the change timely. Terri may be responsible for an overpayment of any funds issued to her and paid to her provider beginning April 1.

Untimely reported changes that result in an alteration or end to eligibility or an authorization should begin on the first day of the month following the change and end on the last day of the current month.

In **income** cases where the date of change **in income** is unknown, the begin date should be the first day of the month following the paycheck that placed the client over the reporting requirements. When determining the overpayment amount, count the actual earned and unearned income received during the overpayment period (see [Section 1.4.2](#) and [1.4.3](#) on income that must be included or excluded for child care).

**Example 3:** Mary has an authorization for her daughter. On November 10, Mary and Ted were married. The local agency discovered this December 15. The change was not reported timely [Mary had 10 calendar days to report her marital status change]. Therefore, if the change in AG size would have resulted in loss of eligibility, a decrease in subsidy, or an increase in copayment, an overpayment would be assessed from the first day of the month following the change through the last day of the current month (December 1 - December 31).

#### 4.5.2.2.1.1 Overpayment Period Exceptions

There are two (2) circumstances in which the **general** untimely reported overpayment **begin date** guidelines are not applicable. These include:

1. Incorrect Information at Time of Application or Review
2. Adverse Action

##### 4.5.2.2.1.1.1 Incorrect Information at Time of Application or Review

If a client presented incorrect information, **and/or** fraudulent documentation, or withheld information, at application or review, and the client was not eligible for the level of subsidy received, the overpayment begins on the first day of the authorization and ends on the last day of the current month.

**Example:** Melissa and Ted have been married since 2014. On April 7, 2018, Melissa applied for Wisconsin Shares and purposefully did not disclose that **her husband Ted lives in the home** ~~she was married~~. This was discovered in December 2018. An overpayment (and IPV) would be assessed for all Wisconsin Shares **Child-Care** subsidies issued to the client and paid to the provider from the date of application, ~~in this case April 7, 2018~~ through the last day of the current month **(April 7, 2018 – December 31, 2018)** ~~(December 31, 2018)~~. **If Ted is still living with Melissa, the case must be updated to include Ted in future months.**

##### 4.5.2.2.1.1.2 Adverse Action

Eligibility overpayments **s cases** may be impacted by adverse action. If a change is reported approximately within the last 10 business days of the month, this change will not take effect in the next month, but rather the month after. For changes that are dependent on adverse action see [Section 1.8.4.1](#).

When eligibility is run after adverse action for any situation not listed in [Section 1.8.4.1](#), the change will take effect in the recurring month (the month after the immediately following month). Local agencies must run eligibility without dates, and then run eligibility again with dates when processing income changes to ensure that the income change is applied to the correct month. Local agencies must confirm eligibility after running eligibility each time eligibility is run in order for CSAW to use the new income in determining copayments and copayment periods (see [Section 1.5.12](#)).

##### 4.5.2.2.2 Apply Credits

To verify funds have not been recovered from the provider for the same overpayment period as the client overpayment, local agencies must review provider information in CSAW and view negative adjustment history for the time period in question. If no overpayment has been assessed against the provider for the children in question, an overpayment may be assessed against the client. If a provider overpayment has already been issued for the provider, a client overpayment may still be assessed if the identified overpayment does not exceed total funds. If an overpayment has been assessed for

that client, during that time period for the same reasons, ~~do not take~~ the agency worker must not establish an overpayment.

If calculating an overpayment for a month in which funds would have expired from the client's EBT card local agencies must verify that the funds were paid to the provider. Agency workers must only calculate overpayments ~~only on~~ for the amount paid to the provider and not the amount loaded to the card. This information can be found in CSAW on the Transactions Screen or in the Expunged Funds Report which is located in the following folder in WebI: DCF/WISDOM/Childcare/Subsidy-MyWICChildCare/BPI/Payment Reports. Local agencies must thoroughly document this step ~~thoroughly~~ on the Overpayment Calculation Worksheet.

Overpayments should be calculated in the Post-Load Benefit Correction (PLBC) module in CSAW; however, if the client has expired funds for months of the overpayment, the overpayment amount calculated should be adjusted so that the overpayment reflects the amount paid to the provider, not the amount loaded to the EBT card.

**Example:** Mary has an overpayment from March 1 through the last day of the current month (August 31), for a total of \$500. To determine if she has any credits, the worker reviews the Expunged Funds Report for Mary for March. It has been four months since Mary received the March subsidy, so if she did not pay the provider those funds, they would have been removed from the card. Mary did not pay the provider \$50 in March from her \$500 subsidy load. Her overpayment will receive a \$50 credit because this amount was not paid to the provider. Therefore, her overpayment would ~~now~~ be \$450.

#### 4.5.2.2.3 Unreported Employment after Unreported Loss of Approved Activity

When establishing an overpayment for an unreported loss of approved activity that is discovered after the Approved Activity Search period (ACTS) ended, do not take an overpayment for the period(s) of time when the client was participating in another unreported approved activity.

**Example:** Steve receives an authorization for his son Tristen to attend ABC Daycare beginning January 20. Steve loses his job on March 27 and does not report this job loss to the local agency. Steve is eligible for an ACTS period from April 1 – June 30. The local agency discovers in December that Steve lost his job in March, and ~~also~~ that Steve ~~also~~ failed to report that he began a new job on November 1. Steve is responsible for an overpayment of any subsidy received and paid to the provider from July 1 – October 31, which is the period after his ACTS would have ended until his new job began.



### 4.5.3 Entry of Client Overpayment in Benefit Recovery (BV)

After the client overpayment calculation in PLBC is complete, the overpayment must be entered into the **Benefit Recovery** (BV) system, ~~which is~~ (a sub system of CARES) using the BVRF and BVCL screens (see [BV User Guide](#)). To complete the overpayment, the related BRITS Referral Number will need to be entered on the BVRF screen to link the overpayment to the related BRITS referral. BV will generate the appropriate collection notices. These include:

- The original overpayment notice\*
- Repayment Agreement
- Monthly Dunning Notices
- Payment Summaries

If an overpayment is adjusted or closed due to new information or due to a fair hearing decision, a notice must be manually updated, created, and mailed. The updated notice must be mailed the same day the actions are completed.

Once the claim is established, **please the agency worker must** complete the BRITS referral and close the Child Care tab in the Post Investigation section.

**\*Note:** Please note that a manual overpayment notice must also be sent (see [Section 4.6.1.2 for details](#)).

#### 4.5.3.1 Correcting a Client Overpayment

If a client overpayment has been entered in BV, and must be corrected, a [Write-Off and Adjustment Request Form](#) must be completed and submitted to PACU.

### 4.5.4 Overpayment Classifications

There are three (3) types of client overpayments: Administrative Errors, Client Errors, and Client Intentional Program Violations (IPVs). Each is described in detail below.

#### 4.5.4.1 Administrative Error(s)

Administrative Errors (also referred to as agency errors) are defined as an overpayment that was a result of a local agency entering erroneous information, or failing to enter information reported by the client, that **led to caused** the client **receiving to receive** subsidy for which they were not eligible.

Administrative Errors include those that affect eligibility and authorizations; however, administrative errors that only affect authorizations and do not affect eligibility will not result in client overpayment. Liability for overpayments caused by administrative error are limited to one year prior to the date that the agency or department discovers the error (see [Administrative Rule Wis. Admin. Code DCF s. 101.23\(3\) \(c\)](#)).

#### 4.5.4.1.1 Administrative Errors that Affect Eligibility

A client may be responsible for an overpayment that was due to an administrative error if the client should not have been determined eligible at the most recent eligibility determination and the client received subsidy which the client was not eligible to receive and made a payment to the provider.

In addition, a client may be responsible for an overpayment that was due to an administrative error if the local agency failed to act on a reported change that would have resulted in the client being ineligible, or receiving a lower subsidy amount, and the client received subsidy which the client was not eligible to receive and made a payment to the provider.

Eligibility related administrative errors may include (but are not limited to):

1. Incorrect Entry of Client Information that Affects Eligibility
2. Failure to Enter a Timely Reported Change That Affects Eligibility

General procedure:

1. Use PLBC to Update the client case in CWW to reflect the correct information for future months.
2. Use PLBC to assess for a positive or negative adjustment ~~using the date of the incorrect entry (typically, the date of the creation of the authorization, or the date of the reported change) to the end of the current month.~~
3. If an overpayment occurred, create a referral in BRITS by selecting Agency Error Claim in the referral type field; create an overpayment in BV using error type NC.

**Note:** See Chapter 1 for eligibility information.

##### 4.5.4.1.1.1 Incorrect Entry of Client Information that Affects Eligibility

If a local agency enters incorrect client information in CWW and this information affects eligibility, it is an administrative error. Assess for a positive or negative adjustment in PLBC for all impacted months.

**Example:** The local agency entered Mark's income ~~information~~ incorrectly in CWW at the initial eligibility determination. If income had been entered correctly, Mark would have been above the initial income limit of 185% FPL for his family's AG size and not eligible for Wisconsin Shares ~~Child Care~~. When the error is discovered, all authorizations must be ended as of the last day of the current month, and A negative adjustment must be assessed using PLBC for each month that Mark received subsidy funds for which he was not eligible, if the subsidy funds were paid to his provider. This amount must then be entered in BV. This should be entered in BRITS with reason code Earned Income. Reason code EU should be checked on the client investigation form.

#### 4.5.4.1.1.2 Failure to Enter a Timely Reported Change that Affects Eligibility

If a client timely reported a change in their case that affects eligibility, and the local agency failed to enter the change timely, this is an administrative error (see [Section 1.8.1](#) for reporting requirements).

Assess for a positive or negative adjustment in PLBC for all impacted months.

**Note:** If a client does not timely report a change to eligibility, this is a client error (**See Section see** 4.5.4.2.2).

**Example:** Marco calls the local agency on March 21 to report that his family will be moving to Minnesota on March 24. The local agency does not enter the information in CWW until April 2. Marco is responsible for an overpayment of any subsidy funds issued and paid to the provider when he was no longer eligible as of April 1. This amount must be calculated in PLBC and entered in BV.

#### 4.5.4.1.2 Authorization Administrative Errors that Do Not Affect Eligibility

Administrative errors that affect authorization(s) but do not affect a client's eligibility will not result in client overpayment.

When an administrative error that affects authorization(s) is discovered, the authorization(s) should be ended as of the last day of the current month and a new authorization should be created based on the corrected information.

There are several authorization-related administrative errors, including (but not limited to):

1. Incorrect Entry of Authorization Information
2. Incorrect Provider or Provider Location Authorized (with or without payment)
3. Incorrect Entry of an Adjustment
4. Inappropriate Hardship Authorization

General Procedure:

1. Using PLBC, update the case to **demonstrate use** the correct information.
2. If the authorization is continuing, end the current authorization as of the last day of the current month and create a new authorization with the correct information beginning the following month. If it is not, end the authorization the last day of the current month.

##### 4.5.4.1.2.1 Incorrect Entry of Authorization Information

This error occurs in any case where a local agency or department worker entered any incorrect information during the authorization process. This may include: an incorrect entry of parent schedule, child care need schedule, **or** incorrect override amount, ~~incorrect provider, incorrect provider location, etc.~~

**Example:** Susan requests an authorization for her daughter Maggie on January 12. Based on Susan's approved activity schedule and Maggie's child care need schedule the authorization should have been issued for 30 hours. However, the worker incorrectly enters Susan's approved activity schedule as 35 hours per week and Maggie's child care need schedule as 35 hours per week. The authorization is issued for 35 hours beginning January 15. When the error is discovered on March 7, the local agency must end the incorrect authorization as of the last day of the current month and issue a new authorization for the correct number of hours beginning the following month. This type of administrative error will not result in an overpayment.

#### 4.5.4.1.2.2 Incorrect Provider or Provider Location Authorized

If a local agency issues an authorization for a client to an incorrect provider or incorrect provider location, it is either an administrative error if the local agency inadvertently entered the wrong information, client error if the client inadvertently supplied the wrong information, or intentional program violation (IPV) if the client intentionally provided false or fraudulent information in order to receive an authorization to the incorrect provider or incorrect provider location. This may occur if a client reported a change in provider timely and the local agency did not update the authorization, or the incorrect provider was inadvertently selected during the authorization process. The procedure is different if a payment was made (see below).

**Note:** For cases in which the client did not timely report a change (see [Section 4.5.4.2.2](#)).

1. If a payment was made to the incorrect provider, or incorrect provider location, ~~the agency worker must~~ complete the [Voluntary Repayment Agreement \(VPA\)](#) process (see [Section 4.12.1.1](#)), and submit a Technical Assistance request to [BPI-BCCSA](#) to retract any funds for the inaccurate provider that remain on the card by accessing <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>.
  - a. If the provider declines the VPA process, an investigation must be conducted to determine liability for an overpayment:
    - i. If the results of the investigation indicate that the client gave correct information to the local agency about the provider and provider location, and the local agency made an error by authorizing to the incorrect provider or provider location, the client is not responsible for an overpayment
    - ii. If the results of the investigation indicate that the client inadvertently gave incorrect information to the local agency about the provider or provider location, this is a client error (see [Section 4.5.4.2](#)) and the client is responsible for an overpayment
    - iii. If the results of the investigation indicates that the client intentionally gave false or fraudulent information to the local agency in order to receive an authorization to the incorrect provider or

provider location, this is an IPV (see [Section 4.5.4.3](#)) and the client will be assessed an overpayment and an IPV

2. If payment was not made, submit a Technical Assistance request to [BPI BCCSA](#) requesting a retraction (see [Section 4.5.1](#)) by accessing <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>.

#### **4.5.4.1.2.3 Incorrect Entry of an Adjustment**

An administrative error occurs if a worker incorrectly enters a positive or negative adjustment in PLBC.

If the incorrect entry was a:

- Positive adjustment and not justified, an overpayment will be assessed in the amount of the positive adjustment if the client was not eligible during the time period that the positive adjustment was entered.
- Negative adjustment and not justified, the claim will need to be corrected in BV, and the case corrected in PLBC (if applicable).

#### **4.5.4.1.2.4 Inappropriate Authorization of Hardship**

An administrative error occurs if a local agency issues a hardship authorization (~~see Operations Memo 17-36~~) without the proper documentation or that is inconsistent with the policy in [Section 2.4.9.1](#), or without proper documentation this is an agency error.

An overpayment and IPV for the client will be assessed if the client intentionally submitted false or fraudulent documentation in order to receive the hardship authorization (see [Section 4.5.4.3.1.8](#)).

#### **4.5.4.2 Client Error(s)**

Client Errors are unintentional or inadvertent error(s) made by a client who reported incorrect information or failed to report a change in information to the Department or local agency.

Client error overpayments can be established up to six (6) calendar years from the date of discovery (Wis. Stat. s. [893.43](#)).

**Note:** Client reporting requirements were temporarily suspended from April 2020 – July 2020 due to COVID-19, per the Governor’s [Emergency Order #26](#). Any potential client overpayments related to section 4.5.4.2 during this period may be affected by this rule suspension. The rule suspension does not affect client intentional program violations (IPV) which may still be imposed during this period.

#### **4.5.4.2.1 Timely Reported Eligibility or Authorization Ending Changes**

Any timely reported changes by the client will not result in a client overpayment for the current month. However, an Administrative Error may be applicable if the local agency does not process the reported change timely (see 4.5.4.1). ~~See Section 4.5.4.1 for details.~~

#### 4.5.4.2.2 Untimely Reported Changes that Affect Eligibility

Untimely reported changes that affect a client's eligibility will result in a client error and may result in an overpayment if the client was not eligible for the subsidy that was received and payment was made to the provider. Examples of untimely reported changes that affect eligibility include (but are not limited to):

1. **Permanent** Loss of Approved Activity ~~not Reported Within the Activity Search Period~~
2. Income Change that Exceeds Eligibility Limit
3. Change in any Non-Financial Eligibility Criteria
4. Temporary Break from Approved Activity ~~not Reported Within the Temporary Break Period~~

General Procedure:

1. For unreported changes that affect a client's eligibility, including permanent loss of approved activity or temporary break from approved activity, the worker must end the existing authorization(s) at the end of the current month. ~~If the unreported change was a loss of approved activity, or temporary break from approved activity, and it was not reported within the ACTS period or TBRK period following the loss of approved activity or temporary break, end the authorization at the end of the current month and assess for overpayment beginning after the ACTS period or TBRK period ended for any subsidy issued to the client and paid to the provider that the client was not eligible to receive (see Section 2.4.3.4 and 2.4.3.5).~~
2. Next, the agency worker must assess for an overpayment in PLBC beginning the first day of the month after the client became ineligible through the last day of the current month.
  - a. For permanent loss of approved activity or temporary break from approved activity, the agency worker must only assess for overpayment beginning after the ACTS period or TBRK period would have ended for any subsidy issued to the client and paid to the provider that the client was not eligible to receive (see 2.4.3.4).
  - b. If eligibility and authorizations are ending according to adverse action following a completed renewal because Activity Break Period cannot begin the first month of the new eligibility period, see 4.5.2.2.1.
3. After the client overpayment calculation is complete, the overpayment must be entered into the BV system, ~~which is a sub-system of CARES~~ using the BVRF and BVCL screens (see [BV User Guide](#)). To complete the overpayment the BRITS Referral Number will need to be entered on the BVRF screen to link the overpayment to the related BRITS referral.

#### 4.5.4.2.2.1 **Permanent Loss of Approved Activity Not Reported Within the Activity Search Period**

A client error occurs if a parent fails to report a permanent loss of approved activity for more than three months, and the loss is discovered after the Approved Activity Search Period (ACTS) ended, and An overpayment may be established for subsidy issued after the ACTS would have ended that the client was not eligible to receive. ~~the parent receives subsidy for more than three months without being in an approved activity, the parent is responsible for an overpayment of any subsidy issued after the ACTS ended that the client was not eligible to receive.~~

**Example:** A parent loses their employment on June 17, and does not report this to the local agency. On December 31 the agency receives information that the parent had not been in an approved activity since losing their employment in June. The activity search period would ~~be~~ have been from July 1 through September 30. Any subsidy funds issued and paid to the provider from October 1 through December 31 would be considered a client overpayment ~~when the client was not eligible~~. This is calculated in PLBC, and then entered in BV.

If a parent informs the local agency that the parent intends to utilize child care during the ACTS period, and subsequently fails to report within 10 days when a child was absent for 20 days, or fails to report a change in child care need within 10 days ~~when a child significantly underutilized care for multiple months~~, the parent may be responsible for an overpayment of any funds paid to the provider for care not provided (per Wis. Stat. s. [49.155\(1m\)\(a\)](#), ~~Administrative Rule~~ and Wis. Admin. Code [DCF s. 201.04\(5\)\(a\)2](#); ~~Section 1.8.1~~).

#### 4.5.4.2.2.2 **Income Change that Exceeds Eligibility Limit**

This error occurs when ~~a client experiences a change~~ an Assistance Group has an increase in income that places them above the ongoing eligibility limit of 85% State Median Income (SMI) ~~for their assistance group (AG) size~~ and the change is not reported timely. This is typically a result of ~~an increase in income~~, gaining subsequent employment, a change in household composition, or the receipt of unreported income (such as commission, bonus, etc.).

**Example:** Tom's family is at 180% FPL and his AG consists of himself and his son James. When Tom gets married to Ann on March 5 17, their combined income places the family over the income limit of 85% SMI for ~~the~~ their new AG size. Tom does not report the assistance group change or the new income to the local agency until August 5. Because Tom's family was over the income limit as of March 5 17, ~~C~~child ~~C~~are should have closed as of March 31. Tom and Ann are both responsible for an overpayment of any funds issued and paid to the provider on or after April 1 (per ~~Administrative Rule~~ Wis. Admin. Code [DCF s. 101.23\(3\)\(a\)](#)). This is calculated in PLBC, and then entered in BV.

#### 4.5.4.2.2.3 Change in Non-Financial Eligibility Requirement

This error occurs when a client experiences a change in any non-financial eligibility requirement, and does not report it timely. This includes **changes in**: Assistance Group (AG) **size or composition**, Wisconsin **residency**, marital status, mailing address, or changes in approved activity schedule. See [Section 1.3](#) for a full list of non-financial eligibility criteria.

**Example:** Brittany and Phil have a child in common. Phil moves in with Brittany on May 17. Brittany does not report this change to the local agency. With Phil's income, the family is now over 85% SMI for their AG size and is no longer eligible to participate in Wisconsin Shares. This is discovered in November. The worker updates their eligibility information, **and** verifies **Phil's income, and confirms** that the family is no longer eligible for the Wisconsin Shares program. The overpayment is calculated from June 1 through ~~the last day of~~ November **30**. This is calculated in PLBC, and then entered in BV.

