



# **Wisconsin Shares Child Care Subsidy Program**

## **Policy and Process Handbook – Chapter 4 Program Integrity**

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Division of Early Care and Education

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## Acronyms

AE – Administrative or Agency Error  
AG – Assistance Group  
ALJ – Administrative Law Judge  
BECR – Bureau of Early Care Regulation  
BELP – Bureau of Early Learning and Policy  
BPI – Bureau of Program Integrity  
BRITS – Benefit Recovery Investigation Tracking System  
BRO – Bureau of Regional Operations  
BV – Benefit Recovery Subsystem of CARES  
BVCC – Case Comments screen in BV  
BVCI – Claims for an individual screen in BV  
BVCL – Overpayment Claim screen in BV  
BVCO – Claims for Child Care Providers screen in Benefit Recovery  
BVIR – Investigation/ verification referral screen in BV (Read Only)  
BVIT – Investigation/ verification Tracking and Findings Screen in BV (Read Only)  
BVPA – Client Repayment Agreement screen in BV  
BVPI – Post Outcome Information for Investigation Screen in BV (Read Only)  
BVPP – Child Care Provider Repayment Agreement in Benefit Recovery  
CARES – Client Assistance for Re-employment and Economic Support  
CC – Child Care  
CCAP – Consolidated Court Automation Programs  
CE – Client Error  
CRES – Central Recoveries Enhanced System  
CSAW – Child Care Statewide Administration on the Web  
CWW – CARES Worker Web  
DCF – Department of Children and Families  
DECE – Division of Early Care and Education  
DXQW – Data Exchange Query  
DHA – Division of Hearing and Appeals  
DOR – Department of Revenue  
EBT – Electronic Benefit Transfer  
~~EBT-CSAW – EBT Child Care Statewide Administration on the Web~~  
ECF – Electronic Case File  
~~EOS – Enterprise Output Solution~~  
EVF-E – Employment Verification Form of Earnings  
FEV – Front End Verification  
FIP – Federal Improper Payment  
FIS – Fidelity **National** Information Services  
FPL – Federal Poverty Level  
IPV – Intentional Program Violation  
IRS – Internal Revenue Service  
LFAM – Licensed Family Child Care Provider  
LGRP – Licensed Group Child Care Provider  
MECA – Milwaukee Early Care Administration  
NPL – Notice Prior to Levy  
OLC – Office of Legal Counsel  
PACU – Public Assistance Collection Unit  
PARIS – Public Assistance Reporting Information System

PE – Provider Error  
PLBC – Post-Load Benefit Correction  
POS – Point of Sale Device  
RPA – Repayment Agreement  
SMI – State Median Income  
SUITES – State Unemployment Insurance Tax Enterprise System  
SWICA – State Wage Information Collection Agency  
TA – Technical Assistance  
TCR – Targeted Case Review  
VPA – Voluntary Repayment Agreement  
Webl – Web Intelligence  
WI – Wisconsin  
YS – YoungStar



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

The Bureau of Program Integrity (BPI) within the Division of Early Care and Education (DECE) develops and leads the Department of Children and Families (DCF) statewide Wisconsin Shares Child Care and YoungStar program integrity efforts. BPI upholds the policies and procedures for the Wisconsin Shares Child Care Subsidy and YoungStar programs. BPI 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 will be initiated by specific referrals reported to BPI, stipulation reviews, data exchanges, or through Red Flag Reports (see Section 4.3.3 and 4.9.3.1) 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 or used 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 and tribes, BPI adheres to and achieves these five guiding principles through a multitude of processes.

## 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 ~~production and~~ investigation of Public Assistance Reporting Information System (PARIS) ~~matches. Reports.~~
- 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 4.9.3.1)).
- 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 and tribes.
- 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 for investigations completed by BPI
- Track investigation appeal outcomes.
- Collaborate with DCF **Bureau of Finance. Public Assistance Collection Unit (PACU).**

Local and tribal agencies are contractually responsible for identifying discrepancies in client-reported information at eligibility **determination** and authorization **assessment determinations**, preventing and correcting improper Wisconsin Shares **Child Care** subsidies, establishing and collecting overpayments, and determining ~~which-client~~ cases **that** will be referred for overpayment and ~~which~~ 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, authorizations, YoungStar, and all other activities related to the expenditure of Wisconsin Shares **Child Care** subsidies.

**Note:** Wisconsin Statute s.~~ection~~[49.155](#), **Administrative Rule Chapters** DCF [101](#), [201](#), [202](#), [250](#) and [251](#); 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, rather than to identify client errors and/or accomplish criminal prosecution. The results of the program integrity prevention actions activities are used in determining subsidy eligibility, accurate authorizations, and determining the need for further fraud control actions.

Program Integrity prevention actions activities 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 inhibit issuance of incorrect subsidy funds, and commonly involve more in-depth verification than the routine verification used during for program eligibility determination and authorization assessment. ~~determination.~~

#### 4.2.1 Front End Verification

Front end verification (FEV) is a one 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 local agency's Error-Prone Profile (EPP) (see Section 4.2.1.1). When a case is referred by a local agency worker for an FEV, the identified local agency worker (whether an authorization worker or FEV specialist investigator) 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 investigator 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 change submission. If the results uncover an error that affects 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 investigator. 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

#### 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 with IRS, Wage Match, SWICA, DXQW, 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. **Multiple** 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 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. ~~Improper use of EVF-Es such as~~ 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 increases 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 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 may initiate the FEV referral in the Benefit Recovery Investigation Tracking System (BRITS) on the referral screen. The procedure for an **n** FEV referral is as follows:

- ~~1. Conduct the client interview for eligibility and compare case characteristics to the EPP.~~
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. ~~The applicant will be contacted and given an opportunity to resolve discrepancies between the information s/he provided and the information obtained through FEV.~~
4. Determine any subsidy funds savings resulting from FEV and enter this in the Post Investigation Screen in BRITS.

**\*Note:** Eligibility and/or authorization workers may attempt to gather this information prior to requesting an **n** FEV. An **n** 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 **s**pecialist **f**unctions can be performed by any **local** agency employee or contracted service provider(s). It is recommended that an **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 worker and/or supervisor of the findings. These individuals should take **appropriate any-necessary** action **based on the findings**.
  - a. If the FEV results show a possible prior **fraudulent** 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 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 or client error, do not issue or re-issue the authorization. This should be determined by reviewing and verifying the clients' documents and all information used to complete the authorization.

The local agency has the authority to:

- Refuse to issue new child care authorizations (see [DCF 201.04\(5\) \(c\) 1](#))
- Require the client to clarify or correct a concern prior to issuing the authorization (see [DCF 201.039\(2\) \(c\)](#))
- Revoke an existing authorization (see [DCF 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, mid-month** without proper notice or approval (see [Section 2.4.92-13](#) for details).
- The client has not verified all required and/or requested information (see [DCF 201.039\(2\) \(c\)](#)).
- The client has been suspended from the Wisconsin Shares program (see [Section 4.5.4.3](#)).
- **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 Expunged Funds Report **which is available online through Web Intelligence (WebI)**. This report details cases in which funds have aged off of the EBT cards after not being utilized within a 90-day period. If cases are identified, the **local** agency should perform a detailed review. This includes, but is not limited to: interviewing the parent and/or the provider, and completing employment verification.

The authorization **may should** be adjusted if **the parent informs the local agency that the parent wishes 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 less hours than originally authorized.** ~~it is discovered that the parent(s) do not require the same~~



~~amount of subsidy funds as are being issued to the card, unless the parent is in an approved activity search period (See Chapter 2).~~

An authorization may be terminated and all subsidy funds in the parent's account may be retracted if the parent has not paid any of the subsidy to the provider within the previous 90 days (See [Section 3.3.4.4](#) and [DCF 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 ~~balance~~ on April 1, the remaining March funds will not be accessible until the April funds have been utilized. See [Section 3.3.1.3](#) for additional details.