#### 4.5.4.2.2.4 Temporary Break from Approved Activity ~~Not Reported Within the Temporary Break Period~~

~~Parents are eligible for Wisconsin Shares Child Care authorizations while being temporarily absent from their approved activity for up to three months, if the parent continues to meet all financial and non-financial eligibility requirements (See Section 1.3.9.2).~~

**A client error occurs** if a parent fails to report a temporary break from approved activity **for more than three months, and** **if** the break is not discovered until after the TBRK period **would have** ended, and the parent receives subsidy for more than three months without being in an approved activity, the parent is responsible for an overpayment of any funds issued and paid to the provider after the TBRK period **would have** ended **until the client began an approved activity.** ~~if the client had not resumed their approved activity, or begun a new approved activity by the end of the TBRK period.~~

If a parent informs the local agency that ~~the parent intends~~ **they intend** to utilize child care during the TBRK period for the same number of hours as previously authorized, and subsequently fails to report within 10 days when a child has been absent for 20 days, or fails to report a change in child care need **(see 1.8.1)** ~~when a child has significantly underutilized care and the parent continued to overpay the provider for multiple months~~, the parent is responsible for an overpayment of any funds paid to the provider that the parent was not eligible to receive (per Wis. Stat. s. [49.155\(1m\)\(a\)](#), ~~Administrative Rule~~ **Wis. Admin. Code** [DCF s. 201.04\(5\) \(a\) 2](#), ~~Section 1.8.4~~).

#### 4.5.4.2.3 Reported Change with Continuing Eligibility

Any reported changes that affect authorization(s), but do not result in a loss of eligibility, must be addressed. Any changes that result in a positive adjustment for the current month must be entered in PLBC. Any reported changes that result in a decrease in



subsidy amount will not result in an overpayment for the current month. See [Section 1.8.1](#) for reporting requirements.

#### 4.5.4.2.4 Unreported Change with Continuing Eligibility

Unreported changes that affect authorization(s), but do not result in a loss of eligibility may ~~still~~ result in an overpayment (see [Section 1.8.1](#) for reporting requirements)

Examples of unreported changes that may affect the authorization but not end eligibility include:

1. Change of Provider or Provider Location Number
2. Change in Approved Activity
3. Change in Income
4. Change in Household Composition
5. Change in Child Care Need
6. Failure to Report Discount Price
7. Inappropriate Payment of Previous Provider in Hardship Situation

General Procedure:

1. If the change requires that the authorization must be ended, end the existing authorization immediately (effective the end of the **current** month).
2. Create a new authorization (~~with next month for the begin date~~) **starting the following month** based on the verified change.
3. Assess for a positive or negative subsidy adjustment in PLBC (if applicable).
4. Enter the overpayment in BV (if applicable).

##### 4.5.4.2.4.1 Change of Provider or Provider Location Number

**A client error occurs** if a client does not report timely that they changed their provider; or provider location and subsidy funds are issued to the incorrect provider or provider location ~~after the child was no longer attending, it results in a client error~~. Once notified of the error, the local agency must correct ~~this case~~ **the authorization** immediately. The procedure for this error is handled differently based on if payment was made to the incorrect provider.

1. End the incorrect authorization immediately (as of the last day of the current month) and create a new authorization to the correct provider.
2. If a payment was made, complete the [Voluntary Repayment Agreement \(VPA\)](#) process (see Section 4.12.1.1), and submit a Technical Assistance request to ~~BPI~~ **BCCSA** if needed to retract any funds for the inaccurate provider that remain on the card by accessing:  
<https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>.
  - a. If the provider declines the VPA process, an overpayment must be calculated for the erroneously received funds and a claim created in BV. The client will be liable for this overpayment.
3. **If a payment was not made to the incorrect provider or incorrect provider location, and the funds are remaining on the card, the local agency should complete a retraction request.**

#### 4.5.4.2.4.2 Change in Approved Activity

Parents must report within 10 calendar days if anyone in the household has a change in approved activity including changing employment, permanent loss of approved activity, or temporary absence from approved activity that is expected to last one month or more (see [1.8.1](#)).

Failure to report a change in approved activity will result in a client error. The parent may be responsible for an overpayment if the change in approved activity resulted in a reduction of child care need that was not reported (see [1.8.1](#)), ~~and the reduction in child care need led to egregious underutilization for multiple months~~ (per Wis. Stat. [s.49.155\(1m\)\(a\)](#), and Wis. Admin Code [DCF s. 201.04\(5\)\(a\) 2](#)). (see [Section 4.5.4.2.4.5](#)).

**Example:** Maya applies for Wisconsin Shares on January 5 and receives an authorization beginning January 7 for her son Felix to attend ABC Daycare for 40 hours per week, Monday through Friday, from 8:00 a.m. to 4:00 p.m. Maya changes jobs on March 15 and does not report the change to the local agency. Maya's new work schedule is Monday and Tuesday from 8:30 a.m. to 2:30 p.m. As of March 15, Felix attends ABC Child Care only on Monday and Tuesday from 8:00 a.m. to 3:00 p.m., for 14 hours per week. Maya takes care of Felix at home on Wednesday, Thursday and Friday each week. Maya does not report her change in approved activity or her change in child care need to the local agency, and continues to pay her provider for 40 hours of care per week in April, May and June. This is a client error because Maya failed to report a change in approved activity and decrease in child care need. Maya is responsible for an overpayment of subsidy paid to her provider above 14 hours of care per week as of April 1 because Maya continued to pay her provider for multiple months for 40 hours of care per week (per Wis. Stat. [s.49.155\(1m\)\(a\)](#), [Administrative Rule DCF 201.04\(5\)\(a\) 2](#), [Section 1.8.1](#)). This amount should be calculated in PLBC and entered into BV.

#### 4.5.4.2.4.3 Change in Income

This error occurs when a change in income is not reported timely. If the household is at or below 185% FPL, the parent is required to report an increase in income of \$250 or more per month. If the household is above 185% FPL, the parent is required to report if the household's gross monthly income exceeds a dollar amount that will bring the household above the next 5% FPL increment (see [1.8.1](#)). This may include a failure to report any additional income such as commission, bonuses, or ~~family support~~ [alimony and other support](#) or maintenance [payments](#).

If the unreported change of income would have [brought the family](#) [increased the AG's income](#) above 85% SMI, or [a family who is](#) [an AG with income above](#) 185% FPL to over the next 5% FPL, an overpayment must be assessed for any subsidy received by the parent and paid to a provider when the client was not eligible for the amount of subsidy received.

For situations where the client has received an increase in income that affects subsidy or copayment, the overpayment should begin the first of the month after the income received put the family above the \$250<sup>7</sup> or 5% FPL reporting requirement.

**Note:** If the change in income is due to a change in approved activity, see Section 4.5.4.2.4.2. For any overpayment date range exceptions, see Section 4.5.2.2.1.1.

**Example:** Mark's AG is at 195% FPL. Mark receives a raise at work in May. He does not report this to the local agency. The local agency becomes aware of the income change in August. Mark receives his first paycheck with the raise on June 10. He receives his second check with the raise on June 24. In June, his total budgeted income for the month brings his AG over the next 5% FPL. If the change in FPL would have resulted in a different subsidy amount or a different copayment amount, Mark's overpayment will begin on July 1 and ~~continue through the last day of~~ **end on August 31** (the month ~~where in which~~ the overpayment was discovered).

#### 4.5.4.2.4.4 Change in Household Composition

This error occurs when a change in Assistance Group (AG) (either an addition or removal) was not reported timely. Examples of a change in AG include marriage, separation or divorce, addition of another parent in the household ~~to care for the child during child care hours~~, birth of a baby, ~~legal child of~~ **parentage established for a** child in common, **or adoption of a foster child**.

**Example:** Sally has an ~~assistance group (AG)~~ of 2 ~~including~~ **which consists of** herself and her daughter, Jane. Jane is authorized to attend child care Monday - Friday. Phil is the **legal** father of Jane and he moves in with Sally on January 5. This change is not reported to the local agency<sup>7</sup> and is discovered in April. The local agency updates eligibility and confirms that with Phil included in the AG and income budget, they remain eligible<sup>7</sup>. ~~however,~~ **However,** Sally and Phil have different work schedules and Phil is able to care for Jane when Sally is working on Mondays and Tuesdays each week. The previous authorization is ended ~~for the end of~~ **as of the end of the current month** (April 30), and a new authorization is created with a start date of May 1. An overpayment should be assessed for the difference in hours from February 1 through the end of the current month using PLBC. The overpayment should be entered in BV.

#### 4.5.4.2.4.5 Change in Child Care Need

This error occurs when there is an unreported change in child care need. This may occur due to a change in approved activity, change of **approved activity hours**, **addition of another parent to the AG**, or misrepresentation of another parent ~~to in~~ the **assistance group AG**, etc. This may also include **unreported** changes in shared placement ~~that are unreported~~.

Parents are required to report within 10 calendar days after the change if someone in the household has a change in child care need (see [1.8.1](#)). Changes in child care need include:

- An increase of child care hours
  - Parents are required to verify the need for an increase in hours before additional hours are authorized (see [2.4.2.2](#))
- A child is attending less hours than authorized
- A child has not attended for 20 days
- A child no longer needs child care

If an investigation uncovers that a change in child care need was not reported and this resulted ~~in an egregious underutilization~~ the child attending fewer hours than originally authorized, the client is responsible for an overpayment if ~~the underutilization continued for more than one (1) month, and~~ the parent continued to make payments to the provider for more hours of care than the child attended (per Wis. Stat. s. [49.155\(1m\)\(a\)](#), and Wis. Admin. Code [DCF s. 201.04\(5\) \(a\) 2](#)).

**Example 1:** Kay receives an authorization for her daughter Maggie for 35 hours of child care per week beginning January 1. Due to a change in Kay's approved activity in March, Maggie attends only 15 hours ~~as of~~ starting March 19. Kay does not report the change in child care need and it is discovered on August 26. Kay continued to pay the provider for 35 hours per week when Maggie only attended 15 hours per week. A client error is assessed because Kay failed to report the change in child care need within 10 days. An overpayment is assessed for subsidy issued and paid to the provider above 15 hours per week, beginning the month after the change occurred, from April 1 through August 26 (~~per Wis. Stat. s. 49.155(1m)(a), DCF 201.04(5) (a) 2, Section 1.8.1~~). This amount is calculated in PLBC and entered in BV.

**Example 2:** Don receives an authorization for his daughter Penny for 45 hours of child care per week beginning February 1. Don fails to report a change in shared placement of Penny that occurs in April. As of April 8, Don only needs 20 hours of child care because Penny's mother received an authorization for Penny during her placement. The error is discovered by the local agency on August 20. A client error is assessed because Don failed to report the change in child care need within 10 days. Don is responsible for an overpayment for subsidy paid to the provider in excess of 20 hours per week from May 1 through August 20 (~~per Wis. Stat. s. 49.155(1m)(a), DCF 201.04(5)(a)2, Section 1.8.1~~). This amount is calculated in PLBC and entered in BV.

**Example 3:** Tamara applies for [Wisconsin Shares Child Care](#) on February 1 and receives an authorization for her son, Mike, beginning February 7 for 45 hours of child care per week. Tamara reports on April 27 that her approved activity hours were reduced to 10 hours per week as of April 23. Tamara has a conversation with the local agency about child care need, and chooses to keep the original 45 authorized hours to maintain continuity of care for Mike. However, Mike's attendance drops to 12

hours per week as of May 1. Tamara does not report the decrease in child care need and continues to pay the provider for 45 hours of care per week in May, June and July. This error is discovered on July 20. A client error is established because Tamara failed to report the change in child care need. Tamara is responsible for an overpayment of subsidy paid to the provider for the difference in hours from June 1 through July 20 (~~per Wis. Stat. s.49.155(1m)(a), DCF 201.04(5)(a)2, Section 1.8.1~~). This amount is calculated in PLBC and entered in BV.

**Example 4:** Renee has an authorization for her son Josh for 40 hours per week beginning March 1. Renee fails to report that Josh was absent from the child care center from April 1 through May 25. This local agency discovered the absence on June 19. A client error is established because Renee failed to report within 10 days that Josh had been absent for 20 days. Renee is responsible for an overpayment beginning the month after the absence began, from May 1 – May 25. This amount is calculated in PLBC and entered in BV.

**Example 5:** Manuel has an authorization for his son Carlos for 30 hours per week beginning January 5. Manuel stops taking Carlos to the provider on March 10 because he is planning to move on March 12. Manuel fails to report to the local agency that Carlos no longer needs care and April's subsidy funds are issued to Manuel's EBT card. Although Carlos is no longer attending the provider, Manuel makes a payment to the provider using subsidy issued for the month of April to pay his remaining balance that consists of his unpaid parent share from previous months. A client error is established because Manuel failed to report within 10 days that Carlos no longer need care. Manuel is responsible for an overpayment of funds issued for April that were paid to the provider when Carlos was no longer attending the provider. This amount is calculated in PLBC and entered in BV.

**Note:** If a parent colludes with a provider to pay the provider for more hours of child care than provided and the parent receives any subsidy or other item of value from the provider as a cash refund or a "kickback", this is considered an IPV and will result in an overpayment for both parties (see Section 4.5.5.1).

#### 4.5.4.2.4.6 Failure to Report Discount Price

This error occurs when a client ~~who works for their provider~~ fails to report a discount price, including an employee discount. ~~an employee discount price, or fails to report any other discounted price.~~

**Example:** Sandy works for ~~her~~ a child care provider, 123 Child Care, and receives an employee discount of 10% off the regular provider price. Sandy requests an authorization ~~for Wisconsin Shares~~ to 123 Child Care and informs the local agency ~~she works for 123 Child Care~~ that she also works there. Sandy does not inform the local agency of the discounted price. This is discovered six (6) months after the authorization ~~was granted~~ started. This is a client error and the overpayment would be

from the **begin** date of the authorization through the end of the current month. This amount is calculated in PLBC and entered in BV.

#### 4.5.4.2.4.7 Inappropriate Payment of Previous Provider in Hardship Situations

A client **or provider** error may be assessed in situations where a hardship authorization was correctly issued, but payment was made to the previous provider that was not **necessary appropriate**.

In order to avoid this error, ~~if funds for the previous provider are still on the EBT card,~~ **the funds to the previous provider that remain on the EBT card** should be ~~removed from the account~~ **retracted** before the hardship authorization is issued.

To determine the validity of the payment, an in-depth audit may be conducted to determine whether the payment was warranted or unwarranted. If unwarranted, an overpayment and client **or provider** error may be assessed.

If a parent made a payment to the previous provider after the child was no longer attending, the provider may return funds through a Voluntary Repayment Agreement (VPA) (see 4.12.1.1). If the provider refuses to return the funds through a VPA, then a client investigation should be conducted to determine if a client overpayment is warranted.

**Example 1:** Tamika was issued a hardship authorization, and ~~after changing providers~~ paid her previous provider ~~her remaining funds~~ after changing providers. ~~BP!~~ The Program Integrity Unit conducted an investigation and determined that the previous provider should not have received those funds, because **the child was no longer attending**. ~~no care was given for that child~~. Therefore, an **client** overpayment should be assessed using PLBC to calculate the amount for the funds submitted to the provider that were not warranted. The previous provider may submit a ~~Voluntary Repayment Agreement (VPA)~~ form ([DCF-F-5178-E](#)) to return the funds to the Department (see 4.12.1.1).

If the previous provider received payment and then had a temporary or permanent closure and failed to provide care, an investigation should be conducted to determine if a provider overpayment is warranted for failing to provide care after receiving payment.

**Example 2:** Rene has an authorization for her son James to ABC daycare. On February 1, Rene pays ABC daycare for care that is to be provided in the month of February. On February 2, ABC daycare informs Rene that the center will be closing for the remainder of the month and encourages Rene to contact her local agency to obtain another authorization to a different provider. If ABC daycare refuses to return the funds through a VPA, an investigation should be conducted to determine if the

provider is responsible for an overpayment for failing to provide care after receiving payment.

#### 4.5.4.3. Intentional Program Violations (IPVs)

An IPV is issued to a client who *intentionally* makes a false or misleading statement, misrepresents or withholds facts, or intentionally commits any act that constitutes a violation of federal or state law for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking benefits ~~under this chapter~~ per Wis. Stat. [ss.49.001\(3m\)](#) and [49.151\(2\)](#).

The Department and/or local agency must pursue an overpayment to recover any misappropriated funds. Any overpayments established for IPVs may be established for up to 6 years after the cause of action (Wis. Stat. s.[893.43](#)).

**Note:** An individual does not have to receive payment or services in order for the local agency to pursue an IPV if the violation occurred prior to the client receiving subsidy at initial application or renewal.

IPVs are determined by the administering agency, including the Department, and local agencies under contract with the Department. A ~~C~~child ~~C~~care IPV *must* be approved by ~~BPI~~ BCCSA prior to its entry in [Cares Worker Web](#) (CWW). The [Client Intentional Program Violation Request Form \(DCF-2893-E\)](#), and all documents used as evidence, must be completed and submitted to ~~BPI~~ BCCSA via the Technical Assistance mailbox ([DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov)). Once approved (see 4.5.4.3.6.1), an IPV must be entered in the ~~C~~child ~~C~~care IPV [Penalty](#) page in CWW within 30 calendar days.

Local agencies must wait until an IPV has been approved before an authorization may be changed or ended due to fraud.

##### 4.5.4.3.1 Classifications of IPV

After an IPV has been reviewed and approved by the Department, an IPV is entered in CWW based on the following classifications:

1. Misrepresentation of Income
2. Misrepresentation of Household Composition
3. Misrepresentation of Child Care Needs
4. Misrepresentation of Residency
5. Misrepresentation of Participation in an Approved Activity
6. Selling Access to a Subsidy Account (Trafficking)
7. Providing False or Fraudulent Documentation
8. Misrepresentation of Hardship Need
9. Using Child Care Subsidy (as a client) to Pay Themselves as a Provider
- ~~10. Providing False Identification or SSN~~

**Note:** For information on an IPV for Collusion with a Child Care Provider see Section 4.5.4.3.2

It is possible for an IPV to fall under multiple classifications. For example, child care need and household composition tend to be related. If an IPV has more than one classification, all should be identified in CWW.

Even if more than one IPV classification is identified in CWW, only one IPV sanction will be issued.

#### 4.5.4.3.1.1 Misrepresentation of Income

An IPV for misrepresentation of income may be assessed if a **unreported income affects eligibility or authorization. Examples of misrepresentation of income include:**

- **A** client intentionally fails to disclose supplemental income such as commissions, bonuses, **family child** support, **alimony** or maintenance **payments**, or other additional funds; **if**
- **A** client intentionally fails to disclose unearned income, such as income from a rental property; or **if**
- **A** client intentionally misrepresents employment or approved activity information such as: employment status, hours worked, or salary and/or wages, etc., ~~and the unreported income affects eligibility or authorization.~~

When entering the IPV in CWW, use code EU - Misrepresented Income, Earned OR Unearned.

~~**Example:** It is discovered that a client did not inform the local agency of an increase in wages that affects eligibility or authorization. The individual has had contact with the local agency since the change and has not reported this increase. Therefore, it is found that the client has been intentionally not informing the local agency of the change to receive benefits that they otherwise would not have been eligible for. An IPV is approved by BPI. An overpayment is calculated from the first day of the month after the income increase, to the last day of the current month. Once the IPV is created in CWW, the eligibility will be ended, which will end the authorization in CSAW.~~

**Example:** Finn is receiving Wisconsin Shares for his son, James. The local agency discovers in December that Finn's wages increased in May and it would have affected Finn's eligibility. Finn has had contact with the local agency since the change in May and did not report this increase. Therefore, the local agency determines that Finn intentionally did not inform the local agency of the change in order to receive benefits for which he otherwise would not have been eligible. An IPV is approved by BCCSA. An overpayment is calculated from the first day of the month after the income increase (June), to the last day of the current month (December). Once the IPV is created in CWW and eligibility is confirmed closed, the authorization will end systematically in CSAW when eligibility ends.



#### 4.5.4.3.1.2 Misrepresentation of Household Composition

An IPV for misrepresentation of household composition may be assessed if a client intentionally fails to disclose or misrepresents information regarding their household composition that affects eligibility or **an** authorization. This may include intentionally misrepresenting information regarding a marriage or divorce, living situation, and/or intentionally and falsely claiming another child lives in the household. When entering the IPV in CWW, use code HC – Misrepresented Household Composition.

**Example:** Steve has an authorization for his daughter. Steve marries Jill in October, but fails to report the marriage. The household's new combined income affects eligibility. Steve contacts the local agency several times to share other case updates, but does not inform the local agency of his marriage. This is discovered in February. An IPV ~~request should be submitted to~~ is approved by BCCSA. ~~BPI, with an~~ An overpayment is calculated from the first day of the month after the date of change in October through the end of **the current month** (February). Once the IPV is ~~approved and created~~ entered in CWW, ~~eligibility will end,~~ and eligibility is confirmed closed ~~which will end~~ the authorization **will end systematically** in CSAW **when eligibility ends.**

#### 4.5.4.3.1.3 Misrepresentation of Child Care Needs

An IPV for misrepresentation of child care needs may be assessed if a client intentionally fails to disclose information regarding their true child care needs. This may include utilizing child care while not in an approved activity after ~~the an~~ ACTS period or TBRK period **would have** ended (without reporting to the local agency that they are not in an approved activity), ~~or~~ utilizing child care when another parent is available to provide care, or requesting school closed hours without intent to use the additional hours. When entering the IPV in CWW, use code CC - Misrepresented Child Care Needs.