#### 4.2.2 Parents who are also Child Care Providers

Parents who are ~~also~~ licensed or certified child care providers may not receive Wisconsin Shares [Child Care](#) authorizations for their own children to attend their center (see [Section 2.3.2+6](#)). Any other adults in the home who are also child care providers may not receive Wisconsin Shares funding for a child who resides with them to attend their center, regardless of whether or not the adult is in the assistance group (see [Section 2.3.3+7](#)). 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 ([DCF-E-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 for the child.
- The parent/provider is a legal guardian receiving subsidized guardianship payments for the child.
- The child has a special need 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 Wisconsin Statutes s.~~ection~~[49.155\(1m\) \(a\)](#), other than providing child care. This does not apply to certified providers (per [DCF 201.039\(8\)](#)) who are not allowed to hold outside employment [during the facility's hours of operation](#). Require the activity to be outside the hours of operation with proper verification.

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

### 4.2.3 Local Agency Fraud Plans

Local agencies are required to annually submit an Agency Fraud Plan for review to BPI. The submission of the annual Fraud Plan to the Department is 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 Wisconsin Statutes [section 49.155](#), Administrative Rule [DCF 201](#), sections of [DCF 101](#) that apply to Wisconsin Shares Child Care, and the [Wisconsin Shares Policy and Process Handbook Chapters 1-4](#).

#### 4.2.3.1 Subcontracting

Under the terms of the Contract, local agencies may subcontract for all or part of the required program integrity activities. The local agency is responsible for ensuring to ensure that subcontractors are following all required fraud investigation and overpayment procedures as required by Wisconsin Statutes [section 49.155](#), Administrative Rule, [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 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)
- Program Integrity systems such as: BRITS, CSAW, PLBC, and CWW (for IPV's)
- Development of local agency policies and procedures
- Requesting BPI Subject Matter Expert for investigation assistance
- Request resources for the [Child Care Program Integrity Resource Library](#)
- Request access to BPI Fraud Plan and [Child Care Program Integrity Resource Library](#)

Local agencies may submit technical assistance requests to BPI by accessing <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or by email to [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov). This form is directly submitted to the BPI Technical Assistance Mailbox.

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

- All contact information
- Select a 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/or provider location number with the request
  - Any relevant documents may be attached at the bottom of the form. Select **Choose File** ~~browse~~ and upload the document

All submitted technical assistance requests will receive an automated confirmation message. A member of the BPI Technical Assistance Team will reach out to the sender within 4 5 business days.

#### **4.2.5 Child Care Program Integrity Resource Library**

BPI 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 Technical Assistance Mailbox to obtain assistance (<https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov)). BPI encourages all local agency workers who complete child care program integrity related activities have access to the [Child Care Program Integrity Resource Library](#).

### **4.3 Detection**

#### **4.3.1 Referrals**

BPI 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 please submit the referral to [DCFMBCHILDCAREFRAUD@wisconsin.gov](mailto:DCFMBCHILDCAREFRAUD@wisconsin.gov). BPI 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 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
- **Suspicious 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)
- Client overstates child care need in order to avoid paying a copayment or parent share
- ~~• Concerns regarding household composition or shared placement~~
- ~~• Residency concerns (such as the client lives in another state)
  - Frequent returned mail for a client: This may suggest the client does not live at the address they are reporting or that they live out of state~~
- ~~• Income concerns such as:
  - Unreported income (such as additional employment)
  - Under reported income (reporting less than actually making)~~
- Child care need, such as the child(ren) are not attending the center but are making payments
- Parent approved activity is questionable (see [Chapter 1.5.11](#)) 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 expired
- Suspicion of fraudulent documentation
- Report of parent and provider colluding to commit fraud (including kickbacks)
- Confidential case
- Conflict of interest

<p><b>Note:</b> The Department has the authority to review and assess <b>issue</b> referrals pursuant to: <a href="#">DCF 250.12(1)</a>, and <a href="#">251.12(1)</a>, Wis. Admin Code.</p>
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#### 4.3.1.1 Screenings

BPI 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 other automated databases maintained by Federal, State and other agencies. Data is exchanged and verifies that demographics, income, eligibility criteria, and eligibility status is accurate. These data exchanges serve to primarily help workers cross-reference information to verify income and eligibility factors. These help to avoid errors in issuing incorrect subsidy funds.

**Local** agencies are required to examine data exchange information on a timely basis to determine if an overpayment has occurred. Data Exchange Reports to review for referrals include State Wage Income Collection Agency (SWICA), also known as State Wage Records.

The SWICA process in CWW creates an income discrepancy for Child Care if the income reported by the employer to the Department of Workforce Development (DWD) is \$250 per month, or \$750 per quarter, greater than the income reported by all non-excluded members in the assistance group for two consecutive months in a quarter.

A potential discrepancy will be created if the income in CWW is compared to the information on the SWICA report and the difference meets the threshold limit of \$250 per month or \$750 per quarter.

When a discrepancy is created, local agency workers are expected to research if the household income is over 200% **of the Federal Poverty Level (FPL)** for two consecutive months in a quarter and take corrective action if needed. Workers are expected to contact the client or a third party source to resolve the discrepancy and to request verification when necessary.

Action to resolve the discrepancy must be completed within 45 days of the SWICA match date, unless third party collateral evidence is outstanding. The case record must be updated with any new information gathered. Case comments must be added in CWW to explain the actions taken and overpayments completed if appropriate.

When a SWICA match is received for a case, the local agency should review the case to determine if the parent failed to report an increase in income that would have affected the subsidy amount or copayment amount.

- If the parent reported the increase in income timely, there will not be an overpayment
- If the parent failed to report an increase in income that would not have affected the subsidy amount or copayment amount, there will not be an overpayment
- If 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 consecutive months, an

overpayment may be assessed if the parent received subsidy that the parent was not eligible to receive and made payment to the provider

- If the family was not in copayment stabilization, and the parent failed to report an increase in income that would have put the family above the next 5% FPL, an overpayment may be assessed if the parent received a higher level of subsidy than the parent was eligible to receive and made payment to the provider

If a parent fails to return verification of earned income within 7 days that has been requested by the local agency in order to process the SWICA discrepancy, for a time period prior to November 1, 2018, the local agency should take action to manually fail the case for a lack of verification.

For more information on SWICA matches see Operations Memo [12-03](#).

**Note:** SWICA matches are generally listed on the ~~monthly Enterprise Output System (EOS) report and on the~~ CWW Dashboard that identifies discrepancies in data between SWICA and CWW. SWICA discrepancies may identify any bonuses, commissions, or overtime that the client may not have reported to the local agency. This income ~~may affect~~ **impacts** 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 systematically-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 client **Red Flag Reports**:

- 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
- 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** ~~subsidy funds in FoodShare, Wisconsin Shares, Badgercare, and/or TANF~~ in multiple states. In Wisconsin, this report matches individuals who are receiving FoodShare, Wisconsin Shares Child Care, BadgerCare, and/or TANF 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 WI), 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 Wisconsin Statute s.49.141(7)(c)).

Local agencies are required by Wisconsin Statute s.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 for completion. 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 W2-Fraud (9173) offices will investigate PARIS match for FoodShare, Medical, and/or W2.

**Note:** Any instances discovered of a client receiving benefits from multiple states **must will** be entered as a BRITS referral.