**Example:** Tonya and Alejandro have a child in common. They move in together in February. Tonya has an authorization for their child and does not report the change in living situation timely. Tonya works first shift and Alejandro works second shift. Tonya's authorization allows her to receive child care ~~during first shift~~ **when she is working**. However, due to the change in assistance group, Alejandro is available to provide care ~~during first shift~~ **when Tonya is working**. Tonya has contacted the local agency multiple times since they moved in together, and failed to disclose this information. An IPV for misrepresentation of child care need and misrepresentation of household composition **is entered in CWW** and an overpayment ~~would be~~ **is** assessed for the client.

#### 4.5.4.3.1.4 Misrepresentation of Residency

An IPV for misrepresentation of residency may be assessed if a client intentionally fails to disclose information regarding their residency. This may include receiving ~~the~~ Wisconsin Shares subsidy when the individual is not a resident of Wisconsin, **or failing to report moving to a different city and continuing to pay a provider when the child is no**

longer attending the provider. ~~receiving the Wisconsin Shares subsidy while also receiving subsidy funds from another state, when the individual is a resident of Wisconsin.~~ When entering the IPV in CWW, use code MR - Misrepresented Residency.

**Example 1:** Debbie has an authorization for her two children to attend ABC Daycare beginning on March 1. On June 15, both children move to Illinois to live with their grandmother. Debbie fails to report that the children moved out of state and continues to make payments to her provider in July, August, and September. On September 18 it is discovered that the provider has been colluding with the parent and returning half of the subsidy to the parent each month. IPV's are issued to Debbie and the provider. An overpayment is ~~issued~~ established for funds paid to the provider in July, August, and September when the children were not living in Wisconsin. Debbie and the provider are jointly liable for the overpayment.

**Example 2:** Sally is a resident of Wisconsin and is ~~on~~ receiving Wisconsin Shares, but ~~applies for~~ is also receiving subsidy from Iowa's ~~Child Care~~ ~~Subsidy~~ ~~Program~~ (even though she does not live there). A worker in Wisconsin discovers this. The worker ~~should~~ reports the fraud to Iowa and opens an investigation to determine if Sally has committed other fraud in Wisconsin. ~~Do not open an IPV or overpayment for this situation alone.~~

**Example 3:** John receives authorization on January 1 for his son Charles to attend provider ABC Daycare in Madison. John moves to Green Bay on March 15. John contacts the local agency on multiple occasions and fails to report his change of residence. On November 30 the local agency discovers that John has continued making monthly payments to ABC Daycare even though his son stopped attending in March. An IPV is issued to John and the provider and an overpayment is issued for subsidy funds issued and paid to the provider from April 1 to November 30.

#### 4.5.4.3.1.5 Misrepresentation of Participation in an Approved Activity

An IPV for misrepresentation of participation in an approved activity may be assessed if a client intentionally provides false information or fails to provide information regarding participation in an approved activity (see [Section 1.3.8](#)).

If an overpayment will be assessed in conjunction with the IPV, it will only be for subsidy funds received after ~~the~~ ~~an~~ Approved Activity Search Period (ACTS) period, or Temporary Break Period (TBRK) ~~would have ended~~ ~~is completed~~. When entering the IPV in CWW, use code MS - Misrepresented 3 Month Approved Activity Search.

**Example 1:** Michael loses his approved activity on February 7, and does not report the loss to the local agency. Michael is eligible to receive an ACTS ~~period~~ for three (3) months ~~from~~ (March 1 through May 31). Michael contacts the local agency multiple times in May and June, and fails to report that he lost his approved activity. On October 10 it is discovered through an investigation that Michael has not been in an approved activity since February 7. An IPV is issued to Michael for Misrepresentation

of Participation of Approved Activity. An overpayment is assessed for subsidy issued and paid to the provider after the ~~Approved Activity Search~~ ACTS period would have ended, ~~from~~ (June 1 through October 31).

An overpayment related to an IPV for an ACTS period may begin prior to the ACTS period if the client was ineligible prior to the ACTS period being granted.

If eligibility and authorizations are ending according to adverse action following a completed renewal because an Activity Break Period cannot begin the first month of the new eligibility period, see 4.5.2.2.1.

~~**Example 2:** Cheryl provided false employment documentation when she applied for Wisconsin Shares Child care in December. She was issued an authorization. In March, Cheryl requested to begin an approved activity search. This was granted from April through June. In June, the investigation uncovered that Cheryl had not been in an approved activity and had no proof of wages paid when she applied for child care and provided fraudulent documentation to receive subsidy funds. The overpayment would begin from the date of the authorization through the end of the current month June.~~

**Example 2:** Cheryl provided false employment documentation when she applied for Wisconsin Shares in December. She received an authorization for her child, Elise. In March, Cheryl reported that she lost her approved activity. An ACTS period was entered for April 1 through June 30. In June, an investigation uncovered that Cheryl was not in an approved activity at application in December and provided fraudulent documentation to receive subsidy funds. An overpayment is assessed for subsidy issued and paid to the provider from the begin date of the first authorization through the end of the current month (June).

#### 4.5.4.3.1.6 Selling Access to a Subsidy Account (Trafficking)

An IPV should be assessed any time an individual attempts to sell, or sells access to a client's subsidy account to an unauthorized person (~~Administrative Rule~~ Wis. Admin. Code DCF s. [201.04\(4\)](#)). When entering the IPV in CWW, use code TB – Trafficking of Benefits.

**Example 1:** Molly shares her EBT card and PIN with a friend with the intention of the funds being used to pay for another child who ~~was not authorized~~ does not have an authorization to attend the provider.

**Example 2:** Sally has an ~~EBT~~ child care authorization that she does not need. Sally offers to use her card to pay for her sister's children.

#### 4.5.4.3.1.7 Providing False or Fraudulent Information or Documentation

An IPV should be assessed any time a client submits fraudulent information or documentation in order to receive subsidy. When entering the IPV in CWW, use code FD - Provided Fraudulent Documentation.

Examples of frequently received fraudulent documents include:

- Employment Verification Form:
  - Not completed by the employer
  - Incorrect wages or work hours
  - Forging a supervisor's signature
- Forging a document to demonstrate they are working
- Creating false pay stubs to substantiate employment as an approved activity claims
- Creating a false place of work
- Fraudulent lease or fraudulent document to prove residency

An overpayment should be assessed if the client received subsidy that ~~the client was they were~~ not eligible for as a result of submitting false or fraudulent documentation and made a payment to the provider.

**Example:** Janie has an authorization for 25 hours per week for her son, Charles, beginning on June 1. On July 15 Janie loses her job but does not report the job loss to the local agency. On July 30 Janie contacts the local agency and requests 10 additional hours of child care per week for Charles. Janie tells the local agency that the child care need has increased because she is working more hours. Janie submits fraudulent documentation to the local agency showing that she is working additional hours in order to receive a higher subsidy amount. When the fraud is discovered on December 7, ~~Janie is given an approved activity search for the three months after she lost her job, August, September and October, for 25 hours per week.~~ an IPV is established for submitting fraudulent documents, and An overpayment is established for the additional 10 hours of subsidy Janie received during the ~~approved activity search~~ period in which she would have had an ACTS that she was not eligible to receive, and for all subsidy received after the ~~search period~~ ACTS period would have ended because Janie ~~was not in~~ has not had an approved activity.

#### 4.5.4.3.1.8 Misrepresentation of Hardship Need

An IPV should be assessed if a client misrepresents or provides false information in order to obtain a hardship authorization. See [Section 2.4.9.1](#) for situations that qualify for hardship. When entering the IPV in CWW, use code MH – Misrepresentation of Hardship Need.

**Example:** Erika claimed that she had a fight with her boyfriend, and that he had kicked her and her children out of their home. Therefore, traveling to the current provider was impossible unreasonable. The local agency awarded approved a hardship to allow her children to attend a new provider in March. An investigation uncovered that she had been living with her boyfriend the entire time, and instead had

cashed out the benefits with the **hardship new** provider. ~~Submit~~ The agency worker **submits** an IPV Request Form, and calculates an overpayment for the amount **of the Hardship awarded** paid to the second provider in March, and enters the claim in BV. ~~This claim must then be entered in BV. A referral should also be made for the hardship provider~~ The agency worker also creates a referral for the second provider due to collusion related to cashing out benefits.

#### **4.5.4.3.1.9 Using the Child Care Subsidy (as a client) to Pay Themselves as a Provider**

An IPV should be assessed if a client uses Wisconsin Shares subsidy to authorize payment to themselves as a provider. This is prohibited by Wis. Stat. s. [49.155\(3m\)\(d\)\(1\)](#). When entering the IPV in CWW, use code CC – Misrepresented Child Care Needs.

**Example:** Tim is the Licensee for a large group child care center. He also has children **on the receiving** Wisconsin Shares **subsidies program**. Tim's ~~has his~~ children **are** authorized to his child care center. This is a violation of Wisconsin Statutes. An IPV and overpayment should be assessed for the entire time period that Tim was using his Wisconsin Shares funds to pay himself for child care **provided** for his own children.

#### ~~**4.5.4.3.1.10 Providing False Identification or SSN**~~

~~An IPV should be assessed if a client misrepresents or provides false identification or Social Security information (SSN). When entering the IPV in CWW, use code FI – Provided False Identification or SSN.~~

#### **4.5.4.3.2 Intentional Program Violations from Other Income Maintenance (IM) or Wisconsin Works (W-2) Programs**

If a local agency has established an eligibility-based IPV, or received a signed Waiver of Fair Hearing for a different IM or W-2 program, the local agency may utilize the evidence and investigation findings as a part of the Wisconsin Shares IPV request.

The local agency must complete the Client Intentional Program Violation Request form ([DCF-2893-E](#)) and include all evidence that pertains to the Wisconsin Shares overpayment and child care IPV. In lieu of completing the *Investigation Timeline* section of the request form, the local agency may direct the reviewer to the IM investigation findings and, if applicable, signed Waiver of Fair Hearing. Local agencies are required to submit the Wisconsin Shares overpayment calculations, child care notices, and a copy of CWW case comments with the request.

#### **4.5.4.3.23 Collusion**

Collusion occurs when multiple parties such as providers and parents cooperate in order to defraud the Wisconsin Shares program, so as both parties receive financial

benefit. Collusion is considered an IPV. When entering the IPV in CWW, use code CP – Collusion with a Child Care Provider.

General Procedure:

1. Both the client and the provider will receive an IPV. Submit the necessary IPV requests to ~~BPI~~ BCCSA for approval.
2. Establish overpayment: The overpayment should be calculated from the time that cash refunds began to be issued through the end of the current month. Providers and parents are jointly and severally liable for an overpayment related to collusion, per Wis. Admin Code [DCF s. 201.04\(5\)\(bm\)](#).

Examples of collusion and sanctions ~~are discussed below~~ include (but are not limited to):

- Cash Refunds or “Kickbacks”
- Paying for Care for Children Not on the Case
- Giving a MyWICChildCare EBT Card, Account Number, or PIN to a Provider or Other Individual
- Issuing Payment for Child Care Not Provided
- Using a Shell Company to Fraud the Program

#### 4.5.4.3.23.1 Cash Refunds or “Kickbacks”

Accepting a cash refund for any portion of the subsidy amount or an incentive from a child care provider is considered a kickback, and violates Wis. Stat. s. [49.155\(4\)\(b\)](#). Incentives may include any type of financial or material rewards for parents of receiving Wisconsin Shares to enrolling their children at their location, except those which directly benefit an eligible child.

**Example 1:** Leslie is a parent receiving Wisconsin Shares ~~Child Care~~. Leslie receives authorizations for her children to attend 123 Child Care. Leslie does not take her children to the provider ~~but pays the provider the full amount~~. The owner of 123 Child Care and Leslie decide to cash out the Wisconsin Shares subsidy and the provider pays a portion of the subsidy back to Leslie in cash. ~~The agency worker should request~~ IPV for both the client and provider ~~should be requested~~, and ~~establish~~ an overpayment ~~established~~ with joint liability.

**Example 2:** Tony requests an authorization for his daughter Maria to attend child care Monday through Friday and only intends to take Maria to child care on Mondays. If Tony pays the full subsidy amount to his provider when Maria is attending less than the full ~~amount number~~ of hours authorized per week, and the provider returns any subsidy funds or other item of value to Tony, this is considered a kickback. ~~The agency worker should request~~ IPV for both the client and the provider ~~should be requested~~, and ~~establish~~ an overpayment ~~established~~ with joint liability.

#### 4.5.4.3.23.2 Paying for Care for Children Not on the Case

Using the ~~Child Care~~ Subsidy to pay for care ~~not~~ provided for children ~~not~~ on the Wisconsin Shares ~~Child Care~~ case is against program rules. If this is discovered, an overpayment should be assessed for the dates of inaccurate payment.

**Example:** Cassandra's daughter, Kim, is authorized to ABC child care. Cassandra's sister, Joann, asks Cassandra to pay for her child, Jose. Cassandra uses her subsidy fund to pay the child care provider for care provided for ~~both children~~ Jose. IPVs for both the client and provider should be requested, and an overpayment established with joint liability.

#### 4.5.4.3.23.3 Giving a MyWICChildCare EBT Card, Account Number, or PIN to a Provider or Other Individual

Giving a MyWICChildCare EBT card, account number, or PIN, to a provider or other individual, with the intent that the other person would be ~~issuing~~ making payments with the card is against program rules (per Wis. Admin. Code [DCF s. 201.038\(7\)](#)).

#### 4.5.4.3.23.4 Issuing Payment for Child Care Not Provided

Using subsidy funds to pay a provider who has not provided child care for the children on the case is against program rules (examples include: a child is authorized to the provider, but the child is not attending the facility, or the child has not attended the facility for over 30 days and the provider continues to request payment from the parent). This frequently is attached to cases of kickback issuances.

An overpayment may be assessed if the parent paid the provider for care not provided after failing to report within 10 days that a child had been absent for more than 20 days, or if a parent continues to make payments to a provider for multiple months after failing to report a change in child care need when a child significantly underutilized care. An investigation would need to be conducted to find out the reason and severity of the underutilization before an overpayment can be established.

**Example:** Keisha has two children, a 12-year-old and a 3-year-old. She has an authorization for both children to Suzy Cuties. Keisha's 12-year-old has never attended Suzy Cuties. Keisha issues payment to Suzy Cuties for both children, ~~regardless of the fact that~~ even though the 12-year-old has never attended. The provider never notifies the local agency that she is receiving payment for a child that she does not provide care for. Therefore, Keisha is receiving ~~funds~~ subsidy for child care that is not needed ~~that she does not require~~, and the provider is receiving funds for care not provided. ~~The agency worker requests~~ IPVs for both the client and provider ~~should be requested~~, and ~~establishes~~ an overpayment ~~established~~ with joint liability.

#### 4.5.4.3.23.5 Shell Company

Setting up a fraudulent company or providing false documentation of parent employment is against program rules. Examples include: providing fraudulent verification letters claiming that the parent works for the company or the provider “hiring” a parent so they have a full time authorization, even though the parent only works part-time **with for** a different employer.

**Example:** Tina works part-time for Stop N’ Go. Her children attend ABC Child Care. When speaking to her provider, the provider informs Tina that if she claims to work for ABC Child Care she can have a full time authorization and get more subsidy funds. She and the provider agree to split the difference of the additional funds starting in March. This is discovered by the local agency in September. **The agency worker requests** IPV for both the client and provider ~~should be requested~~, and **establishes** an overpayment ~~established~~ with joint liability from March through September.

#### **4.5.4.3.34 Administrative Hearing**

Clients have the right to request a hearing once an IPV has been established. An Administrative Law Judge (ALJ) determines if the Department or local agency has met its burden of proving the IPV. If it has, the appeal will be dismissed. If it has not, the IPV will be overturned and the case remanded to the Department or local agency to remove the IPV. Clients must request a hearing within thirty (30) days from the date of the IPV notice.

#### **4.5.4.3.34.1 Waiver of Administrative Hearing**

Clients have the option to waive their right to an administrative hearing by completing the Waiver of Administrative Hearing form [DCF-F-5308-E](#). The waiver explains the violation, summary of evidence, client appeal rights, length of program suspension, and acknowledgement of waiving the right to a hearing ~~(see OM 19-21)~~.

Utilizing the Waiver of Administrative Hearing form is at the discretion of the local agency. If the waiver is submitted with an IPV request, and the request is denied, the waiver is void.

#### **4.5.4.3.45 Subsequent IPVs**

If the local agency discovers that more than one (1) act of fraud has occurred at the same time, the local agency may only impose one **(1)** IPV penalty. Local agencies can only impose subsequent IPV penalties after the individual has completed an IPV penalty period, has re-applied, and violated the program rules again. ~~For example, after an individual has completed a 6-month suspension period for a first IPV, re-applies, and then intentionally violates the program rules again, then the local agency can impose a second IPV penalty.~~

**Example 1:** After an individual has completed a 6-month suspension period for a first IPV, re-applies, and then intentionally violates the program rules again, then the local agency can impose a second IPV penalty.



**Example 2:** Martha receives a first IPV in January for misrepresenting her household composition (second parent was found to be in the household). Her IPV sanction period is from February to July. In July, she is notified that her sanction period is almost complete. In July, she re-submits an application for **Wisconsin Shares Child Care** so that when her sanction period is **done complete**, she can be **found determined** eligible. It is determined that Martha submitted fraudulent income verification in order to be determined eligible. ~~She therefore submitted false information, meeting~~ **By submitting fraudulent information, she meets** the criteria for a subsequent IPV. However, she supplied the false information while still serving her first IPV. Therefore, a subsequent IPV cannot be pursued. ~~However,~~ **Eligibility** should be denied until the correct information and verification is supplied.

#### 4.5.4.3.56 IPV Penalties

If the appropriate individuals (**see** 4.5.4.3.6.1) approve the IPV, the local agency must impose an IPV penalty for the appropriate period of time. When an IPV is **determined, entered**, CWW will deny ~~subsidy funds and authorizations to~~ **eligibility for** the individual for the following durations:

1. For a First Violation (1R) – the client will be denied benefits from the Wisconsin Shares program for six (6) months.
2. For a Second Violation (2R) – the client will be denied benefits from the Wisconsin Shares program for **twelve (12)** months.
3. For a Third Violation (3R) – the client will be permanently denied benefits from the Wisconsin Shares program.

The denial of benefits during the IPV penalty period will be imposed for the time specified under Wis. Stat. s. [49.151\(2\)](#) whether the case is open **for other programs** or closed. Only the individual(s) determined to have committed an IPV may receive the penalty.

#### 4.5.4.3.56.1 IPV Sanction Period

The **Wisconsin Shares Child Care** IPV penalty period begins the first day of the month following the IPV determination date, or the first day of the month two **(2)** months after the IPV determination date if the IPV is entered into CWW after adverse action.

**Note:** Adverse Action impacts case changes submitted approximately the last 10 business days of the month in CWW. Any changes submitted during adverse action take effect the month after the subsequent month, i.e. if a change is submitted the end of June the change will take effect August 1.

~~CARES online availability calendar: <https://dwd.wisconsin.gov/des/calendar/>.  
See Section 2.5.5 for when to end authorizations and eligibility based on adverse action.~~

**Example 1:** A second parent moves into the client's home on October 1 and the client does not report it. The client contacts the local agency requesting additional care on November 1 and does not ~~provide the updated information~~ **report the additional**

**parent.** The second parent's income would have made the AG ineligible for child care. This is discovered by the local agency May 15. The ~~date range of both the IPV date range (and overpayment in this instance) would be~~ is November 1 through May 31. ~~The IPV is submitted to BPI June 5, and approved June 10. The IPV Penalty in CWW would begin the month after the IPV is approved, in this case July 1.~~ The agency worker submits the IPV request to BCCSA on June 5 and it is approved on June 10. The agency worker enters the IPV on the child care IPV Penalty page in CWW and confirms eligibility closed. CWW establishes and IPV penalty period beginning July 1 when eligibly if confirmed.

**Example 2:** A client gains additional employment on October 1 and does not report it. The client's new income puts the household over the income limit and they are no longer eligible for **Wisconsin Shares** ~~child care~~. The client contacts the local agency requesting additional care on November 1 and does not ~~provide the updated information~~ report the increased income. This is discovered by the local agency on June 15. The ~~IPV date range for both the IPV (and overpayment in this instance) would be~~ is November 1 through June 31. The IPV is submitted to ~~BPI~~ **BCCSA** June 23, and approved June 30. This case is impacted by adverse action, thus the sanction period will not begin until August 1.

#### **4.5.4.3.56.2 Imposing an IPV Penalty**

More than one (1) adult in the Assistance Group may be determined to have committed an IPV and can be subject to the penalty. An IPV can be issued to either a primary or secondary person on a case; however, the IPV is most often applied to the primary person who completes the application, is responsible for reporting program changes, and is at least 18 years old. In a two-parent household, the IPV may be applied to the other person if that individual is at least 18 years old, part of the assistance group, and responsible for the intentional violation. Further, if both parents have committed an IPV, both may be sanctioned.

Local agencies are responsible for investigating whether a program violation was intentional. To ~~insure~~ **ensure** uniform application of the IPV policy, all IPV determinations must be reviewed and approved by the appropriate identified bodies (Section 4.5.4.3.67.1).

If the IPV results in an overpayment, the local agency must also establish the overpayment at the time the IPV is approved, and provide **the Public Assistance Collection Unit (PACU)** with all necessary documentation regarding the overpayment upon request.

#### **4.5.4.3.67 IPV Approval Process**

The Client Intentional Program Violation Request form ([DCF-2893-E](#)) must be submitted to **BPI BCCSA** for approval (~~see OM 19-21~~). Approvals for first time IPV are completed by email. Second and third time IPV are approved by phone meeting. Once approved, the IPV must be entered in CWW within ten (10) calendar days. Second and third IPV

cannot be established for violations that occurred during a previous IPV sanction period (see 4.5.4.3.5).

~~**Example:** An agency establishes a first IPV with a violation period from 1/1/18-6/30/18 for a client fraudulently reporting their household composition. On 12/14/18, the agency discovers the client submitted a forged EVFE on 3/15/18. A second IPV cannot be established for the additional violation that occurred on 3/15/18.~~

**Note:** Client IPV overpayments must only be established after the IPV is approved. Local agencies cannot enter overpayments in Benefit Recovery prior to approval. BPI BCCSA will deny any IPV request that is associated with an established overpayment for the violation period.

#### 4.5.4.3.67.1 Approval Requirements for IPV

Below is a description of the approval process to grant or deny the IPV. After an IPV is approved, the overpayments and IPV should be established within 30 days.

1) Requirements for first (1R) IPVs, include:

- The local agency Child Care supervisor/manager (typically investigator's supervisor) or designee submits the request to the BPI BCCSA TA mailbox: <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form> DCFBPITArequest@wisconsin.gov. BPI BCCSA Supervisor: Reviews the request, and approves or denies the request.
- DCF Office of Legal Counsel (OLC) Representative: Determines whether the IPV is legally sound.

2) Required attendants at the IPV meeting for second (2R) IPVs, include:

- Local agency Child Care supervisor/manager
- Local agency Income Maintenance supervisor/director.
- The Investigator: Submits request and presents the case.
- BPI BCCSA Supervisor: Reviews the request.
- BPI BCCSA Bureau Director: Reviews the request, and approves or denies the request.
- DCF OLC Representative: Determines whether the IPV is legally sound.

3) Required attendants at the IPV meeting for third (3R) IPVs, include:

- Local agency Child Care supervisor/manager
- Local agency Income Maintenance supervisor/director.
- The Investigator: Submits request and presents the case.
- BPI BCCSA supervisor: Reviews the request.
- BPI BCCSA Bureau Director: Reviews the request, and approves or denies the request.
- DCF OLC Representative: Determines whether the IPV is legally sound.

- ~~The~~ Administrator for the Division of Early Care and Education or designee: Reviews the request, and approves or denies the request.

**Note:** If the local agency would like to pursue a third IPV, the local agency should discuss the request with their local agency’s Human Services Director and the local agency’s legal counsel, prior to ~~pursuing~~ **submitting** the request.

#### **4.5.4.3.78 Additional Enforcement Actions**

After the local agency determines the IPV has occurred, the local agency may decide to take additional enforcement action(s). The additional enforcement action(s) include referral for criminal prosecution. The local agency should communicate with its’ legal counsel to discuss and establish thresholds and criteria regarding when to refer individuals to local law enforcement or the district attorney for consideration of possible criminal prosecution.:

1. ~~Refer for possible criminal prosecution: The local agency should communicate with its’ local agency legal counsel to discuss and establish thresholds and criteria regarding when to refer individuals to local law enforcement or the district attorney for consideration of possible criminal prosecution.~~

See Section 4.5.5 for additional information on criminal prosecution.

#### **4.5.5 Criminal Prosecution**

Cases of collusion and other highly egregious cases may be referred for criminal prosecution. ~~BPI~~ **BCCSA** should be notified of any cases referred for criminal prosecution through the ~~BPI~~ **BCCSA** Technical Assistance Mailbox: <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov). When notifying ~~BPI~~ **BCCSA**, **agency workers must** include the client name, case number, violation type, and other programs that are involved with the charges. Agencies may determine the appropriate timeframe to alert ~~BPI~~ **BCCSA**.

If the local agency is unable to pursue criminal prosecution or if a case is highly egregious, the case should be referred to ~~BPI~~ **BCCSA** for further investigation. Direct all referrals to the ~~BPI~~ **BCCSA** Technical Assistance Mailbox: <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form> with the subject line “Referral for Criminal Prosecution”. A **representative staff member** from ~~BPI~~ **BCCSA** will be notified and will contact the local agency who submitted the request for additional documentation and information.

Reasons for referring a case to ~~BPI~~ **BCCSA** ~~for to pursue~~ criminal prosecution include:

- Provider is not providing care
  - Multiple no access visits during peak times when children should be present.

- Small number or no children present during site visits, with a high number of authorizations. This may be accompanied by parent's always paying the entirety of their subsidy amount.
- An egregious number of overpayment instances.
- Parents stating their child stopped attending the provider, but subsidy funds continue to be paid to the provider from the parent's EBT card.
- Envelope Cases
  - Suspicions that parents and/or teachers are being paid to enroll their children while the children do not actually attend the center.
  - Referrals stating that individuals show up to pick up checks or cash, but are never seen working at the center.
  - No documentation of hours worked and/or no reported wages for employee.
- False shifts
  - Common for 24 hours per day centers.
  - Numerous employees reporting working third shift or weekend care.
- False employment
  - Provider sets up a false company in order for the parents to obtain authorizations and to remain compliant under the 40% rule.
  - Parent obtains verification letter stating that he or she works for the center or a company owned by the provider, but ~~this~~ **the** parent never actually works for the center or the company.
  - Numerous parents work for the same false company owned by the provider or a provider relative.
- Cushioned Employment
  - Provider hires parents so that the employee has a 40-hour authorization, however the parent does not work at the center.
  - Parent's authorization is for a different shift than they are receiving care for (~~Example: Parent works first shift, but is receiving second shift care~~).
  - The parent may be signed in as working but children are not signed in **for** care or children are signed in during different times.
  - Only the parent's children (~~no other child care children~~) are signed in **for** care when the parent is working.
- Collusion
  - Reports of a parent/ **-**provider agreement to defraud **the Wisconsin Shares program**.
  - Suspicions that parents and/or teachers are being paid to enroll their children while the children have not and do not attend the center.

#### 4.5.6 Appeal Process

Clients have the right to appeal three sanction decisions: 1) the overpayment amount, 2) the issuance of an IPV (~~if applicable~~), and 3) the denial of benefits while the appeal is occurring. If a client asks that their benefits continue while the IPV appeal is pending, the benefits will continue during the appeal. Clients must submit their appeals in writing

to the Division of Hearings and Appeals (DHA) and indicate which decision they are appealing wish to appeal.

#### 4.5.6.1 Fair Hearing Tracker

Local agencies should utilize the Fair Hearing Tracker tool in CWW. This system assists local agencies with scheduling and tracking appeal steps. It is recommended that local agencies view the Fair Hearing Tracker daily to check for any new appeals or updated appeals.

**Note:** IPV appeals are not handled as fair hearings, but as contested case hearings. Thus, IPV appeals and do not appear on the Fair Hearing Tracker.

#### 4.5.6.2 Overpayment Appeal Process

When an overpayment has been established against a client, the client will receive both a system-generated Child Care (CC) Overpayment Notification and a manual CC Client Overpayment Notice that lists the reason for the overpayment, amount of the overpayment, overpayment period, and their right to a fair hearing. The client may contact the Department or local agency whose contact information will be on the overpayment notice, to request an explanation for the overpayment. The Department or local agency may resolve the issue by either giving an explanation to the client of how the overpayment occurred, or the overpayment can be adjusted or deleted if the client can provide documentation to verify and support his or her position.

If the Department or local agency is unable to resolve the issue, or the client wants to appeal the overpayment decision, the request for a hearing may be made in writing or orally to the local agency or to the Division of Hearings and Appeals (DHA) within 45 days of the date of the notice. If an oral request is made to the local agency, the request must be submitted in writing by the local agency and signed by the petitioner. A local agency receiving a hearing request shall immediately date-stamp the request and forward it to DHA.

In the event of a hearing, the client and a representative from the Department or local agency, depending on who established the overpayment, must present testimony and evidence to an Administrative Law Judge (ALJ) who will determine whether to uphold the Department or local agency's action.

The types of documents that may be used as evidence and exhibits during a client hearing include:

- Original overpayment notices that include the hearing rights (system generated and manual CC Overpayment Notice ([DCF-F-DWSW11250-E](#)))
- Calculation of the overpayment (Child Care Overpayment Worksheet [DCF-F-452-E](#) or its functional equivalent)
- Documentation or witnesses to support, corroborate and explain the basis for the overpayment

- Any other supporting documentation of the overpayment, including supportive policy.

The ALJ decides whether the local agency was correct in its findings and calculations. If the local agency's determination is upheld, the local agency and client will receive a decision dismissing the appeal. If the client's appeal is upheld, the ruling remands the matter to the local agency to rescind or recalculate the overpayment amount. The local agency must carry out the remand order within 10 calendar days.

#### **4.5.6.3 IPV Appeal Process**

When an IPV is established against an individual in the Benefit Recovery (BV) sub-system of ~~Cares Worker Web (CWW)~~, a system-generated notice will be issued. If multiple individuals on one case each receive an IPV, each will be issued a system-generated notice. Each individual has their own appeal rights for the IPV established against them.

The client has 30 calendar days from the date of the IPV notice to request an appeal by sending a letter of appeal to the Division of Hearing and Appeals (DHA) with a copy of the IPV notice. Requests for a hearing sent to any entity other than DHA do not constitute a proper request.

DHA will notify DCF Office of Legal Counsel (OLC) and the local agency ~~human services staff~~ of all appealed IPV's by sending an acknowledgment of receipt of appeal as well as a copy of the appeal letter. DHA assigns an ALJ to the case and DCF either assigns an attorney to represent the Department or contacts the local agency's legal counsel to alert them of the case. DHA will also send a notice to the client and their attorney, if they are represented, that an ALJ has been assigned to the appeal.

~~Each local agency is responsible for ensuring program integrity in the Wisconsin Shares Child Care program.~~ The contract between the local agencies and the Department requires the local agency to provide legal representation as necessary at all hearings. A local agency's corporation counsel is strongly urged to provide representation at all client IPV hearings. The DCF OLC is available to provide training and technical support.

##### **4.5.6.3.1 Pre-Hearing Conference Call**

The ALJ will send notice to the Department or local agency, and the petitioner/client to schedule the pre-hearing conference call. During the conference call, the date, time, and place of the hearing, as well as the date to exchange witness lists and exhibits will be determined. The Department, local agency and the client may discuss the appeal process and general facts of the case during the call, at the discretion of the ALJ.

##### **4.5.6.3.2 Witness Lists**

Witness lists should be created and include the name, address, and phone number of every witness and each party who will testify during the hearing. If necessary, DHA can

assist in subpoenaing a witness. If the local agency is handling the case, they are responsible for creating and submitting their witness list.

**Note:** In the event of an appeal of any overpayment or intentional program violation (IPV), the local agency must have the agency worker who entered comments into CARES Worker Web (CWW) testify at the hearing. In the event the worker no longer is employed with the local agency, a ~~C~~child ~~C~~are ~~C~~oordinator or supervisor may testify in the worker's place.

#### **4.5.6.3.3 Exchange of Exhibits**

The DCF OLC or local agency legal staff is responsible for submitting all exhibits **to the ALJ and opposing party** that will be used in the hearing ~~to the ALJ and opposing party~~.

The exhibits for an IPV hearing should include documents, such as:

- Copy of IPV letter
- Copy of overpayment letter
- Any amendments to the Department's or local agency's original overpayment calculation
- If emails are included, redact any information regarding other individuals' names
- Any documentation relevant to the case such as pay stubs, EVF-Es, leases, a CCAP case print out, or DOT records
- A copy of the Child Care Rights and Responsibilities from an eligibility notice or parent authorization notice
- Anything else relevant to the investigation

#### **4.5.6.3.4 Hearing**

The individual who requested the IPV ~~will be~~ **is** expected to attend and serve as the witness on Wisconsin Shares policies and testify to the facts of the case, the investigative findings and enforcement action(s).

#### **4.5.6.3.5 Final Decision**

A final decision will be issued to all involved parties on the case. Either party can request a rehearing within 20 calendar days if able to show a serious mistake in the facts or the law, or if there is newly-discovered evidence that was unavailable at the time of the hearing. The client can also appeal the decision to the circuit court within 30 calendar days of the final decision.

#### **4.5.6.3.6 Dismissal**

At various stages during the appeal process, the case may be dismissed. Appeals may be dismissed because they were filed untimely, because the parties have settled the case, or because the client has abandoned the appeal.

#### **4.5.6.3.7 Remand**

A final decision by DHA may be to remand an IPV determination if the Department or local agency has not met its burden to prove that the individual committed an IPV. Any



remanded IPVs must be deleted in CWW, and related overpayment code(s) changed in BV within 10 days.

#### 4.5.7 Data Tracking Requirements

Local agencies are required to maintain data and total counts of the following information to be provided to the department each year in their Agency Fraud Plans:

- Fraud allocation amount
- Amount of allocation spent per year
- What the fraud allocation was spent on
- Total number of client case referrals
- Total number of open client case referrals
- Total number of Administrative Errors\*
- Total number of Client Errors\*
- Total number of Client IPVs established
- Total number of client investigations completed
- Total amount of overpayment for each sanction type
- Total number of client appeals for overpayments and IPVs
- Total number of client remands
- Total number of client remands not completed within the 10-day grace period
- Total number of collusion cases investigated
- Total number of cases presented to the DA, and accepted by the DA

**\*Note:** The rows with asterisks demonstrate that some or all of the data may be found in the BRITS Data Warehouse. ~~For example,~~ If a local agency logs all of their administrative errors in BRITS, then the BRITS Data Warehouse would fully encompass all of the data. However, there may be certain circumstances where the data in BRITS is not all encompassing.

#### 4.6 Collections

Once an overpayment is established, local agencies must cooperate with the Public Assistance Collection Unit (PACU) to recover any improper payments made. Collections may occur as a result of overpayment linked to an administrative error, client error, IPV, or collusion. If a client does not return payment and/or the repayment agreement, the ~~client will be listed as~~ claim is delinquent. ~~Determining delinquency means~~ CARES sends three (3) Dunning Notices to the client before referring ~~him/her~~ the delinquent claim to CRES for further collection. These can occur over the life of the debt.

**Note:** DCF has authority for all collection actions described in this section through Wis. Stat. [ss.49.152](#), [49.155\(7m\)](#), [49.195](#), and [49.85](#); and ~~Administrative Code~~ Wis. Admin. Code [DCF ss. 101.23](#) and [DCF 201.04\(5\)](#).

#### **4.6.1 Client Overpayment Recovery Process**

All overpayments made to a client whether due to an administrative error, client error, or intentional program violation (IPV), must be formally established in order to be repaid by the client.

To enter a new claim into the benefit recovery (BV) subsystem of CARES, an overpayment referral must be established via the Benefit Recovery Referral (BVRF) screen. The BVRF must be linked to a BRITS referral. To do so, **the agency worker must** enter the BRITS referral number in the Investigation Referral field on the BVRF.

System-generated and manual overpayment notices must be mailed to the client and meet the notice requirements to the client.

##### **4.6.1.1 System-Generated Notice**

Once an overpayment amount has been determined, **the agency worker must** enter the overpayment information on the Benefit Recovery Claim (BVCL) screen to create an overpayment claim. This will generate a Child Care (CC) Overpayment Notification that is mailed to the clients' last known address in **CARES CWW**. This notice informs the client of the reason for the overpayment, the amount, the overpayment period, claim number, and fair hearing rights. A Repayment Agreement (RPA) will be sent separately on the second business day of the following month that the claim was entered (see Section 4.6.1.5 for additional details).

Overpayment notices are generated to all liable individuals on the claim and mailed to the individuals' last known address in **CARES CWW**. If the person liable for the claim is no longer active on the case but is active on another case, **CARES CWW** generates a separate overpayment letter to the primary person on that case. **CARES CWW** generates an overpayment notice to the person who is liable for the claim even if the person liable is not the primary person.

##### **4.6.1.2 Manual Notices**

The Department or the local agency establishing the overpayment is required to mail a CC Client Overpayment Notice ([DCF-F DWSW-11250-E](#)). This notice informs the client of the same information as the system-generated CC Overpayment Notification; however, it includes a more descriptive reason for the overpayment.

The Department or local agency is also required to mail **the** CC Overpayment Worksheet ([DCF-F-452-E](#)) or its functional equivalent that shows the calculation of the overpayment. These notices **are must be** mailed to the client's last known address in CARES.

##### **4.6.1.3 Notice to Additional Liable Individuals**

If an individual is manually added as liable for an overpayment, the notice for the newly added person will automatically be generated from CARES.

Liability for a child care overpayment may extend to any parent, non-marital co-parent or stepparent whose family received Wisconsin Shares **Child Care** subsidies during the period that the individual was an adult member of the same household. A “parent” can mean a custodial parent, guardian, foster parent, treatment foster parent, legal custodian or a person acting in the place of a parent.

However, the added individual must be manually mailed the same CC Overpayment Notice ([DCF-F\\_DWSW-11250-E](#)) that was mailed to the primary person liable for the overpayment and the Child Care Overpayment Worksheet ([DCF-F-452-E](#)) or its functional equivalent that shows the calculation of the overpayment.

#### **4.6.1.4 Statute of Limitations**

Client overpayments can be established up to six (6) years after the IPV or client error occurred. (Wis. Stat. s.[893.43](#)).

The overpayment period for an administrative error claim ends with the month the error last occurred and extends back 12 months or when the error first became effective, whichever is most recent. The overpayment period for an administrative error cannot begin more than 12 months prior to the date the overpayment was discovered, ( [see Wis. Admin. Code DCF s. 101.23\(3\)\(c\)](#)).

#### **4.6.1.5 Client Repayment Agreement**

All clients are asked to complete and sign a repayment agreement (RPA). If the overpayment is under \$500, monthly installments of at least \$50 per month should be paid. If the overpayment is over \$500, the balance is requested to be paid in full within 36 months.

A **RPA repayment schedule** can be made by contacting PACU to negotiate a **monthly** repayment amount. If the client cannot make the \$50 installment per month, the negotiated monthly repayment amount may not be less than \$20 per month per liable person. Failure to return a repayment agreement or to make a payment will result in delinquency and further collection actions.

If multiple individuals are jointly liable for an overpayment, each will receive a separate RPA; however, an individual and their spouse may both sign one RPA. Each liable individual is responsible for the debt until it is repaid in full; therefore, if one liable individual misses a payment or becomes delinquent, the other individual is still responsible for the debt.

All RPAs and payments must be sent to the PACU. Any outstanding repayment agreements must be returned to the local agency or to PACU no later than the 25th of **the each** month with payment. Repayment summary notices are automatically generated when a monthly payment is made. A client will receive a repayment summary notice for all payments recorded in BV. The notice provides the current **outstanding** balance **after the payments have been applied**.

#### 4.6.1.6 Dunning Notices

If a client fails to return an RPA, fails to pay the overpayment in full, or fails to make a payment equal to the monthly amount agreed upon in the RPA, they will receive a Dunning Notice. A Dunning Notice ~~is a past due notice that~~ informs the client that they have a past due balance, that they are required to pay the balance of the debt, and that failure to complete and return a repayment agreement or repay the debt in full could result in delinquency and further collection action.

If a client receives three (3) Dunning Notices over the life of the debt, he/she is determined to be delinquent and the debt is referred to the CRES collection system for additional collection action including levy, warrant/lien and Department of Revenue (DOR) state tax intercept. The referral date is noted on BVPA as "Referred to CRES".

If a client is delinquent on a current ~~GG~~ Wisconsin Shares overpayment, and receives another overpayment, the second overpayment is automatically considered delinquent, without the client receiving any additional Dunning Notices.