#### 4.3.5 Federal Improper Payment Report

Every three years, BPI 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, and what program integrity efforts are being implemented to protect the funds.

Local agencies are required by Wisconsin Statute s.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.

Local agencies are required by Wisconsin Statute s.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 to further support the local agencies in removing errors from the Wisconsin Shares Child Care program, and to recognize their accomplishments in correctly completing case eligibility and authorization processes.

Local agencies are required by Wisconsin Statute [s.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 determine whether a client is receiving subsidy funds that they are not eligible to receive, or if the client has violated any Wisconsin Shares Child Care policy. Local agencies should have an established process for completing client investigations. It is recommended that local agency agencies complete client investigations within 30 calendar days once assigned.

The subsidy in a parent's account may only be used to compensate a provider for child care provided to the child listed on the parent's authorization notice (Administrative Rule [DCF 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 policy to determine whether a client is receiving subsidy funds that they are ineligible for (overpayment due to agency error or client error), and whether they have 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.

##### **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 Employment**

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 (see [Chapter 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
- If the parent indicates they do not need the approved activity search period, or if the parent does not respond, the Approved Activity status must be changed to "No" and the Assistance Group must be closed 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, or temporary break period\*, 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 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 work number provided by the client is the correct employer's accurate 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 non-temporary 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 Section [1.3.9.2](#), [1.3.9.3](#), [2.4.3.4](#) and [2.4.3.5](#) ~~1.4.10 and 2.2.4.1~~).

If the loss of approved activity, or temporary break is not reported or discovered until after the ~~three months~~ search period or break period expired, a BRITS referral ~~must~~ ~~should~~ 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) expired.

If a client who is in an ACTS, or TBRK fails to report within 10 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 to utilize child care at the same level as previously authorized during an ACTS or TBRK, and subsequently fails to notify the local agency within 10 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 Wisconsin Statute s. [49.155\(1m\) \(a\)](#) and [Administrative Rule DCF 201.04\(5\) \(a\) \(2\)](#)).

**Note:** Policy related to ACTS became effective on **11/01/2017** (see Operations Memo [17-45](#)). See [Section 2.4.3.4](#) for additional information on ACTS.

**Note:** Policy related to TBRK became effective on **11/01/2018** (see Operations Memo [18-27](#)). See [Section 2.4.3.5](#) for additional information on TBRK.

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

#### 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 AG.
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

- ~~1. Conduct a home visit and a client interview (preferably recorded).~~
- ~~2. Request a copy of the lease.~~
- ~~3. Verify with other programs if the members listed in their household are the same as on the child care case.~~
- ~~4. Conduct surveillance.~~
- ~~5. Request a copy of the utility bill.~~
- ~~6. View public records such as voting history, social media, and CCAP.~~

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

#### 4.4.2.3 Questionable Need for Child Care

With the exclusion of clients who are in an ACTS or TBRK, approved activity search period, for a referral inquiring whether a client required child care (either because they failed to report that they were not in their approved activity during the hours attended, or failed to report that there was another eligible household member available to provide care for the child), investigators may utilize the following resources to verify the need for child care. Investigators are not limited to the following actions.

1. Verify the parent's approved activity schedule. Collect and compare against the provider's attendance records to see if the child was in care during the time the parent was in an approved activity.
2. Verify if the previously excluded parent or individual filling the parent role was not available to provide care when the child was in care. Employment verification can be utilized for this.
3. Verify hours of work and shift (if questionable).
4. Conduct interviews with the parent and the provider to confirm consistency of attendance.
5. 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 CLEAR, Credit Reports, voter registration Voting Records, 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 a-client 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 will be tracked and monitored in BRITS. See Section 4.5.8 for more details.

### 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 Wisconsin Statute s. [section 49.151\(2\)](#), [49.152\(1\)](#), [49.195\(3\)](#), and Wisconsin Administrative Code [DCF 101.21](#), [DCF 101.23](#) and [DCF 201.04\(5\) \(cg\)](#).

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 where funds may be removed include:

- Funds loaded (but not spent) to an incorrect provider
- Provider closures of more than one week in a calendar year, or permanent closure
- Cases of agency error (~~such as over-authorized hours~~ if the parent was not eligible for the amount of subsidy received)
- Parent ineligible for funds (such as)
  - Not participating in their approved activity (including ACTS 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) ~~at application or renewal~~
- 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 (~~and the removal has been agreed to by the parent~~)
- Child not attending the provider location facility
- History of expungements
- Midmonth change in provider – the funds to previous provider may need to be retracted (requires parent interview to confirm)

Other instances may be approved by BPI 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 anticipates that the funds will be expunged from the card within 90 days. If a retraction request is denied by BPI and the client spends the funds after the denied request, local agencies must ~~do~~ not create an overpayment without first consulting BPI 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, Client Errors, and/or Client Intentional Program Violations (IPV).

The Department, local agencies and tribes shall take all reasonable steps to recover any overpayment made due to administrative error, 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 (Wisconsin Statutes ~~s. [section 893.43](#)~~). Administrative error overpayments may be established up to one year after 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 a non-client error cannot begin more than 12 months prior to the notification date of the overpayment ([DCF 101.23\(3\) \(c\)](#)).

All client overpayments should be entered into **to** ~~te~~ Benefit Recovery (BV) within 30 days after the overpayment has been determined. Overpayment notices will be systematically generated by BV, however manual notices must be sent to the client as well (see **S**ection 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

###### **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 (~~see 2.2.14~~), or
2. The client presented false information, or withheld information, at the time of the application, review, or notice of change.

Timely reported changes will not result in an overpayment. Any timely reported changes that result in a reduction in subsidy amount will not be applied in ~~EBT~~ CSAW until the first of the next month. This includes instances in which an individual is no longer eligible or if their circumstances in their case have changed. See [Section 4.5.2.2.1.1.3](#) for adverse action directions.

Untimely reported changes, **other than loss of approved activity (an approved activity search period will be granted even if the change is not timely reported)**, that result in an alteration or end to eligibility or an authorization should begin on the date of change and end on the last day of the current month. In income cases where the date of change is unknown, the begin date should be from the paycheck that placed the client over or above the reporting requirements. When determining the overpayment amount, count the actual earned and unearned income received during the overpayment period (see [Section 1.45.2](#) and [1.45.3](#) on income that must be included or excluded for child care).

**Example:** 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 date of change on November 10 through the last day of the current month (December 31).

#### 4.5.2.2.1.1 Overpayment Period Exceptions

There are three circumstances in which the general untimely reported overpayment guidelines are not applicable. These include:

1. Incorrect Information at Time of Application or Review
2. Unreported Income Change **that affects eligibility, subsidy amount, or copayment amount**
3. 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~~5~~, Melissa applied for Wisconsin Shares and purposefully did not disclose that she was married. This was discovered in **December 2018 August 2015**. An overpayment (and IPV) would be assessed **for all Wisconsin Shares Child Care subsidies and YoungStar positive adjustments issued to the client and paid to the provider** from the date of application, in this case April 7, 2018~~5~~ through the last day of the current month **(December 31, 2018)**. ~~(August 31, 2015)~~.

#### 4.5.2.2.1.1.2 Unreported Income Change

If an Assistance Group (AG) is at or below 185% of the Federal Poverty Level (FPL) and the parent fails to report an increase in income that is \$250 or more per month, and the change affects eligibility, subsidy, or copayment, the parent is responsible for an overpayment of any subsidy issued and paid to the provider that the parent was not eligible to receive (see reporting requirements in [Section 1.8.1](#)). ~~In instances in which a client fails to report an increase in income that is over \$250 per month,~~

If an AG is above 185% FPL and the parent fails to report an increase in monthly income that exceeds a dollar amount that will bring the AG above the next 5% FPL increment, and the change affects eligibility, subsidy, or copayment, the parent is responsible for an overpayment of any subsidy issued and paid to the provider that the parent was not eligible to receive (see reporting requirements in [Section 1.8.1](#)).