#### 4.6.1.7 Posting a Client Payment

If a local agency receives a check payment for an overpayment, the check should be sent to the PACU for posting to the debt. If a local agency receives a cash payment, the local agency can transmit the funds to PACU by depositing the cash and making a check payable to the PACU for the amount of the payment.

### 4.6.2 Delinquency Collections Process

#### 4.6.2.1 Referrals to Central Recoveries Enhanced System (CRES)

At the end of the first business day of each month, a cycle will run that looks at the prior months' claim creations, repayment agreements, and received payments.

- If a new claim was entered, CARES will automatically generate an RPA to each person liable for the debt.
- If an RPA exists, CARES will review the BVPA screen to see if a returned RPA was entered.
  - If it was, the system checks for payments received for the month. All payment amounts must total at least the installment amount on BVPA screen. If all payments for the previous month do not equal to at least the total installment amount, CARES generates a Dunning Notice.
  - If it was not entered on BVPA or if a repayment was not equal to the monthly amount or an amount agreed upon in the RPA, CARES generates a Dunning Notice.
- If a repayment agreement has not been entered on BVPA, but a payment has been made, CARES will generate a Dunning Notice. If a client alerts the worker

to this situation, the worker can reset the Dunning Notice, if the payment satisfies the amount in the repayment agreement; otherwise, no action is necessary by the worker.

If a client receives three (3) Dunning Notices over the life of the debt, CARES determines the **client claim** to be delinquent and the client is referred to the Central Recoveries Enhanced System (CRES) for additional collection action including levy, warrant/lien and Department of Revenue (DOR) for state tax intercept. The referral date is noted on BVPA as "Referred to CRES."

#### **4.6.2.2 Levy**

A levy is an involuntary collection from a third party, such as an employer or financial institution, which holds a debtor's earnings or property. PACU has authority to levy any amount over \$1,000 from an account at a financial institution and/or up to 25% of a debtor's disposable wages to repay a delinquent Wisconsin Shares **Child Care** debt. Any debt referred for levy action must be at least \$300.

1. **Notice Prior to Levy (NPL):** PACU sends an NPL to the debtor by certified mail. This notice is a demand for payment in full within 10 **calendar**-days and a notification that further legal action **is-intended may be taken** to collect the debt. There are no appeal rights attached to this notice.
2. **Levy Issuance:** If the debtor does not respond within 10 **calendar** days after the NPL is sent, the Department will serve the levy on the debtor. If an employer match is found, and no acceptable arrangements have been made, a levy notice is sent by PACU via certified mail to the employer. A copy of the levy is also sent by certified mail to the debtor's last known address. The levy notice contains the debtor's administrative hearing rights on the levy action along with instructions for how to request a hearing. The debtor has 21 **calendar** days from the date of the notice, to request a hearing on the levy action through the DHA. If the debtor is granted a hearing, the levy action will continue throughout the hearing process. If the debtor requests an appeal, the subject matter of the appeal is limited to current balance of the debt and/or mistaken debtor identity.

#### **4.6.2.3 Warrant/Lien**

Another collection method used is to issue a warrant, which becomes a perfected lien on real and personal property, such as a home, or car title. The overpayment amount must be over \$300 in order for a warrant/lien to be issued and is only valid in the county where the warrant is docketed. The debtor has 21 **calendar** days from the date of the notice to request an appeal, which is limited to issues of current balance of the debt and/or mistaken debtor identity. If the debtor requests an appeal, the warrant will remain in effect during the appeal process. When the amount in the warrant and all costs due the Department has been paid, the Department shall issue a Satisfaction of the Warrant that states the outstanding balance has been paid in full.

#### **4.6.2.4 DOR State Tax Intercept**

If a debt is considered delinquent, the debt is certified to the Department of Revenue (DOR) to offset tax refunds and/or credits. The debtor is sent a notice to their last-known address, 30 **calendar** days prior to certification of an overpayment. The notice informs the debtor that the Department intends to certify the delinquent overpayment to the DOR and that the debtor has 30 days from the date of the letter to request an appeal.

If the debtor requests an appeal, the Department will not certify the amount to the DOR during the appeal process. The certified amount represents the total outstanding balance due, and the certification will remain until the debt(s) are paid in full. If the debtor requests an appeal, the appeal is limited to the tax intercept matter.

If the debtor has filed for bankruptcy, the debtor must inform the Department because all collections actions are ceased during a bankruptcy. All bankruptcy notices must be forwarded to PACU for handling.

#### **4.6.2.5 Delinquency Collections Appeal Process**

PACU prepares exhibits and defends delinquency collection actions (~~see Operations Memo 18-J5~~). Certain circumstances will require PACU to seek local agency assistance in obtaining documents to support the collection action that are not readily available.

It is not uncommon for a client to raise issues relating to the underlying merits of the overpayment. While these issues are not properly considered at collection hearings, ALJs sometimes allow them to be discussed. Moreover, by the time a debt is considered delinquent, time limits for raising the merits of the overpayment have likely passed.

When issues related to the merits of an overpayment are introduced at a delinquency hearing, PACU will request that DHA reschedule a separate merit hearing. PACU will alert the client and the ALJ that time limits for appealing the merits have likely passed. DHA will notify local agencies via email of the merit hearing. The local agency is required to follow the current procedure for merit hearings, including filing motions to dismiss if the appeal was filed untimely. Information regarding the appeal process can be found in Section 4.5.6 for clients and Section 4.11.5 for providers.

If a merit hearing or departmental review already occurred, PACU will provide that information at the time of the delinquency hearing and will request no additional hearing to be scheduled.

When a merit hearing or departmental review results in the need to address a delinquency collection action, the local agency should request to reschedule the merit hearing to a separate delinquency hearing. Local agencies are not expected to defend collection actions; PACU ~~is not in a position to~~ **does not** defend local agency decisions and overpayments.

#### **4.6.2.5.1 Lien And Levy Delinquency Collection Actions**

PACU will prepare all exhibits, and defend all lien and levy collection actions at delinquency hearings.

When a client appeals a lien or levy collection action through DHA, PACU and the local agency that established the claim will continue to receive the hearing notice via email. The local agency does not need to take any action. PACU will take the following actions:

- Prepare and provide DHA with all exhibits;
- Appear at the hearing and defend the lien and/or levy collection action;
- Review decisions for policy adherence;
- Comply with the hearing decision; and
- Provide the certification of compliance to DHA.

#### **4.6.2.5.2 Tax Intercept Delinquency Collection Actions**

When a client appeals a tax intercept action through DHA, the **DCF** Office of Legal Counsel (OLC) will appear and defend the tax interception delinquency collection action. DHA will notify PACU of the request via email and PACU and **DCF** OLC will take the following actions:

- **DCF** OLC will prepare and provide DHA with all exhibits;
- **DCF** OLC will appear at the hearing and defend the tax intercept action;
- PACU will assist **DCF** OLC with gathering documentation for exhibits;
- PACU will provide testimony to support the collection action;
- PACU will comply with the hearing decision action; and
- PACU will complete and provide a certification of compliance to DHA.

#### **4.6.3 Retention of Records**

The Department and local agencies are responsible for retaining all records, including letters and notices sent by the local agency, for a minimum of three (3) years after an overpayment claim reaches a zero balance or is written off (see Wis. Stat. s.[59.52\(4\) \(a\) 18](#))).

#### **4.7 Confidentiality and Routine Disclosure**

Local agencies shall not unnecessarily disclose any information about the client, provider, or reasons for an investigation, to any person without permission. Local agency records and data are confidential and shall be open to public inspection or disclosure only to the extent required by state or federal law.

Local agencies may disclose information from the record to any governmental official conducting an investigation, prosecution, or civil proceeding in connection with administration of a DCF program to the extent necessary. The official must submit a

written request to obtain the information to the local agency. The local agency should refer requests for information to local agency's Corporation Counsel. The request must include the identity of the person requesting the information, his or her authority to request the information, the violation under investigation, and the individual being investigated. However, this does not apply to the District Attorney (DA) or to fraud investigators (Wis. Stat. s.[49.83](#)).



## PART B: PROVIDER PROGRAM INTEGRITY

### 4.8 Prevention

#### 4.8.1 Local Agency Refusal to Authorize to a Child Care Provider

The child care administrative agency may refuse to issue an authorization to a regulated provider if:

- The licensed ~~or certified~~ child care provider refuses to submit documentation of their prices in response to a local agency request.
- The parent's need for child care does not match the provider's hours of operation (only hours within the provider's hours of operation may be included in the authorization).
- Adding the child would put the provider overcapacity.
- The provider currently has 2.5 authorizations per regulated slot (~~see Operations Memo 18-33~~).
- A child care provider has a pending criminal charge alleging that they have committed a serious crime or have been convicted of committing a serious crime as defined in Wis. Stat. s. [48.686\(1\)\(c\)](#).
- The child care provider has been convicted or is charged with a crime for which the offense substantially relates to the care of children; or the Department or local agency determines that the offense substantially relates to the operation of a business, per Wis. Stat. s. [49.155\(7\)\(b\)1](#).
- The Department or local agency reasonably suspects that the person has violated any provision under the Wisconsin Shares program, per Wis. Stat. s. [49.155\(7\)](#).
- More than 40 percent of all children enrolled by the provider are children of employees, per Wis. Stat. s. [49.155\(3m\)\(e\)2](#). If the Department or local agency finds a provider to be in violation of this rule, the provider shall be given a six-week notice prior to ending authorizations for those children (see [Section 4.8.1.4](#)).

The local agency may limit the number of children authorized to a certified or licensed provider for the period of time that it appears the provider may be over the capacity. Before authorizing to a provider, when they appear to be over their capacity, **the local agency must contact the provider and** the provider must explain why he/she would not exceed the applicable group size limitation. Providers can validate that they are not over their regulated capacity by submitting information listing the children in care, the hours and times of care, and the child's age and relationship to the provider.

Child care provided when the provider is ~~over capacity~~ **overcapacity** is not eligible for subsidy payment as the provider is out of compliance with their regulation during this period of time.

Local agencies are prohibited from issuing authorizations to a provider if the provider is at or above 2.5 authorizations per regulated slot (~~See Operation Memo 18-33~~).

#### 4.8.1.1 40% Rule

According to Wis. Stat. s. [49.155\(3m\)\(e\)](#), if more than 40 percent of the total number of children attending a licensed provider are children of employees of the provider who receive Wisconsin Shares **subsidies**, the Department and local agencies must refuse authorizations, following the procedure below. This is commonly referred to as the 40% rule. Authorizations may not be made to certified providers that employ parents who participate in Wisconsin Shares.

Child care funds may only be **distributed paid** to a child care provider licensed under Wis. Stat. s. [48.65](#), if at least 60 percent of the children for whom the child care provider is providing care are “qualifying children”. A qualifying child is defined as a child who:

- is not a child of an employee of the child care provider; *and*
- does not reside with an employee of the child care provider

On a quarterly basis, the local agency must monitor child care providers by obtaining the Parent Employment List(s) in CSAW, reviewing all three months in the quarter, documenting the status of each provider and reporting this to their Bureau of Regional Operations (BRO) **R**egional **C**hild **C**are **C**oordinator.

**Note:** The Parent Employment Lists are located in CSAW under the CSAW-Reports tab, and are named Parent Employment Summary by County, and Parent Employment Details by Provider.

For those providers that appear to be out of compliance, the local agency shall send a 6-week notice, 2-week notice, and Ending Wisconsin Shares Authorization Notice for all **Wisconsin Shares** children of employees **receiving Wisconsin Shares subsidies** to those providers that do not come into compliance. Monitoring may require contacting the providers for further explanation.

#### 4.8.1.2 Calculation of the 40% Rule

To calculate the actual percentage of qualifying children:

- Determine the total number of children (both authorized and private pay) for the child care provider for all locations combined.

**Note:** A child can have more than one authorization. Only count the child, not the child’s number of authorizations to that provider.

- Determine the total number of “non-qualifying” authorizations for the child care provider for all locations. Non-qualifying authorizations are for children who reside with employees of the child care provider or whose parent has reported his or her employer as **being** this child care provider.
- Take the number of “non-qualifying” authorizations and divide that number into the total number of children attending the child care provider. If the resulting number is greater than 0.40, the provider is not in compliance with the 40% rule.

**Example:** On January 1, ABC123 Child Care has only one location with 15 Wisconsin Shares authorizations and 60 private pay children, for a total of 75 children. Of the 15 Wisconsin Shares children, seven (7) of them are children of employees of the provider and are considered “non-qualifying” children. However, in CSAW this provider will appear to be violating the rule and the Parent Employment List screen will say “47% of parents appear to be employed by the provider.” The calculation should be based on the total number of children (authorized and private pay). The number of non-qualifying children (7), divided by the total number of children (75), = 9%. This provider is not in violation of the 40% rule.

When the local agency can reasonably determine that a licensed group or family center is caring for a large number of children, but only a small percentage include subsidy children, it is reasonable to reach the conclusion, although CSAW shows a possible non-compliance, that the larger numbers of private pay children brings the provider into compliance. The local agency is not required to identify the actual number of private pay children, rather a notation may be made by the local agency that the provider is in compliance.

An exception exists to the 40% rule ~~where~~ when the parent works for another business that is owned by the same provider. This allows the employer to mitigate and/or avert the 40% rule, but should still be flagged and reviewed by BPI BCCSA or the local agency.

**Example:** Tiffany works for Big University, and her children attend the child care center at Big University. Technically, Tiffany works for the same company that operates the child care. This does not violate the 40% rule.

#### 4.8.1.3 Out of State Providers and 40% Rule

Providers in surrounding states, such as Minnesota, Illinois, Iowa or Michigan, who accept children in the Wisconsin Shares ~~subsidy~~ program are also subject to the 40% rule and must be monitored by the local agency. CSAW only identifies Wisconsin Shares authorizations, it does not identify private pay, or out-of-state subsidy children. The local agency will need to research and determine if the presence of private pay or out-of-state subsidy children increase the provider’s numbers and brings them into compliance.

~~If an out-of-state provider accepts children participating in Wisconsin Shares, the provider can count children from their “home state” as qualifying children (children attending the facility who are not children of employees) when calculating the 40% rule.~~

~~It can be documented within CSAW by the local agency when a provider appears to inaccurately exhaust their 40%.~~

The local agency must document in CSAW when a provider appears to be inaccurately violating the 40% rule when they are actually in compliance.

**Example:** For example, XYZ Child Care is located in Sometown, Minnesota. 15 children attend the Child Care center, of which nine (9) are from Minnesota and six (6) are from Wisconsin and receiving Wisconsin Shares subsidies children, whose The parents of all 15 children work for the provider. The provider would not be in violation of the rule as they would be right exactly at 40% (6 non-qualifying children divided by 15 total children) because the out-of-state children can be counted as qualifying children.

#### 4.8.1.4 Enforcement of 40% Rule

If a provider has been found to not be in compliance with the 40% rule, local agencies should take the following actions to correct the behavior.

##### 1. Six-Week Notice: Initial Violation < 30 days

If a provider has been verified to be out of compliance with the 40% rule, the local agency should send a six-week notice (on the local agency letterhead) to the provider and copy their BRO Child Care Coordinator. This notice informs the provider that they appear to be out of compliance and that if the provider does not come into compliance or provide an explanation within six weeks, all authorizations for children of parents employed by the provider will be terminated. Agencies can use the [Six-Week Notice Template](#).

##### 2. Two-Week Notice: Continued Violation > 30 days

For providers who have received a six-week notice and appear on the subsequent month's report, the local agency should issue a two-week notice (on the local agency letterhead) to the provider and copy the BRO Child Care Coordinator, informing them that all authorizations to children of employees of the provider will be ended in two weeks due to the provider not addressing the initial notice of non-compliance. Agencies can use the [Two-Week Notice Template](#).

##### 3. Ending Wisconsin Shares Authorizations

Within seven (7) days of sending the two-week notice, the local agency should end the authorizations to the children of employees of the provider, effective the end of the current month, unless the provider has given sufficient documentation to show that the provider is now in compliance. This will allow CSAW to issue a notice to both providers and parents that the authorizations are ending.

If the provider documents that he or she is in compliance prior to the authorization end date, the local agency should restore the authorizations to their original end dates. If the provider documents that he or she is in compliance after the authorizations have ended,

the new authorizations may be restored created with the begin date of the day that the provider gave sufficient documentation to show that the provider is now in compliance.

In instances where authorizations are for parents who reside in a different local agency than the provider, the local agency in which the provider is located is responsible for monitoring and enforcing this policy. The responsible local agency will need to copy the other local agency on both the six-week and two-week notices and work with the local agency responsible for the authorization to have those authorizations ended if necessary.

#### 4.8.2 Written Payment Agreement

Providers are required by ~~Administrative Rule~~ Wis. Admin. Code [DCF s. 201.038\(5\)](#) to have a written payment agreement with each parent that receives subsidy for child care by the provider. Providers may choose to use form [DCF-F-5224-E](#). If the provider chooses to use their own form it must contain all of the following:

- The provider's monthly or weekly child care price
- The provider's days and hours of operation
- Any discounts or scholarships that are available to parents, and any discounts or scholarships that the parent is receiving
- The parent's payment schedule
- The provider's anticipated closure dates
- Payment expectations for the child's anticipated and unanticipated absences, and payment expectations for the provider's closure dates
- Parent procedures for termination of a child's enrollment
- Provider procedures for termination of a child's enrollment

Providers are required to retain a copy of each current written payment agreement at the location where child care is provided.

Providers are also required to retain a copy of an expired written payment agreement for at least three (3) years after the child's last day of attendance. The agreement must be kept at a location where it can be made available to the Department within 24 hours of a request.

**Note:** DCF has the authority to verify that providers retain current and expired written payment agreements under ~~Administrative Code~~ Wis. Admin. Code [DCF ss. 201.038\(5\)\(c\)](#) and [DCF-201.038\(5\)\(d\)](#). Form [DCF-F-5224-E](#) is also available in Spanish [DCF-F-5224-E-S](#) and Hmong [DCF-F-5224-E-H](#).

**Note:** The requirement for providers to enter into a written payment agreement with parents was temporarily suspended from April 2020 – July 2020 due to COVID-19, per the Governor’s [Emergency Order #26](#).

#### 4.8.3 Prohibited Actions by a Provider

Providers may not do any of the following (see [Administrative Rule Wis. Admin. Code DCF s. 201.038\(7\)](#))

- Require a parent to disclose the balance in the parent’s subsidy account.
- Require a parent to provide the parent’s eligibility notice or authorization notice.
- Require a parent to provide the parent’s EBT card, account number, or personal identification number (PIN) to the provider.
- Possess a photocopy, photo, or other image of a parent’s EBT card.
- Possess or request a parent’s account number or PIN.

If a report or referral is received indicating that a provider or unauthorized individual may be in possession of MyWICildCare EBT card(s), account number(s), PIN(s), authorization notices, and/or any representation of these items, immediate action must be taken including confiscating the EBT card(s) or making a referral to the Child Care Fraud Mailbox at: [DCFMBchildcarefraud@wisconsin.gov](mailto:DCFMBchildcarefraud@wisconsin.gov) (see Operations Memo [17-12](#) for the procedure for compromised MyWICildCare EBT cards and confiscation).

~~**Note:** See Administrative Rule DCF 201.038(7)~~

#### 4.8.4 Requirement for Providers to Notify the Local Agency

Providers are required to notify the local agency if the child of a parent who receives a [Wisconsin Shares](#) subsidy for child care has not attended within the previous 30 days (see [Administrative Rule DCF s. 201.038\(8\)](#)), and Section 4.11.1.2.2.7).

Any facility, license, or staffing changes must be reported to the provider’s licensur or certifier; and price changes for licensed providers must be submitted to the local [child care](#) agency. Timely notification by the provider will decrease the chances of an overpayment or other sanction being issued to a provider. Untimely reporting of changes may result in various sanctions.

Licensed providers who plan to close their center for more than two (2) weeks are required to document and report the closure by submitting a Notice of Voluntary Temporary Closure to the local agency and the Bureau of Early Care Regulation (BECR).

Licensed providers are required to report all seasonal closings at least five (5) calendar days before the closing to the local agency and the Bureau of Early Care Regulation (BECR) (see [Wis. Admin. Code DCF ss. 250.04\(3\)\(L\)](#), and [DCF-251.04\(3\)\(d\)](#)). An example of “seasonal closing” is a program that decides to close for the summer. Unexpected or unplanned closures may be subject to provider overpayment.

If a provider refuses to care for a child during the child's authorized hours due to planned or unplanned closures, the provider may be subject to provider overpayment.

A child care provider will not be required to return subsidy funds to the Department for a temporary closure lasting up to 14 consecutive calendar days if the closure was due to a COVID-19 exposure. Any closures beyond 14 consecutive calendar days would require an explanation of circumstances by the provider for review and the provider is expected to adhere to the reporting requirements of Licensing and Certification. This policy is not limited to a single 14 consecutive calendar day COVID-19 closure.

If a child care provider contacts their local agency to report a closure due to a COVID-19 exposure, the local agency should instruct the provider to contact their licensor or certifier to report the reason and timeframe for the closure.