There are two possible options for the overpayment begin date:

- If the increase in income affects eligibility, subsidy, or copay and occurred in the prior month, but did not cause the client to go over the income reporting requirement until the following month, the overpayment should begin with the first of the month (for the month that was over the income reporting requirement).
- If the increase in income affects eligibility, subsidy, or copay and occurred in the same month, the overpayment should begin on the date of the check issuance that put the client above the \$250, or 5% FPL reporting requirement.

**Note 1:** The begin date is the date of receipt of income, not the first date of the pay period.

If the date of change (date of raise, increase in income, etc.) is not known, default to the second option above. The overpayment end date for both options would be the last day of the current month.

**Note 2:** If the parent was in Copayment Stabilization (under 190% FPL) at the time the unreported income change occurred, the copayment would not have increased (see [2.5.3.1](#)).

**Note 3:** Workers must enter the new income in the Post-Load Benefit Correction (PLBC) module of CSAW to see if the new income would have changed the copayment and resulted in a decreased subsidy amount.

**Example 1:** John's AG is at 180% FPL. John has an increase in income that he receives on May 5. The increase in income is more than \$250 per month and moves his AG over the income limit of 85% of the State Median Income (SMI). John does not report this change to the local agency until October. The AG should have been determined to be over the income limit and ineligible as of June 1. John's overpayment begins on June 1 and continues until October.

**Example 2:** Martha's AG is at 195% FPL. Martha has an increase in income that she receives on March 6. The increase in income moves the family above next 5% FPL increment (200% FPL). Martha does not report this change and it is discovered in December. Due to the fact that the income change would have resulted in a higher copayment amount, Martha's overpayment begins on April 1 and continues until December.

**Example (First of the month):** John is budgeted for an AG size of 3 for \$2500. John receives a raise at work in May. He does not report this to the agency. The agency becomes aware of the income change in August. John receives his first paycheck with the raise on June 10. He receives his second check with the raise on June 24. His second June check puts him above the \$250 per month increase in income reporting requirement. John's overpayment will begin on June 1 through the last day of August (the month in which the overpayment was discovered).

**Example (Check Issuance):** Tom is budgeted for an AG size of 3 for \$2500. Tom receives a raise on June 8. He does not report this to the agency. The agency becomes aware of the income change in August. John receives his first paycheck with the raise on June 25, which puts him above the \$250 reporting threshold, because he was not over the income reporting requirement the entire month. Tom's overpayment will begin on June 25 through the last day of August (the month that the overpayment was discovered).

#### 4.5.2.2.1.1.3 Adverse Action

Eligibility overpayment cases may be impacted by adverse action. If a change is reported ~~an eligibility period occurs~~ 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 ~~each adverse action situation~~, please follow [see Section 1.8.4.2.2.14.1 and 2.2.14.2](#).

When eligibility is run after adverse action for any situation not listed in [Section 1.8.4](#), 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 [1.5.12](#)).

#### 4.5.2.2.2 Verify Funds

To verify funds have not been recovered from the provider for the same overpayment period as the client overpayment, local agencies must find the provider in ~~enter~~ 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 an overpayment has been assessed for that client, during that time period for the same reasons, do not take an overpayment.



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

**Example:** Mary has an overpayment from March 7 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 ~~expungement report~~ for Mary for March. It has been four months since Mary received the March subsidy, so if she did not pay the provider ~~spend~~ those funds, they would have been removed from the card. Mary did not pay the provider ~~spend~~ \$50 in March from her \$500 subsidy load. Her overpayment will receive a \$50 credit. Therefore, her overpayment would now be \$450.

#### 4.5.2.2.3.2 Unreported Employment after Unreported Loss of Approved Activity Exception

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 from April 1 – June 30. The local agency discovers in December that Steve lost his job in March, and also that Steve 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 ended until his new job began.

~~When establishing an overpayment for unreported loss of approved activity, after the activity search period, do not take an overpayment for the periods of time where the client was participating in another, unreported approved activity.~~

**Example:**

- ~~• Steve completes his child care application on September 19, and receives an authorization for while he is working for Pick 'N Save.~~

- ~~• On January 16, Steve stops working for Pick 'N Save. This is not reported to the local agency timely.~~
- ~~• Steve begins employment with Walgreens on June 15 and is still employed there.~~
- ~~• The local agency discovers his unreported loss of employment and new employment at his annual renewal in September.~~

~~Although Steve did not report his loss of employment or his new employment, he may still be eligible to receive up to a 3-month approved activity search period beginning the first day of the month after the loss. The activity search period would be from February 1—April 30. Steve's overpayment would begin on May 1 and end on June 14, which is the day before he began his new employment.~~

#### 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 BV sub-system of (CARES) using on the BVRF and BVCL screens (see BV User Guide). To complete the overpayment BVRF, 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 process the claim, identify the liable individual, and generate the appropriate collection notices and worksheets (as applicable). 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 complete the BRITS referral and close the Child Care tab in the Post Investigation section.

**\*Note:** Please note that a manual 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 types of client overpayments: Administrative Errors, Client Errors, and Client IPV. 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 the client receiving subsidy for which they were not eligible.

Administrative Errors include those that affect eligibility and authorizations. 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 [DCF 101.23\(3\)\(c\)](#))

##### 4.5.4.1.1 Eligibility 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.

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, and the client received subsidy which the client was not eligible to receive.

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

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

General procedure:

1. Use PLBC to update the client case to reflect the correct information.
2. 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. and a claim in BV.

**Note:** See [Chapter 1](#) for eligibility information.

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

If a local agency enters incorrect client information in CWW or EBT-GSAW and this information affects impacts eligibility, it is an administrative error. ~~An incorrect entry may include: verification information, name, address, birth dates, SSN, parent schedule, approved activity, rate type, etc.~~ 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. 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.

~~**Example:** Tom entered a client's income incorrectly in CWW. If it had been entered correctly, the client would have been above the FPL and therefore not eligible for Wisconsin Shares. Once discovered, the authorization must be ended the last day of the current month, and a negative adjustment should be assessed using PLBC for each impacted month. The overpayment should be from the begin date of the authorization to the end of the current month. This amount must then be entered in BV.~~

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

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). ~~Timeliness of entry is determined by the policy set forth in 2.2.14.~~

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 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.

~~**Example:** Michelle calls on March 13 to report that she received a raise on March 10 (timely). The worker did not enter this information until April 7. With the updated income, Michelle is above the 200% FPL and is no longer eligible for Wisconsin Shares. If the change had been completed timely by the worker, eligibility would have ended at the end of March. Therefore, an Administrative Error occurred, and an overpayment should be assessed from April 1-7, if Michelle paid the provider any of their April funds.~~

#### 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 generally 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 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.
- ~~3. Assess for a negative adjustment using the date of the incorrect entry (typically the date of the creation of the authorization) to the end of the current month.~~
- ~~4. If an overpayment occurred, create a claim in BV.~~

##### 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, incorrect override amount, **incorrect provider, incorrect provider location**, etc. ~~The parent is liable for this overpayment.~~

**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.

~~**Example:** Susan is creating an authorization. The client is authorized for 40 hours a week, but Susan overrides the amount and enters 50 authorized hours a week by accident. The authorization must be corrected, and an overpayment should be assessed from the begin date of the authorization through the end of the current~~

~~month. She also must end the current incorrect authorization and create a new authorization with the correct information.~~

#### 4.5.4.1.2.2 Incorrect Provider or Provider Location Authorized

If an **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**, or a client error if the client inadvertently supplied the wrong information. 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 4.5.4.1.2.3**).