If a child care provider previously returned funds to the Department through a Voluntary Repayment Agreement (VPA) for a closure due to a COVID-19 exposure, the provider may contact their local agency to request the funds be returned. The local agency should send this request to the Program Integrity Unit Technical Assistance Mailbox at: [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov) or the [Technical Assistance Request Page](#) on the DCF Website.

Child care providers who choose to voluntarily return funds may complete the <https://dcf.wisconsin.gov/files/forms/doc/5178.docx> and return the form to the local agency.

If a local agency worker is notified by the provider of a child's absence, the worker ~~should~~ **must** make multiple attempts to contact the parent to determine the cause of the absence **before ending the authorization (see 2.4.11)**. The child may have been absent for various reasons including family vacation, change in child care need, or authorization to the incorrect provider. The local agency worker may assess for an overpayment if the situation meets overpayment criteria described in Section 4.5.2.

If a provider fails to report to the local agency when a child has not attended for 30 consecutive days, the provider may be responsible for an overpayment.

#### **4.8.5 Provider Record Keeping System and Attendance Documentation Method**

Providers are required to maintain accurate attendance records, as established in **Wis. Admin. Code DCF ss. [202.08\(5\)\(i\)](#), [250.04\(6\)\(b\)](#), [251.04\(6\)\(b\)](#), and [252.41\(4\)\(c\)](#)**. The attendance records must contain the children's exact daily arrival and departure times. These times should never be rounded. These records must be ~~made available to the Department upon request~~ submitted to the local agency or the Department within 24 hours after receiving a request for records.

The provider's attendance records must be retained on site for the length of time the child is enrolled in the program, and for three years after a child's last day of attendance at the child care facility (see Wis. Stat. s. [49.155\(6m\)\(b\)](#)). Providers that discontinue their participation in the Wisconsin Shares program must ~~also~~ still adhere to this policy. Not completing and/or retaining these records may result in an assessment of an overpayment to the provider, and/or a permanent suspension from the Wisconsin Shares program.

It is recommended that providers maintain records of all payment transactions including Wisconsin Shares subsidy payments, out-of-pocket payments made by the parent, Parent Share, and YoungStar payments made by the Department. Providers receive monthly notices and have access to the ebtEDGE Provider Portal, and the DCF Child Care Provider Portal to verify transaction information. The information provided in these systems is real-time payment information.

The Department recommends that providers give parents a receipt for all payments, including subsidy payments made to the provider.

**Note:** Samples of [Daily Attendance Records](#) are available. These forms can also be located by going to the Forms Search page (<https://dcf.wisconsin.gov/forms>) and searching Daily Attendance Record.

**Note:** Licensed Group Providers may design their own forms or utilize a computer system if the same information is shown as described above, so long as they record and maintain the same information that would be recorded on the DCF form, which is required for family providers (see [251.04\(6\)\(b\)](#), and [252.41\(4\)\(c\)](#)).

## 4.9 Detection

### 4.9.1 Referrals

Referrals are a formal request for an investigation for fraud for both clients and providers. Local agencies must develop procedures for how referrals are received, processed, and substantiated.

**Note:** Please Local agencies should send all fraud referrals through the appropriate channels (for example, the Child Care Fraud Mailbox [DCFMBCHILDCAREFRAUD@wisconsin.gov](mailto:DCFMBCHILDCAREFRAUD@wisconsin.gov)). Do not send referrals directly to BPI BCCSA staff. This will assist BPI BCCSA with the tracking of processed referrals.

### 4.9.2 Provider Investigation Referrals

Examples of child care provider fraud referrals to that local agencies can submit to the Child Care Fraud Mailbox include, but are not limited to:



- Care **is being** provided at a location where the child does not have an authorization
- Certified provider **is** holding outside employment during the facility's hours of operation
- Children **attending who attend** the center **live also reside** with the provider
- Payments are being made to the provider for children who have not attended for 30 or more consecutive days (see ~~Administrative Rule~~ **Wis. Admin. Code DCF s. 201.038(8)**)
- Payment **is being** made to a provider for a child who has never attended the provider location
- Full payments are being made to a provider for a child who has significantly underutilized care, and the parent failed to report the change in child care need
- Two or more no access visits by Department or local agency staff **have occurred**
- ~~Improper~~ **Inaccurate** attendance record keeping, including, but not limited to:
  - Missing or incomplete attendance records
  - Children in attendance are not on attendance records or are missing **arrival and departure** time(s)
  - Children not appearing on the attendance record for over 30 consecutive days
  - Children signed in on attendance records are not present
  - Prefilled arrival or departure times for children for future dates or times
  - Recording arrival and departure times on a schedule (i.e. M – F 7:00 a.m. – 4:00 p.m.)
  - Rounding of arrival and departure times
  - Suspicious record completion (i.e. attendance records appear to be completed in one sitting vs. as children arrive and depart)
- Improper Payment Practices
  - Provider does not have a written payment agreement with each family receiving Wisconsin Shares **subsidies** (see ~~Section~~ 4.8.2 and ~~Administrative Rule~~ **Wis. Admin. Code DCF s. 201.038(5)**)
    - Providers are required to retain a copy of each current written payment agreement at the location where child care is provided
    - Providers are required to retain a copy of an expired written payment agreement for at least **three (3)** years after the child's last day of attendance. The agreement must be kept at a location where it can be made available to the Department within 24 hours-
  - Provider has no policy regarding payment practices
  - Provider is not following their established payment practices
  - Provider is reported as making the payment on behalf of a parent **using the parent's EBT card information**
- Compromised MyWICChildCare EBT card or information
  - Report of a possible compromised EBT card or card/client EBT information observed in provider's possession (~~reference Operations~~ **Memo 17-12**)

- ~~Provider overcapacity message received in CSAW (reference Operations Memo 18-33 and Operations Memo 17-54)~~
- Suspicious expulsions and disenrollment of children
- Temporary and permanent closures of a provider location or locations
  - Includes frequent closures for provider “vacations”
  - Includes frequent unexpected or unannounced closures
  - Provider receiving payment for closure(s) of more than one week in a calendar year (see [Section 2.4.10](#))
  - Does not include temporary closures of up to 14 calendar days if the closure was due to a COVID-19 exposure
- Suspicious requests
  - Provider calls to determine the amount of funds on a parent’s EBT card
  - Provider calls to request assistance in resetting an EBT card PIN that is not their own
- Reports of cashing out EBT cards or providing kickbacks to clients (see Section 4.5.4.3.2.1)
- Reports of a provider offering a discounted price to children of employees, but the provider denies offering discounts
- Reports of provider offering discounts to all employees except for employees receiving subsidy
- Charging subsidy families more than private pay families
- Report of parent and provider colluding to commit fraud (including kickbacks)
- 40% Rule Violation
  - More than 40% of **subsidy** children **receiving Wisconsin Shares subsidies** are the children of provider employees
  - Worker receives overcapacity warning in CSAW and provider does not have an explanation that shows they are in compliance with the 40% rule.
- Suspicious “Volunteer” parents
  - Clients at location but not picking up or dropping off a child
  - Volunteer parents being listed as there when they are not
  - Volunteer parents who are not present but their child(ren) are
  - Volunteer parents who have reported wages from the provider
- YoungStar Concerns
  - Teachers on [The Registry](#) are not in attendance or are not providing care
  - Teacher that is listed as the lead teacher is not providing the majority of care between 6:00 a.m. and 6:00 p.m.
  - Director(s) and/or Lead Teacher(s) do not have the required certificates or level of training for their position
  - Director(s) does not perform the duties required by a YoungStar listed Director
  - Director(s) credentials do not match [The Registry](#) profile
  - Director and/or teacher does not have wages reported from the center
  - Director and/or teacher has wages reported from outside employment during the time they are registered as providing care on [The Registry](#)

- Random Site Visits completed by the Department or local agency demonstrates a violation

Local agencies are only required to submit their provider fraud referrals that cannot be worked through their own or consortium investigations. These referrals should be submitted through [DCFMBCHILDCAREFRAUD@wisconsin.gov](mailto:DCFMBCHILDCAREFRAUD@wisconsin.gov).

**Note:** When submitting a referral to the fraud mailbox, local agencies must include the referral reason, provider name or number, location number, client name or case number, date of incident, and contact information of complainant. If information is incomplete, please submit all information received from the complainant.

~~BPI~~ BCCSA monitors the fraud mailbox and triages the concerns to the appropriate entity for provider investigations and through BRITS if it involves a client investigation.

#### 4.9.3 YoungStar Investigation Referrals

~~BPI~~ BCCSA conducts provider YoungStar Investigations. If a local agency encounters a situation where a provider may not have an accurate Registry Program Profile that is linked to YoungStar, the local agency should submit a fraud referral to the ~~BPI~~ BCCSA Fraud Mailbox ([dcfmbchildcarefraud@wisconsin.gov](mailto:dcfmbchildcarefraud@wisconsin.gov)).

Indicators of YoungStar fraud include (but are not limited to):

1. During a site visit, lead teachers listed on the Registry are not in attendance
2. The teacher listed as the lead is not providing the majority of care during the day
3. The person listed as the Director is not fulfilling the duties required to be a YoungStar listed Director
4. Lead teachers do not have the required certificates, etc. ~~to be ranked that high to~~ justify the center's ranking
5. Director and/or teacher does not have wages reported from the center
6. Director and/or teacher has wages reported from outside employment during the time they are registered as providing care on The Registry
7. Director, teacher, or provider does not meet minimum licensing requirements to be in the position they are listed
8. The Registry has not been regularly updated to reflect current staff and roles

**Note:** For additional information on The Registry Program Profile and its connection to YoungStar, please visit <http://www.the-registry.org/>.

**Note:** If a YoungStar investigation is opened and a YoungStar overpayment is determined, this will also be entered in the Recommendation, and must be approved by the Bureau of YoungStar (BOY) BELP.

**Note:** If YoungStar makes an error that would cause an negative impact to a provider in a given month such as a rating not completed in time, DCF has the ability to rate

the provider on a case-by-case basis under minimal extenuating circumstances. The local agency must contact BPI BCCSA for assistance with these cases.

#### 4.9.3.1 Tracking Referrals

The Department and local agencies are responsible for establishing a tracking method for all provider-based referrals that includes the source, the allegation, background information, and the resulting action. Technical Assistance on the process of tracking referrals is available from the online BPI BCCSA Technical Assistance Form:

<https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>

#### 4.9.4 Red Flags

##### 4.9.4.1 Provider Red Flag Reports

Red Flag Reports are automatically generated reports available in WebI that identify providers that may be violating a set list of criteria. The Red Flag Reports flag-identify providers that may be violating a policy or where there is a reasonable suspicion of fraudulent activity. The findings from these reports are then utilized to generate possible referrals.

Provider Red Flag Reports in WebI include (but are not limited to):

1. Unusual Payment Timing Report
2. Payment Grouping Report
3. Provider ~~Over Capacity~~ Overcapacity Report
4. Child Mobility Report
5. Unusual Revenue Growth Report

##### 4.9.4.2 Red Flags for Site Visits

Any red flags identified during a site visit conducted by any local agency or Department staff should be reported to the relevant local agency's local fraud investigator or BPI BCCSA. Local agencies may develop their own red flags to add to this list that would result in a referral either to their internal fraud investigator or to BPI BCCSA. Below is a list of recommended red flags for site visits:

- Overcapacity
- Inaccurate Attendance Records
  - ~~Meaning~~ More children signed in than are present at the facility
  - High authorization hours but few or no children are present each time the provider is monitored
  - Times on attendance records appear to be rounded
  - Parent signatures entered prior to the end of the week (If parent signatures are required on the attendance records)
  - Attendance Records are missing, incomplete, or times are entered prior to the end of the day/week
- Siblings leaving at different times or at suspicious in and out times
- Two attempted unannounced visits (unable to access facility)
- Operating outside of regulated hours

- Possession of MyWICChildCare EBT Cards, PINs, or any representation of these items
- Missing Provider/Parent Written Payment Agreements
- Operation at an unauthorized location
- Unauthorized individual providing care

#### **4.9.5 Provider Data Tracking Requirements**

As part of the Agency Fraud Plan, local agencies are required to maintain data for each year including:

- Total number of provider referrals
- Total number of provider investigations completed
- Total amount of provider overpayments
- Total number of provider errors
- Total number of administrative errors
- Total number of provider remands
- Total number of provider remands that were not processed within the ten (10) day timeframe
- Total number of provider appeals
- Total number of providers terminated from the Wisconsin Shares program

#### **4.10 Provider Investigations**

If resources are available, local agencies may conduct provider investigations or forward a referral to **BPI BCCSA** via the Fraud Mailbox ([DCFMBCHILDCAREFRAUD@wisconsin.gov](mailto:DCFMBCHILDCAREFRAUD@wisconsin.gov)).

Local agencies may request assistance with an investigation, by submitting a request for Technical Assistance to **BPI BCCSA**: <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or by email to [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov).

A **BPI BCCSA** staff **person member** may be assigned to assist with the completion of the investigation.

##### **4.10.1 Local Agency Provider Investigation Tools**

This section details the various tools and required procedures that local agency investigations may utilize during a provider investigation. The tools listed in this section are not all encompassing.

###### **4.10.1.1 Unannounced Site Visit**

The Department, local agencies and licensing/certification specialists have the authority under **Wis. Admin. Code DCF s. 201.04(6)(e)** to visit and inspect any child care center at any time during licensed/certified hours of operation. By accessing and observing the facility, the local agency can:

- Assess ratio and capacity

- Assess accurate recordkeeping including written payment agreements (see [Section 4.8.2](#))
- Determine whether the care of children is taking place
- Determine whether the care that is occurring is consistent with the provider's attendance records
- Determine whether there are any other indicators of suspicious activity

During a site visit, the investigator should review the original attendance records and, at the local agency's discretion, can remove up to three (3) years of attendance records since the child's last date of attendance for auditing purposes. It is recommended that six (6) complete calendar months of records are removed. If records are removed, the local agency must leave a [Removal of Records Receipt](#) with the provider stating the date range of the records taken. When removing original records, the provider should be given an opportunity to make copies of the records if they have an onsite photocopier and copies can be made within a feasible timeframe. If copies were not made on site, the local agency or its contractor should make copies of the records and return them to the provider within 10 **calendar** days of the visit.

During the visit, the investigator should offer Technical Assistance (TA) regarding best practices and should articulate any necessary policy clarifications. The TA is provided on a case by case basis, and is provider-specific to any errors that the auditor may identify while at the location. Any TA offered should be documented.

Investigators may also interview the provider during the site visit. Suggested interview questions include (but are not limited to):

- How many children attend the center, and how often?
- How many children are **private-pay not receiving Wisconsin Shares subsidies, also referred to as private pay**?
- Are there any children in the home under the age of 7? (only for CERT/LFAM providers)
- Where do the children enter and leave the facility?
- Is transportation provided? Do you charge for transportation?
- Do you have any employees?
  - If yes, what are their names and shifts, or hours worked?
  - What are the employee's duties at the center?
  - Do the employees have children that attend this facility?
- Do you have any volunteers?
- Do you participate in the food program?
- How is attendance recorded and maintained?
- Request to review provider/parent written payment agreements
- **What are the provider's payment practices and how are parents informed of these?**

Once the investigator has completed the interview and received a copy of the attendance records, they will provide a ~~property receipt (or Removal of Records receipt) and vacate the premises. Once they return to the office, they~~ The investigator should complete an Incident Report summarizing the visit ~~once they return to the office.~~

Local agencies should develop their own Incident Report forms. Incident Reports should include the following information:

- Date and Time of the visit
- Provider ~~and Location~~ Number
- Facility Name
- Brief description of all events that transpired during the visit, including:
  - The local agency staff that participated in the visit
  - The date range of the attendance records requested and collected
  - When the local agency staff arrived, and who answered the door
  - The number of children in attendance
  - Employees in attendance
  - Hours of Operation
  - How many children attend and ~~at what times~~ the times/days they attend
  - How attendance is entered
  - Whether transportation is provided
  - Licensee's work hours at the facility

**Note:** When conducting ~~an on-site~~ a site visit, the local agency or their contractor must treat the provider with courtesy and respect. Identification should always be presented prior to entering the facility.

**Note:** During a site visit, local agency and state staff may encounter various concerns. If a provider is found to be under the influence of either alcohol or drugs or appears to be impaired, or if staff are not able to gain access to the facility and can view or hear children in the facility, the state or local agency staff member should contact their local police, ~~utilizing~~ using the non-emergency line to report this information. If there are additional concerns regarding the children's safety, this information should also be sent to the provider's licensing/certification specialist.

#### 4.10.1.2 Requesting Information

Investigators may request any additional information they believe may be beneficial for ~~the case~~ conducting the investigation. This includes: requesting ~~punch in and out times~~ start and end times of employees ("punch times"), conducting surveillance, unannounced monitoring visits, or holding parent interviews.

Punch times may be utilized to determine whether or not the parents were in their approved activity during the time period that the child is listed as in care. This assists in the determination of whether or not a client overpayment should be issued. Additionally, punch times may be used to verify the provider's work hours if they have outside

employment. This assists in determining whether or not the center was open when they were signed in as providing care. For instance, **the investigator could** look to see if the provider was signed in on the attendance records as caring for children, when they were punched in at work, etc.

#### **4.10.1.3 Surveillance**

Local agencies or their contractors may conduct surveillance on the provider's facility.

#### **4.10.1.4 Monitoring Visits**

Local agencies have the authority to conduct unannounced monitoring visits at any point during the investigation. During a monitoring visit, **staff the investigator(s)** may collect any other required records including provider policies, **staff punch time** cards, written payment agreements (see **Section 4.8.2**), and verify if TA is being utilized. This can be used as evidence in the concluding report. If any serious licensing violations are discovered, **these the investigator(s)** must **be forwarded** to BECR or the facility's licensor or certifier.

Providers are expected to cooperate with Department and local agency staff during all monitoring visits. Providers must provide accurate information and any documents requested. Common documents requested include (but are not limited to):

- Original attendance records and/or printed attendance program reports
- Employee information (i.e. work schedules, punch times, payment method, etc.)
- Transportation records
- Payment practices and/or policy
- Provider/Parent Written Payment Agreements

**Note:** For contact information for BECR, please visit the Wisconsin Child Care Regulation Information page: <https://dcf.wisconsin.gov/ccregulation>.

#### **4.10.1.5 Parent Interviews**

Local agencies have the authority to conduct parent interviews. Parent interviews are occasionally utilized to explore whether the provider is reporting false information, **and or** whether collusion is occurring. These may be conducted in person, in writing, or over the phone. It is strongly recommended that these interviews are recorded and/or a written statement be completed by the interviewee.

#### **4.10.2 Required Documentation**

Several documents are required to be issued to providers following investigations.

##### **4.10.2.1 Provider Explanation Letter (7m Letter)**

Wis. Stat. s.[49.155\(7m\) \(a\)](#) requires that a child care provider must be given an opportunity to provide to the Department an explanation of any false, misleading, or irregular information submitted to the Department or if a child care provider fails to comply with the terms of the program.



The Provider Explanation Letter (also referred to as the 7M letter) outlines all violations discovered and is sent out **by the Department** upon completion of an investigation or audit. The 7M Letter provides details regarding the violated rules and policy(ies), and requests **that** the provider respond or provide an explanation for the violations within 15 days. The provider's response may be verbal (an arranged meeting or via telephone), or in writing. It is encouraged that the providers give an explanation in person (also known as a provider meeting). The 7M letter **is must be** sent via regular and certified mail.

If a provider has not responded within 10 **calendar** days of the letter, the investigator should attempt to contact the provider again to confirm delivery and understanding of the letter. The investigator should also encourage the provider to submit a response to the Department, as an explanation. **An** explanation is not required, but is strongly encouraged. It is beneficial to document all attempts to gather a response from the provider. An overpayment cannot be established before the 15 **calendar** days if the provider has not responded.

**Note:** ~~The 7M letter should be sent by certified and regular mail.~~

#### **4.10.2.2 Technical Assistance Letter**

Local agencies should thoroughly document any **Technical Assistance (TA)** provided to providers. An effective way **to document this** is through the use of a TA letter. This letter documents any errors discovered and the recommended solution provided by the local agency **staff**. It is highly recommended that this letter be signed **by the provider** and returned to the local agency.

### **4.11 Sanctions**

There are several forms of sanctions for providers, including overpayments, provider errors, permanent suspension (IPVs), and criminal prosecution. Each sanction is discussed briefly below.