1. If a payment was made **to the incorrect provider**, complete the **Voluntary Repayment Agreement (VPA)** process (see **Section 4.12.1.1**), and **submit a Technical Assistance request to BPI to retract** ~~cancel~~ any **remaining** funds for the inaccurate provider that remains on the card **using PLBC** 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.~~
2. If payment was not made, submit a Technical Assistance request to BPI **regarding 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

If a ~~worker or~~ **local** agency issues a hardship authorization (**see Operations Memo 17-36**) without the proper documentation or is inconsistent with the policy in Chapter **2.4.9.1**, 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**.

#### 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 (Wisconsin Statutes [s. section 893.43](#)).

##### 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. See [Section 4.5.4.1](#) for details.

##### 4.5.4.2.2 Untimely Reported Changes that **Affect Eligibility** ~~End Eligibility or Authorization~~

Untimely reported changes that **affect a client's eligibility** ~~result in the loss of 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 ~~eligibility-ending~~ changes **that affect eligibility** include (but are not limited to):

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

General Procedure:

1. For unreported changes **that affect a client's eligibility, end the existing authorization(s) at the end of the current month.** ~~other than loss of approved activity, that result in the loss of eligibility, end the existing authorization at the end of the current month. If the change is timely verified and eligibility ends before adverse action in CWW, the worker does not need to take action to end the auth. The system checks for eligibility before it loads the next month's funds, and will systematically end the auth if the assistance group or child is ineligible. If it is not timely verified, and the case is closing for lack of verification the worker does not need to manually end the auth.~~ 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 ~~activity search 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 search 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 2.2.14.1 and 2.2.14.2](#)).

2. Assess for an overpayment in PLBC beginning the date **the client became ineligible of change** through the last day of the current month.
3. After the client overpayment calculation is complete, the overpayment must be entered into the BV 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 BVRD screen to link the overpayment to the related BRITS referral. ~~Enter the overpayment in the BV system.~~

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

If a parent fails to report a loss of approved activity for more than three months, and the loss is discovered after the ACTS ended, the client is responsible for an overpayment of any subsidy issued after the ACTS ended that the client was not eligible to receive.

~~If a parent loses their approved activity and does not report it and it is discovered more than three months later, any additional months of care issued after the search period will be considered an overpayment if the parent has not begun another approved activity.~~

**Example:** A parent loses their employment on June 17, and does not report this to the local agency. ~~until their eligibility review on December 1.~~ On December 1 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 from July 1 through September 30. Any subsidy funds issued and paid to the provider ~~after from September 30~~ October 1 through December 1 would be considered a client overpayment when the client was not eligible. ~~until a new approved activity is started.~~ 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 Wisconsin Statutes s.[49.155\(1m\) \(a\)](#), Administrative Rule [DCF 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 in income that places them above the 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 17, their combined income places the family over the income limit of 85% SMI for the 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 17, Child Care 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 [DCF 101.23\(3\) \(a\)](#)). This is calculated in PLBC, and then entered in BV.

~~**Example:** Tom has an authorization for his son. He has reported his income as \$975 a month. Tom receives a significant raise from his employer on March 7, but did not report this to the agency. Tom receives his first paycheck with the raise on March 21. This puts him over income and above the \$250 per month increase in income reporting requirement. The agency discovers his unreported income in June and updates his eligibility with the new income information. Tom is now above the 200% FPL, and is no longer eligible to participate in Wisconsin Shares. Tom's eligibility and authorization are ended immediately. Tom has an overpayment from March 21 through the last day of June. This is calculated in PLBC 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: Assistance Group (AG), Wisconsin Residency, marital status, mailing address, or changes in approved activity schedule, etc. ~~The only exception is the loss of child support cooperation.~~ See [Section 1.3 Chapter 2](#) for a full list of non-financial eligibility criteria.

**Example:** Brittany June and Phil have a child in common. Phil moves in with June on May 17. Brittany does not report this change to the local agency. With Phil's income, the family is now over ~~the FPL~~ 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 that the family is no longer eligible for the Wisconsin Shares program. The overpayment is calculated from June 1 ~~the date of change (May 17)~~ through the last day of November. 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 ~~Absence from Employment~~

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 1.3.9.3.1](#)).

If a parent fails to report a temporary break from approved activity for more than three months, and the break is not discovered until after the TBRK period ended, the parent is responsible for an overpayment of any funds issued and paid to the provider after the

TBRK period ended 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 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 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 Wisconsin Statutes s.49.155(1m)(a), Administrative Rule DCF 201.04(5)(a) 2, Section 1.8.1).

~~Local child care agencies may authorize subsidy amounts to parents during temporary absences from employment in limited situations, such as a break in employment, absence in child care, and continuance in employment with the same employer (See 2.8 for additional criteria). Temporary absences may be issued for a range of 4 to 6 weeks based on policy in 2.8.~~

~~If the client's temporary absence does not meet the criteria established in 2.8, or extends past the maximum number of weeks of leave, an overpayment should be assessed.~~

**Example:** ~~Jim and his family went on vacation for the summer (3 months), did not utilize child care in Wisconsin, or report this change to the agency. Jim continued to pay his child care provider. This is a violation of 2.8 policy and is an overpayment.~~

#### 4.5.4.2.3 **Timely** Reported Change with Continuing Eligibility

Any **timely** reported change(s) that **impact affect eligibility or the** 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 **timely** 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. ~~Chapters 1.9.1 and 2.2.14 for additional information about the alteration of the authorization for these changes.~~

#### 4.5.4.2.4 **Unreported Untimely-Reported** Change with Continuing Eligibility

**Unreported Untimely-reported** changes that **affect impact** the authorization(s), but do not result in a loss of eligibility may still result in an overpayment. ~~The client has ten (10) calendar days to report the following changes~~ (see **Section 1.8.1** Chapter 1.9.1 for **additional** reporting requirements):

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** ~~Correct~~ Price
- ~~7. Temporary Absence from Approved Activity~~
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 month).
2. Create a new authorization (with next month for the begin date) 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

If a client does not report timely that they changed their provider, **and subsidy funds are issued 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 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 if needed to retract** ~~cancel~~ any **remaining** funds for the inaccurate provider that **remains** on the card **using PLBC** 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 funds to the incorrect provider are remaining on the card, submit a Technical Assistance request to BPI by accessing <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form> regarding a retraction (see **Section 4.5.1**).~~
3. Determine if the incorrect provider received a YoungStar adjustment for the incorrect authorization. If yes, submit a Technical Assistance request to BPI by accessing <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form> and BPI will initiate the recoupment. The inaccurately authorized provider is liable for this **YoungStar** overpayment.

#### 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 [Section 1.8.1](#)).**

~~All changes to approved activity, including the employer, activity type, hours, etc., must be reported timely to the agency. If not, this is a client error.~~

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, and the reduction in child care need led to egregious underutilization for multiple months (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 Wisconsin Statutes 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.

~~**Example:** Christina works for a local grocery store. Her authorization is for 40 hours a week. Christina's hours are cut from 40 to 20 hours a week effective July 7. She does not report this to the agency. This is discovered by the agency in September. The agency immediately ends her current authorization at the end of the current month, and creates a new authorization with a begin date of next month with the correct, verified information. Calculate an overpayment from July 7 through the last day of September, in PLBC with separate entries for each impacted month, and entered in 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 [Section 1.8.1](#)). This may include a failure to report any additional income such as commission, bonuses, or alimony. ~~The change must be above the \$250 per month income increase threshold. This may include a failure to report any additional income such as commission, bonuses, or alimony.~~

If the unreported change of income would have brought the family above 85% SMI, or a family who is above 185% FPL 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 where the income check received put the family ~~them~~ above the \$250, or 5% FPL reporting requirement.