Under the authority of **Wis. Admin. Code DCF s. 201.04(5)(c)** any of the following actions may be taken against a provider who submits false, misleading, or irregular information to a local agency or the Department, or if the provider failed to comply with the terms of the program in Wis. Stat. s. **49.155**, or **DCF 201**, and the provider fails to provide to the satisfaction of the Department an explanation for the noncompliance. **The Department or local agency may:**

1. Refuse to issue new child care authorizations to a provider for a period of time not to exceed six (6) months.
2. Revoke existing child care authorizations to the provider.
3. Recoup and/or recover overpayments under ~~par.~~ **Wis. Admin. Code DCF ss. 201.04(5)(e)** or **DCF 201.04(5)(ed)**, ~~or recover overpayments~~
4. Impose forfeiture on the provider under **Wis. Admin. Code DCF s. 201.04(5)(cg)**.

Sanctions include:

1. **Overpayments:** Assessed whenever a provider received a higher subsidy amount due to an Administrative Error, Provider Error, or permanent suspension.
2. **Stipulation:** Issued in lieu of a permanent suspension, and may be associated with a refusal to grant new child care authorizations to a provider for six (6) months. This written agreement explains the required conditions for remaining in the Wisconsin Shares program, including any hearing rights waived.
3. **Forfeitures:** Imposed when a provider intentionally or egregiously violates a provision in administrative rule [Wis. Admin. Code DCF s. 201](#) or Wis. Stat. s. [49.155](#).
4. **Permanent Suspension/Intentional Program Violation:** issued when a provider has intentionally violated Wisconsin Shares policy. These may be assessed with or without an overpayment. If an IPV is established, the provider is indefinitely suspended from the Wisconsin Shares program. This will result in the revocation of existing child care authorizations to the provider. BECR will usually revoke the provider's child care license as well.

#### 4.11.1 Overpayments

The Department, and local agencies shall take all reasonable steps necessary to recover any overpayment made due to administrative error, provider error, or intentional program violation, per ~~administrative rule~~ [Wis. Admin. Code DCF s. 201.04\(5\)\(b\)](#), when the ~~provider was not eligible for~~ the amount of subsidy paid ~~to the provider was~~ ~~incorrect~~. All calculated overpayments resulting from an investigation and attendance record review, regardless of the dollar amount, shall be established in CSAW-PLBC. For provider overpayments, the negative adjustment amounts shall be entered in CSAW-PLBC for each affected week and authorization. A manual overpayment notice ~~should~~ ~~must~~ be mailed to the provider outlining the overpayment.

Providers are liable for all overpayments described in this section, unless otherwise identified.

**Note:** ~~BPI~~ ~~The Department~~ has authority to issue overpayments and sanctions to child care providers pursuant to Wis. Stat. ~~ss.~~ [49.155\(7b\)](#) and ~~49.155(7m)~~, and [Wis. Admin. Code DCF ss. 201.04\(5\), 250.04\(1\), 250.05\(4\), 251.04\(1\), and 252.05\(3\)](#) ~~251.05(4)~~.

#### 4.11.1.1 Overpayment Calculations

To determine the overpayment amount for a provider, the ~~following items must be verified or determined~~ agency worker must complete the following steps:

1. Identify ~~the~~ violation
2. Determine ~~the~~ overpayment period.
3. Verify funds have not already been recovered from the client for the same time period.
4. Verify ~~that subsidy~~ funds have been ~~issued and~~ paid to a provider.

##### 4.11.1.1.1 Overpayment Period

The overpayment period must be established with a begin and end date. The overpayment begin date for providers will be the first date of the error through the last day of the error, or defined by the audit range.

Claims for incorrect payments due to an intentional program violation or provider error, may be established for up to six (6) years prior to the notification date of the overpayment, also known as the date of discovery.

The overpayment period for an administrative error claim ends with the month the error last occurred and may extend back 12 months ~~or when the error first became effective, whichever is most recent.~~ from the date of discovery. The overpayment period for an administrative error overpayment cannot begin more than 12 months prior to the date the error was discovered (see Wis. Admin. Code [DCF s. 101.23\(3\)\(c\)](#)).

**Note:** For situations where an authorized child care provider cares for children, and later it is discovered that the client was not eligible ~~or entitled to that service~~ for the amount of subsidy received, ~~de~~ agency workers must not penalize the provider for giving care in good faith. In this situation, the agency worker must pursue recovery from the ineligible client.

##### 4.11.1.1.1.1 Correcting an Overpayment

For overpayment claims ~~beginning~~ established June 2017 or later, ~~recoupment from future subsidy funds made to a provider~~ is no longer possible. Any provider negative adjustments entered in CSAW-PLBC will be referred to ~~BY~~ DCF Bureau of Finance for recovery.

If an agency worker needs to change the amount after collection has begun, ~~please~~ the local agency should contact ~~BPI~~ BCCSA via the Technical Assistance mailbox <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov).

##### 4.11.1.1.1.2 Entering an Overpayment

If the overpayment is for ~~YoungStar, Accreditation, or~~ a Provider Price correction, the local agency must complete the calculation ~~should be completed~~ in CSAW-PLBC. No

additional steps need to be taken by the local agency after the calculation has been completed in PLBC.

**Note:** Local agencies cannot calculate overpayments for YoungStar and Accreditation overpayments. Please contact the Bureau of **Program Integrity Child Care Subsidy Administration** through the online **BPI BCCSA** TA form at <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov) for assistance with the calculation in PLBC.

All other provider overpayments are calculated in CSAW-PLBC. For **guidance on assistance with** entering or calculating overpayments please contact **BPI BCCSA** via the Technical Assistance mailbox <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov).

#### **4.11.1.1.2 Verify Funds Have Not Already Been Recovered**

To verify funds have not already been recovered from the client for the same time period, the worker must search the client's case in BV. If no overpayment has been issued to the client for the **date** period in question, an overpayment may be assessed for the provider.

#### **4.11.1.2 Overpayment Classifications**

##### **4.11.1.2.1 Administrative Errors**

Administrative Errors (also referred to as agency errors) are defined as an overpayment that was a result of **a** local agency **entered entering** information that was incorrect. There are several types of Administrative Errors that may be assessed: **those that affect these include** eligibility **errors**, **and those that affect** authorizations **errors**, and provider administrative errors.

**Note:** If a provider overpayment occurs that is an administrative error for YoungStar, the overpayment will be recouped at 25% from future YoungStar issuances to a continuing provider.

~~Provider administrative errors may include (but are not limited to):~~

~~1. Incorrect Entry of Provider Information~~

##### **4.11.1.2.1.1 Incorrect Entry of Provider Information**

This **provider administrative** error may occur when a worker enters a provider's information incorrectly. This may include accreditation, provider price, YoungStar rating, etc.

**The local agency must** correct the information in **CSAW-PLBC** for impacted (past or current) months and in CSAW for future months. If the correction calculates an overpayment, enter the overpayment in CSAW.

#### 4.11.1.2.2 Provider Violations

Provider violations may be intentional, or unintentional errors made by a provider where they reported incorrect information, failed to report information, or violated any Wisconsin Shares, licensing, certification, or YoungStar policies. The Department or local agency shall take all reasonable steps necessary to recover from a provider any overpayments made for child care services for which the provider was not eligible.

Provider Violations include (but are not limited to):

- Providing Care at an Unauthorized Location
- Overcapacity
- Providing Care Outside of Regulated Hours
- Contradictory Records
- Provider Reporting Incorrect Information
- Inaccurate or Missing Records
- Displaying Incorrect Information on the Registry Program Profile linked to YoungStar rating
- Failure to Report a Child Who Has Not Attended Within the Previous 30 Days
- Missing records
- Receiving Payment for Days When Not Regulated
- Receiving and Retaining Payment for Care Not Provided

~~**Note:** A provider may be responsible for an overpayment for receiving and retaining payment for care not provided in circumstances of temporary closure (see Section 4.11.1.2.2.9), permanent closure, refusing to provide care, excessive unexplained absence, and payment for a child who has never attended.~~

**Note:** If a provider overpayment occurs that is a provider error for YoungStar, the overpayment will be recouped at 25% from future YoungStar issuances to a continuing provider.

**Note:** A Voluntary Repayment Agreement (VPA) may not be utilized to return funds for a provider overpayment.

##### 4.11.1.2.2.1 Providing Care at an Unauthorized Location

This overpayment is assessed when a provider received payment for care provided at a location other than the location for which the authorization was issued (see [Wis. Admin. Code DCF s. 201.04\(5\)\(b\)2](#)).

Providers who claim attendance for children at a location that is not authorized and/or regulated are out of compliance with their regulation for the time period in which this care occurred and an overpayment shall be established. The funds will not be re-issued to the correct provider location.

**Example:** Tim Thomas has an authorization for a child care provider at location 001; however, on October 28, 7 hours of care is provided at location 002. The overpayment shall be established for the full 7 hours since Tim’s authorization was not for location 002.

**Note:** Policy in section 4.11.1.2.2.1 was temporarily suspended from April, 2020 – July, 2020 due to COVID-19, per the Governor’s [Emergency Order #26](#).

#### 4.11.1.2.2.2 Overcapacity

This overpayment is assessed when a provider received payment for care when the provider was in violation of the limits on the maximum number of children in care (see [Wis. Admin. Code DCF s. 201.04\(5\)\(b\)3](#)). Providers that are out of compliance with their regulation are subject to overpayments for the period in which they were out of compliance, ~~as they are not considered properly regulated during that period~~. An overpayment will be assessed for all Wisconsin Shares ~~Child Care~~ subsidy funds paid to a provider for time that the provider was operating over their regulated capacity.

**Example:** Mary Jones is a licensed family provider with a capacity of **eight (8)** children. On April 12, she had 10 children in care between 3:00 p.m. and 5:00 p.m. Six of those children were authorized and were recorded as attending on the attendance records from 8:00 a.m. to 5:00 p.m. and four school-aged children attended from 3:00 p.m. to 8:00 p.m. An overpayment would be calculated for all ~~Wisconsin Shares~~ children **receiving Wisconsin Shares subsidies** that were in care from 3:00 p.m. to 5:00 p.m., which is the time during which the provider had more than eight (8) children and therefore was overcapacity.

**Note:** A provider may be assessed an overpayment for being overcapacity when the overcapacity period is 45 minutes or longer.

**Note:** Policy in section 4.11.1.2.2.2 was temporarily suspended from April, 2020 – July, 2020 due to COVID-19, per the Governor’s [Emergency Order #26](#).

#### 4.11.1.2.2.3 Providing Care Outside of Regulated Hours

This overpayment is assessed when a provider was in violation of the terms of the provider’s license, such as the age of children served by the center and hours, days, and months of operation of the center. Providers who record children as attending on the attendance records during times that they are not regulated, are out of compliance with their regulation for the time period in which the care occurred. Payment for attendance outside of regulation results in an overpayment for all subsidized children during the period the provider was out of compliance (see [Wis. Admin. Code DCF s. 201.04\(5\)\(b\)4](#)). **Agency workers should also notify the licenser/certifier of any licensing violations.**

**Example:** Sue Jones is licensed to provide care from 6:00 a.m. to 6:00 p.m. Her sister, Mary Jones, works from 3:00 p.m. to 11:00 p.m. and Sue is paid for the care she provides to Mary's children from 2:30 p.m. to 11:30 p.m. In calculating the overpayment, the agency worker considers the hours from 6:01 p.m. to 11:30 p.m. (5.5 ½ hours) to be overpayment hours. This The agency worker should also be reported to her this to Sue's licensur.

#### 4.11.1.2.2.4 Contradictory Records

An overpayment may be assessed when the attendance/classroom/tracking records demonstrate contradictions, such as: the times on the records for specific children overlap, there are gaps in care, or it is unclear where the child actually was, or it is unclear whether they were in care (see Wis. Stat. [49.155\(6m\)\(a\)](#)).

~~The following are representative examples of these instances~~ Examples include (but are not limited to):

- Discrepancy between receipts and attendance records
- No Access to attendance records: The provider refused or failed to have attendance records available when the Department or local agency requested to review them
- The provider recorded the child as attending on attendance records when the child was not in attendance
- The provider marked the child as attending on the attendance records but did not list times the child arrived or departed
- The provider received payment for times when the child was not listed on the attendance records
- Provider is anticipating children's schedules and/or rounding times, rather than recording the actual arrival and departure time of the children
- Parent signatures do not match from week to week or are different from parent's records

#### 4.11.1.2.2.5 Provider Reported Incorrect Information

An overpayment may be assessed when a provider reported to an authorization worker the local agency the incorrect provider price or accreditation information (only applicable for out-of-state providers), and this incorrect price affected the amount of subsidy funds received. To determine that whether this is a provider error rather than or an administrative error, the provider price reported would most likely have to be submitted in writing.

**Example:** Provider 123 submits their provider prices to their local agency in-writing through the Child Care Provider Portal in September. They report charging \$300 a week for 0-1 years old, \$250 for ages 1- 3 years old, and \$200 for 4-12 years old. However, in November the provider reports that they submitted the inaccurate pricing accidentally. They actually charge \$275 a week for the age group 0-1 year olds. The

local agency must enter this correction in CSAW-PLBC for all of the previous months, in this case September, October and November. If CSAW-PLBC results in calculates an overpayment, this should be entered in CSAW-PLBC as a provider overpayment.

Providers may not charge a parent that receives a subsidy a higher price than a private pay parent is charged for a similar amount of care (~~Administrative Rule~~ see Wis. Admin. Code DCF s. 201.038(6)).

#### 4.11.1.2.2.6 Displaying Incorrect Information on the Registry Program Profile Linked to YoungStar Rating

~~This occurs~~ An overpayment may be assessed when a provider misrepresents information on the Registry Program Profile that impacts the YoungStar rating, or when a provider fails to keep their Registry Program Profile current. This may include: displaying the incorrect director, teachers, facility location, ownership, or teacher Registry Career Levels. If there is an egregious inaccuracy or if the inaccuracy was intentional, this may be classified as an IPV (see ~~Section~~ 4.11.4).

YoungStar adjustments ~~will be~~ are made directly to providers on a monthly basis. If a provider receives a YoungStar adjustment for which they were not eligible, an overpayment will be assessed. This overpayment will be recouped from future issuances for 4 Star or higher rated facilities. For 3 Star facilities, this amount must be entered in CSAW-PLBC.

Contact ~~BPI~~ BCCSA with the information. ~~BPI~~ BCCSA will:

1. Locate the Provider in the PLBC Module and correct the YoungStar rating.
2. Calculate the overpayment:
  - a. If the facility is a 4 Star or higher rated facility, the overpayment will be recouped from future issuances.
  - b. If the facility is 3 Stars or lower, this amount must be entered in to the BV system.
  - c. The overpayment must take into consideration the 90-day grace period if previously granted by the department, in which providers have the ability to find a new staff member to maintain their current star rating, unless the provider misrepresented information that resulted in the provider receiving a higher star rating and a higher maximum rate than the provider was eligible to receive under the child care quality rating system in Wis. Stat. s. 48.659 and s. 49.155(6)(e), (see ~~Administrative Rule~~ Wis. Admin. Code DCF s. 201.04(5)(b)5).
3. ~~Move the provider through~~ Use the Quick Collect process.

**Example 1:** ABC Child Care has a lead teacher with a Registry level 9. This teacher's education level is required for the facility to maintain a 4 Star rating. The teacher leaves ABC Child Care on August 10. The Director does not remove the teacher from their Program Profile. This is discovered in January. The overpayment begin date will



be ~~August 10~~ **September 1** through the last day of January, and the rating will be updated for future months.

**Example 2:** Sandy's ~~5-Star~~ Child Care has a 5 Star rating, but loses a staff person on October 4. When the rating batch occurs on October 15, a lower pending 4 Star rating is generated for the program. **Sandy has 90 days to find a replacement teacher to maintain her program's 5 Star rating.** On January 15, if the rating batch runs and still shows the program at 4 Star, the YoungStar Technical Consultant will activate the ~~October 15~~ 4 Star ~~pending~~ rating. No overpayment will be issued and the Wisconsin Shares ~~payments will become reflective of the 4 Star beginning February~~ **subsidy calculation will use the 4 Star rating for the February 1 calculation.**

A provider will be responsible for an overpayment of YoungStar funds if the provider misrepresented information that resulted in the provider receiving a higher YoungStar rating and a higher maximum reimbursement rate than the provider was eligible to receive (~~Administrative Rule~~ **Wis. Admin. Code** [DCF s. 201.04\(5\)\(b\)5](#)).

#### **4.11.1.2.2.7 Failure to Report a Child Who Has Not Attended Within the Previous 30 Days**

An overpayment may be assessed if a provider fails to notify the local agency when a child has not attended within the previous 30 days (see ~~Administrative Rule~~ **Wis. Admin. Code** [DCF s. 201.038\(8\)](#)).

If a provider is found to have received payment for a child who has not attended for 30 or more days, an investigation should be conducted to determine the specific circumstances involved. The provider may be responsible for an overpayment of any payments received for a child after the child has been absent for 30 days.

**Note:** As part of the Department's response to COVID-19, March 2020 – June 2020, subsidy funds remaining on a client's EBT card were automatically paid to the provider's bank account by ACH transfer. These funds may be recovered through overpayment only if there is a determination of fraud or intentional program violation (IPV).

#### **4.11.1.2.2.8 Missing Records**

An overpayment may be assessed for a period of time for which the provider received Wisconsin Shares subsidy funds if the ~~if a~~ provider is unwilling or unable to provide attendance records ~~for a period of time~~ that have been requested by the Department or a local agency, ~~the provider may be responsible for an overpayment of any subsidy funds received during that period of time~~ (see Wis. Stat. [s.49.155\(6m\)\(a\)](#)).

#### 4.11.1.2.2.9 Receiving Payment for Days When Not Regulated

An overpayment may be assessed if a provider received payment for days when the provider was not regulated (see [Wis. Admin. Code DCF s. 201.038\(1\)\(a\)](#)).

**Example 1:** Tabitha makes a payment of \$500 on March 1 to her provider for child care for her son Daniel for the month of March. The provider closes on March 15 due to a license revocation and remains closed for the remainder of March. The provider is responsible for an overpayment of funds received for the period of March 15 to March 31 when the provider was not regulated.

~~Note: A Voluntary Repayment Agreement (VPA) may not be utilized to return funds for a provider overpayment.~~

#### 4.11.1.2.2.10 Receiving and Retaining Payment for Care Not Provided

An overpayment may be assessed if a child care provider received funds for a child's authorization and failed to provide the child care. The provider can voluntarily return the funds to the department to prevent an overpayment.

### 4.11.2 Stipulations

Stipulations are issued to providers by ~~BPI BCCSA~~, or local agencies, following the formal investigation process, or if requested by a local agency investigator. A stipulation is issued to a provider in lieu of a permanent suspension in cases that meet the criteria for a permanent suspension, but the providers ~~are is~~ receptive ~~of to~~ the corrections, and there is evidence that the provider will come into compliance in the future. If a stipulation is issued, an audit should be conducted six (6) months later. This allows the Department ~~or local agency~~ to return and monitor progress of compliance for violations initially uncovered and to offer additional Technical Assistance. This process assists in maintaining the Department's mandate for having accessible, high-quality child care centers. Overpayments must be assessed for any violations discovered in correlation with the stipulation.

### 4.11.3 Forfeitures

Forfeitures may be imposed on a provider if the provider intentionally or egregiously violates a provision ~~in administrative rule~~ [Wis. Admin. Code DCF s. 201](#), or [Wis. Stat. s. 49.155](#) (see ~~administrative rule~~ [Wis. Admin. Code DCF s. 201.04\(5\)\(c\)5](#) and [Wis. Stat. s. 49.155\(7m\)\(a\)3](#)).

The forfeiture amount is based on a progressive enforcement system of first, second, and third violations. If the violation is considered a serious violation, the forfeiture may be from \$100 - \$10,000 (see ~~administrative rule~~ [Wis. Admin. Code DCF s. 201.04\(5\)\(cg\)](#)).

Serious Violations include:

- **If A** provider is found to be in possession of a photocopy, photo or other image of a parents EBT card.
- **If A** provider is found to be in possession of a parent's subsidy account number or PIN.
- **If A** provider fails to notify the local ~~child care~~ agency that a child who receives subsidy to attend their center has not attended within the previous 30 **calendar** days.

***First violation:***

**Not a serious violation:** The first instance of a violation that is not listed as a serious violation will result in the Department providing a signed Technical Assistance Letter regarding the issue(s) in order to ensure the provider understands all program requirements.

**Serious violation:** The first instance of a serious violation may result in the provider being issued a forfeiture of \$100 for each violation.

***Second Violation:***

**Not a serious violation:** The second instance of a violation that is not listed as a serious violation may result in the Department issuing a warning letter.

**Serious violation:** The second instance of a serious violation may result in the provider being issued a forfeiture of \$200 for each violation.

***Third Violation:***

**Not a serious violation:** The third instance of a violation that is not listed as a serious violation may result the provider being issued a forfeiture of \$100-\$10,000. Follow-up may be done with the provider by the Department within the next six (6) months to determine if the violation(s) have been corrected.

**Serious violation:** The third instance of a serious violation may result in the provider being issued a forfeiture of \$100-\$10,000 for each violation and the provider may be suspended from the Wisconsin Shares program.