~~There is a monthly child care income budget in CWW. The overpayment should begin the month where the client's monthly budgeted income goes above the \$250 reporting requirement or below.~~

**Note:** If the change in income is due to a change in ~~loss of~~ approved activity, see Section 4.5.4.2.4.2. For any overpayment date range exceptions, see Section 4.5.2.2.1.1 ~~4.5.1.2.1.1~~.

**Example:** Mark's AG is at 195% FPL. ~~Mark is budgeted for an AG size of 3 for \$2500.~~ 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. ~~is \$3000. He is thus above his budgeted income and above the income reporting requirement of \$250.~~ If the change in FPL would have resulted in a different subsidy amount or a different copayment amount Mark's overpayment ~~thus~~ will begin on ~~June~~ July 1 through the last day of August (the month where the overpayment was discovered).

#### 4.5.4.2.4.4 Change in Household Composition

This error occurs when a change in Assistance Group (AG) ~~household membership~~ (either an addition or ~~removal subtraction~~) was not reported timely. Examples of a change in AG ~~household membership~~ include: marriage, separation or divorce, or presence of another adult to care for the child during child care hours, ~~birth of~~ a baby, legal child or child in common.

**Example:** Sally has an ~~authorization for an~~ assistance group (AG) of 2 ~~for~~ including herself and her ~~child~~ daughter Jane. Jane is authorized to attend child care Monday - Friday. Phil is the father of Jane ~~the child~~ and he moves in with Sally on January 5. This ~~change~~ is not reported to the local agency, 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, 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 old~~ authorization is ended for the end of April, 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 ~~January 5~~ through the end of the current month using PLBC. The overpayment should be entered in BV.

#### 4.5.4.2.4.5 Change in ~~Need of~~ Child Care Need

This error occurs when there is an unreported change in child care need ~~of care~~. This may occur due to a change in approved activity ~~loss of employment~~, change of hours, addition, or misrepresentation of another parent to the assistance group, etc. This may also include 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 [Chapter 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 [Chapter 2.4.2.2](#))
- A decrease of child care hours
- 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 client is responsible for an overpayment if the underutilization continued for more than one month, and the parent continued to make payments to the provider for more hours of care than the child attended.

**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 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 State Statutes s.[49.155\(1m\) \(a\)](#), [DCF 201.04\(5\) \(a\) 2](#), [Chapter 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 State Statutes s.[49.155\(1m\) \(a\)](#),

[DCF 201.04\(5\) \(a\) 2, Chapter 1.8.1](#)). This amount is calculated in PLBC and entered in BV.

**Example 3:** Tamara applies for 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 Wisconsin Statutes s.[49.155\(1m\) \(a\)](#), [DCF 201.04\(5\) \(a\) 2, Chapter 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).

~~**Example:** Steve has an authorization for his daughter. Steve marries Jill October 14, but does not report the change. Steve works first shift and Jill works second shift. Steve's authorization allows him to receive child care during first shift. However, due to the change in assistance group, Jill is available to provide care during first shift. Therefore, Steve would receive a client error for household composition change and change in need of child care. Calculate and establish and overpayment from the date of change (October 14), through the end of the current month.~~

~~**Example:** Lily has her daughter during the week when her authorization is issued. The child's father and Lily agree to a new placement schedule where he has their daughter on Wednesdays and Thursdays. Lily does not update the agency of this change. Lily requires less child care now since the child's father is providing care. Lily does not notify the agency of her shared placement update. Lily is thus receiving benefits for which she is not eligible. Calculate an overpayment from the date of change through the last day of the current month, and update the case.~~

#### 4.5.4.2.4.6 Failure to Report **Discount** ~~Correct~~ Price

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

**Example:** Sandy works for her child care provider, 123 Child Care. Sandy requests an authorization for Wisconsin Shares and informs the **local** agency she works for 123 Child Care. Sandy does not inform the **local** agency of the discounted price. This is discovered six (6) months after the authorization was granted. This is a client error and the overpayment would be from the 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 Temporary Absence from Approved Activity~~

~~Section 2.8 describes when agencies may authorize subsidy amounts during temporary absences from employment. If the client's temporary absence does not fall under these criteria, or extends past the maximum number of weeks of leave, a client error and overpayment should be assessed. For additional details, see section 4.5.4.2.2.4.~~

#### 4.5.4.2.4.7~~8~~ Inappropriate Payment of Previous Provider in Hardship Situations

A client 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. **In order to avoid this error, funds for the previous provider should be removed from the account 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 error may be assessed.



**Example:** Tamika was issued a hardship authorization, and after changing providers, paid her previous provider her remaining funds. BPI conducted an investigation and determined that the previous provider should not have received those funds, because no care was given for that child ~~and the funds were not being used to hold a spot for the child~~. Therefore, an 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 section 4.12.1.1).

#### 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 (Wisconsin Statutes s. [section 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 (Wisconsin Statutes s. [section 893.43](#)).

**Note:** An individual does not have to receive payment or services prior to the **local** agency imposing an IPV.

IPVs are determined by the administering agency, including the Department, local agencies, or tribal agencies under contract with the Department. A Child Care IPV *must* be approved by BPI prior to its entry in CWW. The [Client Intentional Program Violation Request Form \(DCF-2893-E\)](#), and all documents used as evidence, must be completed and submitted to BPI via the Technical Assistance mailbox ([DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov)). Once approved (see [Section 4.5.4.3.3.2](#)), an IPV must be entered in [the Child Care IPV 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 Subsequent IPVs

If the **local** agency discovers that more than one act of fraud has occurred at the same time, the **local** agency may only impose one 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 penalty** 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:** A client 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 Child Care so that when her sanction period is done, she can be found eligible. On her application, she claims that she is the only adult in the household again. This is flagged for an FEV referral. The investigation reveals that the second parent still resides within the household. She therefore submitted false information, meeting 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.

#### 4.5.4.3.2 IPV Penalties

If the appropriate individuals (4.5.4.3.3.3) approve the IPV, the local agency must impose an IPV penalty for the appropriate period of time. When an IPV is determined, CWW will deny subsidy funds and authorizations to the individual for the following durations:

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

The denial of benefits during the IPV penalty period will be imposed for the time specified under Wisconsin Statutes ~~section~~ [49.151\(2\)](#) whether the case is open or closed. Only the individual(s) determined to have committed an IPV must receive the penalty.

##### 4.5.4.3.2.1. IPV Sanction Period

The 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 months after the IPV determination date if 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 2-2-14](#) 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. The second parent's income would have made the AG ineligible for child care. This is discovered by the local agency May 15. The IPV date range (and overpayment in this instance) would be October 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.

**Example 2:** A client gains additional changes 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 child care. The client contacts the local agency requesting additional care on November 1 and does not provide the updated information. This is discovered by the local agency June 15. The IPV date range (and overpayment in this instance) would be October 1 through June 31. The IPV is submitted to BPI June 23, and approved June 30. This case is impacted by adverse action, thus the sanction period will not begin until August 1.

#### 4.5.4.3.2.2. Imposing an IPV Penalty

More than one 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 second 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 ~~to investigate~~ whether a program violation was intentional. To insure uniform application of the IPV policy, all IPV determinations must be reviewed and approved by the appropriate identified bodies (Section 4.5.4.3.3.2).

If the IPV results in an overpayment, the local agency must also establish the overpayment, and provide PACU with all necessary documentation regarding the overpayment upon request.

#### 4.5.4.3.3 IPV Approval Process

##### 4.5.4.3.3.1 Client IPV Meetings

To proceed with an IPV request, a local agency must submit an [Intentional Program Violation Request Form \(DCF-F2893-E\)](#). Supporting evidence documents must also be submitted in a separate PDF document with a table of contents listing exhibits, and local agencies are required to attend the client IPV meeting with the Department. All IPVs scheduled to be presented at the meeting must have all documents be submitted to the

TA mailbox by Monday at noon, the week of the meeting. Please title all IPV request emails as "IPV Request, Case Number #, 1R/2R/3R." TA Mailbox:

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

[DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov)

**Note:** If submitting a subsequent IPV request, a summary of the previous IPV(s) must be supplied in the Previous IPV Issued Summary section of the IPV Request Form.

During the meeting, each IPV received for the two-week period will be heard. Each investigator will present the case to the required attendees. The required parties will approve or deny the requested IPV. Meeting attendees may elect to appear for the meeting in person or over the phone.

#### 4.5.4.3.3.2 Approval ~~Tier~~ Requirements for IPV Meetings

Below is a description of the individuals who are required to attend the meetings to grant or deny the IPV. After an IPV is approved, the overpayments and IPV should be established within 30 days.

1) Required attendants at the IPV meeting for first (1R) IPVs, include:

- ~~The investigator: Submits request and presents the case.~~
- The **local** agency supervisor (typically investigator's supervisor) or designee: Approves or denies the request. If the **local** agency supervisor is unable to attend they may send email confirmation to the TA Mailbox that the IPV has been approved by the **local** agency supervisor.
- **The investigator: Submits request and presents the case.**
- BPI Supervisor: **Reviews the request,** and approves or denies the request.
- Office of Legal Counsel (OLC) Representative: Determines whether the IPV would be upheld in legal proceedings.

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

- ~~The investigator: Submits request and presents the case.~~
- Local agency Child Care Coordinator or Economic Support (ES) or Income Maintenance (IM) Supervisor\*, or designee: Approves or denies the request.
- **The investigator: Submits request and presents the case.**
- BPI Bureau Director: **Reviews the request,** and approves or denies the request.
- OLC Representative: Determines whether the IPV would be upheld in legal proceedings.

**\*Note:** In some **local** agencies this may be the same person as that approving the first.

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

- ~~The investigator: Submits request and presents the case.~~
- Local agency Child Care Coordinator, ES or IM Supervisor, or local agency staff designee: Approves or denies the request.
- The investigator: Submits request and presents the case.
- BPI Bureau Director: Reviews the request, and approves or denies the request.
- OLC Representative: Determines whether the IPV would be upheld in legal proceedings.
- 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 the request.

#### 4.5.4.3.4 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:

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 4.5.6 for additional information on criminal prosecution.

#### 4.5.4.3.5 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 4.5.5.

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.

#### **4.5.4.3.5.1 Misrepresentation of Income**

An IPV for misrepresentation of income may be assessed if a client intentionally fails to disclose supplemental income such as commissions, bonuses, alimony 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 date of 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 **EBT** CSAW.

#### **4.5.4.3.5.2 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 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 BPI, with an overpayment from the date of change in October through the end of February. Once the IPV is approved and created in CWW, eligibility will end, which will end the authorization in **EBT** CSAW.

#### **4.5.4.3.5.3 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 ACTS period or TBRK period 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. 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. However, due to the change in assistance group, Alejandro is available to provide care during first shift. Tonya has contacted the **local** agency multiple times since they moved in together, and **failed to disclose** ~~has not disclosed~~ this information. An IPV for misrepresentation of child care need and misrepresentation of household composition and an overpayment would be assessed for the client.

#### 4.5.4.3.5.4 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 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:** Kelly is a resident of MN, but applies and is authorized for a Wisconsin Shares subsidy. Kelly was not eligible to receive this benefit. An IPV should be issued, and an overpayment should be created for the entire period of time Kelly was receiving the Wisconsin Shares subsidy.~~

**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 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 Wisconsin Shares, but applies for Iowa's Child Care Subsidy Program (even though she does not live there). A worker in Wisconsin discovers this. The worker should report the fraud to Iowa and open an investigation to determine if Sally has committed other fraud in Wisconsin. Do not open an IPV or overpayment for this situation alone.

#### 4.5.4.3.5.5 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 1-4.8](#)).

If an overpayment will be assessed in conjunction with the IPV, it will only be for subsidy funds received after the ACTS activity search period, or TBRK period 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 for three months from March through May. 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 after the Approved Activity Search period, from June through October.

~~**Example:** Michael loses his approved activity on November 7, but does not report that loss to their local agency. The approved search period is from December 1- February 28. In November, Michael reports to the agency that they require more child care due to increased work hours. Michael has numerous other points of contact through December and January, and receives a continued authorization until March. In March, it is discovered that Michael has not been in his approved activity since November 7, and has not begun a new approved activity. An IPV would be warranted, with a sanction period running from the point of contact in November through the end of April. However, the overpayment would only be assessed for the period after the activity search period, from March through April.~~

An overpayment related to an IPV for an approved activity search may begin prior to the activity search if the client was ineligible prior to the approved activity search being granted.

**Example 2:** Cheryl provided false employment documentation when she applied for 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.



#### 4.5.4.3.5.6 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 DCF [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 to attend the provider.

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

#### 4.5.4.3.5.7 Providing False or Fraudulent Documentation

An IPV should be assessed any time a client submits fraudulent 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 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 not eligible for as a result of submitting false or fraudulent documentation.

**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 overpayment is established for the additional subsidy Janie received during the approved activity search that she was not eligible to receive, and for all subsidy received after the search period ended because Janie was not in an approved activity.

#### 4.5.4.3.5.8 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 2.2-12](#) 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. The **local** agency awarded a hardship to her 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 provider. Submit an IPV Request Form, and calculate an overpayment for the amount of the Hardship awarded in March. This claim must then be entered in BV.

#### 4.5.4.3.5.9 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 Wisconsin Statutes [section 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 Wisconsin Shares program. Tim has his children 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 for his own children.

#### 4.5.4.3.5.10 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.

#### 4.5.5 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 requests to BPI 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, [DCF 201.04\(5\) \(bm\)](#).

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

- Cash refunds or “Kickbacks”
- Paying for Care for Children Not on the Case
- Possessing a MyWICChildCare EBT Card, Account Number, or PIN
- Issuing Payment for Child Care Not Provided
- Shell Company

#### 4.5.5.1 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 Wisconsin Statutes [section 49.155\(4\) \(b\)](#). Incentives may include any type of financial or material rewards for parents of Wisconsin Shares enrolling their children at their location, except those which directly benefit an eligible child.

**Example 1:** Leslie is a parent receiving ~~on~~ Wisconsin Shares Child Care. Leslie receives authorizations for her children to attend 123 Child Care. Leslie does not take her children to the provider. 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. ~~split the cash~~. IPV for both the client and provider should be requested, and 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 of hours authorized per week, and the provider returns any subsidy funds or other item of value to Tony, this is considered a kickback. IPV for both the client and the provider should be requested, and an overpayment established with joint liability.

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

Using the Child Care Subsidy to pay for care not provided for children 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. IPV for both the client and provider should be requested, and an overpayment established with joint liability.

#### 4.5.5.3 Possessing a MyWICChildCare EBT Card, Account Number, or PIN

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 payments with the card is against program rules ([DCF 201.038\(7\)](#)).