#### **4.11.4 Permanent Suspension**

Providers may be permanently suspended (also referred to as a provider IPV) when they *intentionally* make a false or misleading statement, misrepresent or withhold facts, or commit any act that constitutes a violation of state or federal law for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking benefits.

Permanent suspensions are determined by the Department and/or local agency, and **must be** approved by the **DCF Division of Early Care and Education** Division **Administrators or designee**. Providers may be suspended for any of the following actions (but are not limited to):

- History of repeated violations and/or non-compliance
- Numerous Wisconsin Shares program violations are ~~uncovered~~ discovered
- Egregious overpayments are ~~uncovered~~ discovered
- The provider had a previous stipulation that was not followed
- Possessing and/or utilizing a parent's MyWICChildCare EBT cards, account numbers, and/or PINs ~~to issue payment to themselves~~, or any representation of these items to issue payment to themselves
- Cashing out benefits or providing "kickbacks" to parents

If a local agency believes that a permanent suspension is warranted, they must submit the case to ~~BPI~~ BCCSA for review via the Technical Assistance Mailbox. The local agency should provide a brief summary of reasons for the permanent suspension.

Once received, a ~~BPI~~ BCCSA team member will contact the requestor for additional ~~assistance~~ information. The local agency worker will have to complete and submit a recommendation document that will be provided by ~~BPI~~ BCCSA. All requested permanent suspensions will be heard at the monthly permanent suspension meeting.

#### 4.11.4.1 Permanent Suspension Meeting

If an investigator recommends a permanent suspension, a meeting must be held with the lead investigator/auditor, ~~BPI~~ BCCSA Supervisors, DCF OLC, and DECE administration. The investigator must explain why they are recommending permanent suspension, and explain the accuracy of the overpayment period, the overpayment amount, and the egregiousness of the violations. The assembled body will then approve or deny the permanent suspension request. If the Division approves the suspension, the provider will not be allowed to participate in Wisconsin Shares program (as a provider) for an indefinite period of time, and will receive an overpayment to recover any misappropriated funds. If a permanent suspension is granted, a notice will be sent within 48 hours or within two (2) business days. ~~The following week,~~ Any overpayments attached to the suspension must be entered in CSAW and coded as IV by the following week.

#### 4.11.5 Provider Appeal Process

Providers ~~have the opportunity to~~ may appeal two decisions. They may appeal: 1) the overpayment amount and 2) the issuance of a permanent suspension (IPV) (~~if applicable~~). The provider must submit the appeal request in writing to the Division of Hearings and Appeals (DHA) and indicate which decision they wish to appeal. The appeal processes for the overpayment amount and the permanent suspension (IPV) issuance are described in detail below.

When an enforcement action is taken against a provider such as the determination of an overpayment or a suspension from the Wisconsin Shares program, the provider will receive an enforcement notice from the Department or local agency. This action is appealable within 30 calendar days from the date of the enforcement notice. If the

provider appeals the enforcement action, they are instructed to send a letter of appeal to the ~~Division of Hearings and Appeals (DHA)~~ with a copy of the enforcement notice. Requests for a hearing sent to anyone other than DHA do not constitute a proper request.

DHA will notify DCF OLC or the local agency ~~human services staff~~ of all appealed enforcement actions by sending an acknowledgment of receipt of appeal as well as a copy of the appeal letter. DHA assigns an Administrative Law Judge (ALJ) to the case and DCF assigns an attorney to represent the Department. DHA will also send a notice to the provider and their attorney, if they are represented, that an ALJ has been assigned to the appeal.

~~Each local agency is responsible for ensuring program integrity in the Wisconsin Shares program.~~ The contract between the local agencies and the Department requires the local agencies to provide legal representation as necessary at all hearings. Corporation counsel is strongly urged to provide representation at all provider hearings. DCF OLC is available to provide training and technical support to local agency corporation counsel.

#### **4.11.5.1 Pre-Hearing Conference Call**

See Section 4.5.6.3.1 for policy and procedure.

#### **4.11.5.2 Witness Lists**

See Section 4.5.6.3.2 for policy and procedure.

#### **4.11.5.3 Exchange of Exhibits**

The DCF OLC or local agency legal staff is responsible for submitting all exhibits that will be used in the hearing to the ALJ and opposing party. The exhibits for a provider hearing should include documents, such as:

- For a licensed provider- the licensing application, license and transmittal/cover letter from the regional licensing staff
- For a certified provider- the certification application, certified provider number, and transmittal/cover letter from the certifying agency such as a local agency that authorized the certification
- Copy of overpayment or suspension letter
- Any amendments to the Department's or local agency's original overpayment calculation
- Relevant notices of violation (294) from Bureau of Early Care Regulation (BECR)
- Removal of Records Receipt (from the onsite visit) signed by the investigator and provider
- Non-compliance statements (such as no access visits) or incident reports from BECR
- Attendance Record sheets for the overpayment period
- A spreadsheet of representative weeks of the overpayment calculation (legal staff should work with the lead investigator to understand the calculations)
- Total negative adjustment (overpayment) amount

- If emails are included, redact any information regarding other providers
- Portal or authorization reports
- Summaries of interviews conducted
- The index and overpayment calculation information from the Wisconsin Shares Policy and Process Handbook Chapter 4
- [DCF Child Care Provider Newsletter](#) (formerly Sharing the News)
- Copy of signed YoungStar contract
- Any other evidence relevant to the investigation

#### **4.11.5.4 Hearing**

See Section 4.5.6.3.4 for policy and procedure.

#### **4.11.5.5 Proposed Decision**

After the hearing is held, the ALJ may request either oral or written closing arguments. Within 30 **calendar** days, the ALJ will draft a proposed decision and submit it to DCF or the local agency, and the provider or their attorney (if they are represented). At that time, both parties have an opportunity to submit objections to the ALJ's proposed decision.

#### **4.11.5.6 Final Decision**

The Department or local agency designee will review objections submitted by both parties and draft the final decision. The final decision may simply adopt the proposed decision. The final decision will be issued to all involved parties in the case. The provider may appeal the decision within 30 calendar days to Circuit Court, or petition for a rehearing within 20 calendar days if the provider can show a material mistake of law or fact or if the provider has discovered new evidence that was unavailable at the time of the hearing.

#### **4.11.5.7 Dismissal**

See Section 4.5.6.3.6 for policy and procedure.

#### **4.11.5.8 Remand**

See Section 4.5.6.3.7 for policy and procedure.

#### **4.11.5.9 Stipulation**

At various stages during the appeal process, the parties may reach a resolution to their differences. In that case, a stipulation is drafted by the Department's lead attorney or local agency legal staff. The conditions of the stipulation must be approved by the Bureau of **Program Integrity Child Care Subsidy Administration** Director or by the designated appropriate local agency official.

### **4.12 Collections**

Once a sanction and a monetary overpayment are established, it is necessary to cooperate with the Bureau of Finance to retrieve the state and federal monies that were deemed inappropriate for the parent or provider to have received.

**Note:** DCF has authority for all collection actions described in this section ~~through~~ under Wis. Stat. ~~ss.~~ [49.155\(7m\)](#), and [49.85](#); and Wis. Admin. Code [DCF 201.04\(5\)\(b\)](#), [201.04\(5\)\(c\)](#), [201.04\(5\)\(e\)](#), [201.04\(5\)\(ed\)](#), [201.04\(5\)\(eh\)](#), [201.04\(5\)\(ep\)](#), and [201.04\(5\)\(et\)](#).

#### 4.12.1 Recovery of Provider Overpayments

All overpayments made to a child care provider, whether the overpayment is due to administrative error, provider error, or a provider permanent suspension, must be collected. The Department or local agency calculates the overpayment and establishes it in CSAW-PLBC.

A manual individualized Notice of Overpayment must be mailed to the last known address in CSAW, from the Department or local agency that established the overpayment. This letter should be generated on local agency letterhead and include the amount of the overpayment, which ~~DCF 201.04(5)(b), and 201.04(5)(c);~~ administrative rules were violated to create the overpayment, and the process for the provider to appeal the overpayment.

**Note:** Local agencies may contact ~~BPI~~ BCCSA for assistance with the manual Notice of Overpayment through the online ~~BPI~~ BCCSA Technical Assistance Form <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or by email [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov).

This procedure ~~stands~~ is the same for both active and inactive Wisconsin Shares providers, as well as those permanently suspended from the Wisconsin Shares program.

##### 4.12.1.1 Voluntary Repayment Agreement (VPA)

The Voluntary Repayment Agreement (VPA) process occurs when a provider agrees to return funds to the Wisconsin Shares program. ~~Providers cannot be compelled to return funds through the VPA process.~~ The VPA may be utilized in limited circumstances, where it has been ~~demonstrated~~ discovered that ~~the parent was ineligible for the funds received, or~~ the provider received funds in error, or the provider voluntarily requests to return funds. The VPA may only be utilized when the ineligible funds were paid to the provider. If the funds are still on the card, see Section 4.5.1 for retractions.

Examples in which ~~EBT~~ Wisconsin Shares subsidy funds may be recovered via a VPA include:

- Provider has indicated that they would like to return funds;
- Child not attending the facility (such as non-attendance, child being expelled, etc.);
- Payments were made to an incorrectly authorized provider;

- Cases of agency error that resulted in the parent receiving more funds than they were eligible for and paying the provider with those additional funds;
- System error (such as the parent's card incorrectly received a benefit load twice in one month);
- Parent failed to timely report a provider discount price;
- ~~Provider has indicated that they would like to return funds and has provided an acceptable reason;~~
- ~~Child not attending the facility (such as non-attendance, child being expelled, etc.);~~

Other instances will be approved by **BPI BCCSA** as appropriate.

If the provider agrees to ~~the Voluntary Repayment~~ **return the funds through a VPA**, the provider must complete the [Voluntary Repayment Agreement form \(DCF-F-5178-E\)](#) and return it to the local agency. The form may be mailed to the provider, and returned via **mail**, email, scan or fax. The Department will then contact Fidelity National Information Services (FIS) to initiate the ~~Voluntary Repayment~~ **VPA** process. The funds will be debited from the provider's bank account registered with FIS and returned to the state. It is vital that the funds are in the account when the debit is processed. If funds are not available, the Department will receive a failure notice.

In the event that a VPA transaction is not successfully completed, **BPI BCCSA** will send a VPA failure notice to the provider with information on how to repay the funds to the Department.

Local agencies are responsible for ~~tracking~~ **assessing** situations ~~that may require~~ **where a VPA may be used and can offer the option to the provider.** In the event that the provider refuses a VPA, the local agency is responsible for determining if an **overpayment is appropriate for either the provider or the client, and for processing an overpayment for the parent if the VPA is not returned within the 30-day timeframe. The 30-day timeframe begins the day that the VPA is sent to the provider.**

If a provider would like to submit a manual check rather than use the Voluntary Repayment process, they may do so.

VPAs may not be utilized to return funds for a provider overpayment. ~~This may include overpayments due to mid-month closure, or any days the provider received payment for when the provider was not regulated.~~ For information on provider overpayments see Section 4.11.1.

#### **4.12.1.2 Personal Liability for Overpayment**

If the provider is a corporation or limited liability company (LLC), the Department will first attempt to collect the overpayment from that corporation or ~~limited liability company~~ **LLC**. However, Wis. Stat. s.[49.155\(7m\)\(b\)](#) allows the Department to collect



overpayments from some officers, directors or employees of a child care provider that is a corporation, and some members, managers, or employees of a child care provider that is a ~~limited liability company~~ LLC. These people may be found personally liable for overpayments if the business, corporation, or ~~limited liability company~~ LLC is unable to repay the Department.

## 4.12.2 Collections Process

### 4.12.2.1 Referring a Provider to Finance

Once an overpayment has been established for a child care provider, ~~they are~~ it is referred to the Bureau of Finance for further repayment and collection action, if applicable.

### 4.12.2.2 BVPP – Provider Repayment Agreement (RPA)

A payment arrangement can be made by contacting the Bureau of Finance to negotiate a repayment amount.

If multiple persons are jointly and severally liable for an overpayment, each will receive a separate RPA; however, an individual and their spouse may both sign one RPA. Each liable individual is responsible for the debt until it is repaid in full; therefore, if one liable individual misses a payment or becomes delinquent, the other individual is still responsible for the debt.

Repayment summary notices are automatically generated when a monthly payment is made. A provider will receive a repayment summary notice for all payments recorded in CSAW. The notice provides the current balance and serves as a reminder to make the next month's payment.

### 4.12.2.3 Dunning Notices

If a provider fails to return a repayment agreement, fails to make a payment, or pays ~~too little~~ less than the amount agreed to in the RPA, a Dunning Notice will be generated. A Dunning Notice is a ~~past due~~ notice that informs the provider that ~~they have a past due payment~~, they are required to pay the balance of the debt, and failure to complete and return ~~a repayment agreement~~ an RPA or pay the balance of the debt could result in delinquency and further collections actions.

If a provider receives three (3) Dunning Notices over the life of the debt, the provider is determined to be delinquent and the debt is referred for additional collection action including levy, warrant/lien and Department of Revenue (DOR) state tax intercept.

If a provider is delinquent on a current overpayment, and he/she receives another overpayment, the second overpayment is automatically considered delinquent, without the provider receiving any additional Dunning Notices.

## 4.12.2.4 Provider Payments

### 4.12.2.4.1 Manual Provider Payments

Providers can submit manual repayments (e.g. a check or money order) made payable to the Department of Children and Families, to the Bureau of **Program Integrity Child Care Subsidy Administration** for an established overpayment. If a local agency receives this payment, **please the local agency must** send it to the Bureau of **Program Integrity Child Care Subsidy Administration** for processing at the following address:

Department of Children and Families  
Bureau of **Program Integrity Child Care Subsidy Administration**  
201 **East West** Washington Avenue  
P.O. Box 8916  
Madison, WI 53703-8916

Additionally, manual checks may be submitted if a provider believes they have been overpaid and would like to return funds. First, **the agency must** pursue a **Voluntary Repayment VPA** (see 4.12.1.1), however if **they insist the provider insists** upon a **sending a** check, an overpayment will have to be established in the amount of the manual check, **and then before** the check can be processed by the Bureau of Finance.

## 4.12.3 Delinquency Collections Process

If a provider receives three (3) Dunning Notices over the life of the debt a DOR State Tax Intercept may occur.

### 4.12.3.1 Referring a Provider for Delinquency

#### 4.12.3.1.1 Levy

See Section 4.6.2.2 for policy and procedure.

#### 4.12.3.1.2 Warrant/Lien

See Section 4.6.2.3 for policy and procedure.

#### 4.12.3.1.3 DOR State Tax Intercept

See Section 4.6.2.4 for policy and procedure.

### 4.12.3.2 Delinquency Collections Appeal Process

PACU prepares exhibits and defends delinquency collection actions (~~see Operations Memo 18-J5~~). Certain circumstances will require PACU to seek local agency assistance in obtaining documents to support the collection action that are not readily available.

It is not uncommon for a provider to raise issues relating to the underlying merits of the overpayment. While these issues are not properly considered at collection hearings,

ALJs sometimes allow them to be discussed. Moreover, by the time a debt is considered delinquent, time limits for raising the merits of the overpayment have likely passed.

When issues related to the merits of an overpayment are introduced at a delinquency hearing, PACU will request that DHA reschedule a separate merit hearing. PACU will alert the provider and the ALJ that time limits for appealing the merits have likely passed. DHA will notify local agencies via email of the merit hearing. The local agency is required to follow the current procedure for merit hearings, including filing motions to dismiss if the appeal was filed untimely. Information regarding the appeal process can be found in Section 4.11.4.

If a merit hearing or departmental review already occurred, PACU will provide that information at the time of the delinquency hearing and will request no additional hearing to be scheduled.

When a merit hearing or departmental review results in the need to address a delinquency collection action, the local agency should request to reschedule the merit hearing to a separate delinquency hearing. Local agencies are not expected to defend collection actions; PACU is not in a position to defend local agency decisions and overpayments.

#### **4.12.4 Local Agency Retention of Records**

The Department and local agencies are responsible for retaining all records, including letters and notices sent by the local agency, for a minimum of three (3) years after an overpayment claim reaches a zero balance or a minimum of three (3) years after the debt is written off.

#### **4.13 Confidentiality and Routine Disclosure**

Local agencies must not unnecessarily divulge any information about the client, provider, or reasons for the investigation. Local agency records and data are confidential and shall be open to public inspection or disclosure only to the extent required by state or federal law.

Local agencies may disclose information from the record to any governmental official conducting an investigation, prosecution, or civil proceeding in connection with administration of a DCF program to the extent necessary. The official must submit a written request to obtain the information to the local agency. The local agency should refer requests for information to the local agency's corporation counsel. The request must include the identity of the person requesting the information, his/her authority to request, the violation being investigated, and the person being investigated. Do not apply this restriction to the district attorney or the fraud investigator. If you have any questions about confidentiality provisions, please contact your corporation counsel or the DCF OLC.

No person may use or disclose information concerning applicants and recipients of a public assistance program for any purpose not connected with the administration of the programs (see Wis. Stat. s.49.83).

Local agencies are encouraged to coordinate child care benefit recovery efforts. In most cases, local agencies which centralize the benefit recovery functions with one person or work unit are encouraged to have that person or unit perform the child care benefit recovery function as well.

~~Note: This is established under Wis. Stat. s.49.83~~

## 4.14 Contact Information

Issue	Specific	Who to Contact	Information
<b>For Technical Assistance:</b>	Chapter 3 and 4 Policy Clarifications  Chapter 1 (Eligibility) or Chapter 2 (Authorization) Policy Questions Outside of Milwaukee County  Systems Tutorials	BRO Coordinator Policy Helpdesk	Bureau of Regional Operations (BRO) Coordinators <a href="mailto:BROCCPolicyHelpDesk@wisconsin.gov">BROCCPolicyHelpDesk@wisconsin.gov</a>
	Client and Provider Investigation Support, Retractions and Voluntary Repayment Agreement, Overpayment Questions, Intentional Program Violation Requests, System Issues, Fraud Plans	<del>BPI</del> <b>BCCSA</b>	To receive TA, please contact <del>BPI</del> <b>BCCSA</b> via the TA Mailbox using the online technical assistance form at the following link: <a href="mailto:BCCSA_Technical_Assistance_Form">BCCSA Technical Assistance Form</a> ( <a href="mailto:DCFBPITArequest@wisconsin.gov">DCFBPITArequest@wisconsin.gov</a> )  More information for child care staff is available online at the Child Care Program Integrity Resource Library <a href="https://share.dcf.wisconsin.gov/CCPI/RL/Site%20Assets/home.aspx">https://share.dcf.wisconsin.gov/CCPI/RL/Site%20Assets/home.aspx</a>
	<del>Eligibility or Authorization Questions. Note: For eligibility or authorization policy questions outside of</del>	<del>BRO Coordinator Policy Help Desk</del>  <del>Child Care Subsidy and Technical</del>	<del>Bureau of Regional Operations (BRO) Coordinators</del> <del>BROCCPolicyHelpDesk@wisconsin.gov</del>  <del>Child Care Subsidy and Technical Assistance Line:</del> <del>1. ChildCare@wisconsin.gov</del> <del>2. (608) 422-7200</del>

	<i>Milwaukee County, please first contact your BRO coordinator with your question prior to contacting the Child Care Subsidy and Technical Assistance Line</i>	Assistance Line—for systems issues in CWW and CSAW	
	CSAW and CWW System Issues  Eligibility or Authorization Policy Questions for Milwaukee County	Child Care Subsidy and Technical Assistance Line	Child Care Subsidy and Technical Assistance Line: 1. <a href="mailto:ChildCare@wisconsin.gov">ChildCare@wisconsin.gov</a>
	Collection Questions	Public Assistance Collections Unit (PACU)	1. PACU helpline: (800) 943-9499 2. PACU Assistance Mailbox: <a href="mailto:dwspace@wisconsin.gov">dwspace@wisconsin.gov</a>
	Legal Questions	Department of Children and Families Office of Legal Counsel (OLC)	<a href="mailto:DCFCalLegal@wisconsin.gov">DCFCalLegal@wisconsin.gov</a>
	YoungStar Questions	YoungStar Bureau of Young Star (BOY)	<a href="mailto:youngstar@wisconsin.gov">youngstar@wisconsin.gov</a>
<b>For Fraud Reporting:</b>	Client and Provider Referrals	BPI BCCSA	For Clients and Providers: 1. The DCF fraud mailbox: <a href="mailto:dcfmbchildcarefraud@wisconsin.gov">dcfmbchildcarefraud@wisconsin.gov</a>

			<ol style="list-style-type: none"><li>2. The DCF fraud hotline: (877) 302 - 3728</li><li>3. Submit the <a href="#">Report Child Care Fraud Form</a></li><li>4. Writing to: Department of Children and Families Bureau of Child Care Subsidy Administration PO Box 8916 Madison, WI 53708-8916</li></ol>
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