#### 4.5.5.4 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 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 that she does not require, and the provider is receiving funds for care not provided. IPVs for both the client and provider should be requested, and an overpayment established with joint liability.

#### 4.5.5.5 Shell Company

Setting up a fraudulent company or providing false documentation of parent employment **is against program rules** ~~, such as:~~ (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 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. IPVs for both the client and provider should be requested, and an overpayment established with joint liability from March through September.

#### 4.5.6 Criminal Prosecution

Cases of collusion and other highly egregious cases may be referred for criminal prosecution. BPI **should** ~~must~~ be notified of any cases referred for criminal prosecution through the BPI Technical Assistance Mailbox <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov). When notifying BPI, 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.

If the local agency or tribe is unable to pursue criminal prosecution or if a case is highly egregious, the case should be referred to BPI for further investigation. Direct all referrals to the BPI Technical Assistance Mailbox <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form> BPI-Fraud-Mailbox ([dcfmbchildcarefraud@wisconsin.gov](mailto:dcfmbchildcarefraud@wisconsin.gov)) with the subject line "Referral for Criminal Prosecution". A representative from BPI 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 for criminal prosecution include:

- **Provider is not providing care** ~~Children are not attending child care~~
  - Multiple no access visits during peak times when children should be present.
  - Small number **or no** ~~of~~ 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 authorized funds** continue to be **paid to the provider** ~~withdrawn~~ from the parent's EBT card.
  - ~~Children attending the child care during periods of unapproved temporary absences.~~
- 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 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 care or children are signed in during different times.
  - Only the parent's children (no other child care children) are signed in care when the parent is working.
- Collusion
  - Reports of a parent – provider agreement to defraud.
  - Suspicions that parents and/or teachers are being paid to enroll their children while the children have not and do not attend the center. ~~for a prolonged period.~~

#### 4.5.7 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. Clients must submit their appeals in writing to DHA and indicate which decision they wish to appeal.

##### 4.5.7.1 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.

##### 4.5.7.2 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 or tribe, 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.

#### **4.5.7.3 IPV Appeal Process**

When an IPV is established against an individual in **the Benefit Recovery (BV) subsystem 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.

#### **4.5.7.3.1 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.

#### **4.5.7.3.2 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.

#### **4.5.7.3.3 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 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 a-renewal/SMRF**
- Anything else relevant to the investigation

#### **4.5.7.3.4 Hearing**

The individual who requested the IPV will be 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).



#### 4.5.7.3.5 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.

#### 4.5.7.3.6 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.

#### 4.5.7.3.7 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 IPV's must be deleted in CWW, and related overpayment's code(s) changed in BV within 10 days.

#### 4.5.8 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 was 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 IPV's established
- Total number of client investigations completed
- Total amount of overpayment for each sanction type
- Total number of client appeals for overpayments and IPV's
- 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 ~~a sanction and a monetary~~ an overpayment ~~is~~ are established, local agencies must cooperate with the Public Assistance Collection Unit (PACU) to ~~recover any improper payments made~~ retrieve the state and federal monies that were deemed inappropriate for the parent to have received. 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 delinquent. Determining delinquency means CARES sends three Dunning notices to the client before referring him/her 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 Wisconsin Statutes ~~s.~~ [section 49.152](#), [49.155\(7m\)](#), [49.195](#), and [49.85](#); and Administrative Code [DCF 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, 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, 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, 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. 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. If the person liable for the claim is no longer active on the case but is active on another case, CARES generates a separate overpayment letter to the primary person on that case. CARES 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 CC Overpayment Worksheet ([DCF-F-452-E](#)) or its functional equivalent that shows the calculation of the overpayment. These notices are 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**

Claims for incorrect payments due to an 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 (Wisconsin Statutes [section 893.43](#)).

The overpayment period for a non-client error (also known as 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 a non-client error cannot begin more than 12 months prior to the notification date of the overpayment, [DCF 101.23\(3\) \(c\)](#).

#### **4.6.1.5 BVPA – Client Repayment Agreement**

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

The Benefit Recovery Repayment Agreement (BVPA) screen in CARES is used to record all returned client repayment agreements. The local agency must record the repayment options properly on BVPA, or ~~the agency may~~ submit the [RPA BVPA](#) to

PACU for entry. Failure to make the appropriate entries on BVPA may result in incorrect collection action for the client.

A RPA can be made by contacting ~~the local agency or~~ PACU to negotiate a repayment amount. ~~if~~ The balance **must** ~~cannot~~ be paid **within** ~~in~~ three ~~(3)~~ years ~~or~~ **(36 months)**. 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 persons 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 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 balance.

#### **4.6.1.6 Dunning Notices**

If a client fails to return a RPA, fails to **pay the overpayment in full** ~~make a payment~~ or to make a payment equal to the monthly amount **agreed upon in the RPA,** ~~or an amount arranged with the agency or PACU,~~ they will receive a Dunning Notice. A Dunning Notice is a past due notice that informs the client that they are required to pay the balance of the debt and that failure to complete and return a repayment agreement 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 CC 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 must be sent to the PACU for posting to the debt. If ~~a~~ **local** agency receives a cash payment, the **local** agency must deposit the cash and make 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 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. 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 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. ~~The~~ 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 a NPL to the debtor by certified mail. This notice is a demand for payment in full within 10-days and a notification that further legal action is intended to collect the debt. There are no appeal rights attached to this notice.
2. **Levy Issuance:** If the debtor does not respond within 10 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 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 prior payment 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 days from the date of the notice to request an appeal, which is limited to issues of prior payment and 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 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 4.5.7 for clients and Section 4.11.4 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 defend local agency decisions and overpayments.

~~In client collections cases, the local agency that established the overpayment is also responsible for handling the delinquency collections appeal process for levy, warrant/lien and DOR tax intercept.~~

~~The required documents for delinquency collections hearings include:~~

- ~~• Original overpayment notices that include the hearing rights (system-generated and manual CC Overpayment Notice (DCF-F-DWSW11250-E))~~
- ~~• Calculation of the overpayment (CC Overpayment Worksheet DCF-F-452-E or its functional equivalent)~~
- ~~• The decision from any prior hearing~~
- ~~• Three (3) Dunning Notices from the benefit recovery (BV) system~~
- ~~• Signed repayment agreement (RPA), if one exists~~
- ~~• Delinquency collection notice(s) -- notice prior to levy, levy notice, DOR certification notice of tax refunds or credits, and notice of warrant docketed~~
- ~~• Any other supporting documentation that will support the reason for the overpayment~~

~~PACU will provide the agency with copies of the appropriate delinquency collection action notices, which include levy notices, warrant notices and tax offset notices. If you have not received the documentation prior to the hearing, contact PACU at 1-800-943-9499 or [dwspace@wisconsin.gov](mailto:dwspace@wisconsin.gov).~~

~~PACU receives all requests for collection related appeals and will forward the Request for Summary to the local agency. The agency must complete the Request for Summary~~

~~and return it to DHA. DHA will then process the appeal and notify the agency of the scheduled hearing date and time.~~

~~According to statute, the only issues to be determined in collections hearings are the identity of the debtor and whether the debt has been repaid. However, occasionally the ALJ undertakes a review of the merits of the case. In this case, the agency should be prepared to defend the underlying overpayment determination. If the ALJ expands the inquiry in any way beyond the identity of the debtor and the balance currently due, the agency employee should object for the record and then proceed with the hearing. Immediately following the hearing, please contact the DCF OLC.~~

#### **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, 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 OLC will take the following actions:

- OLC will prepare and provide DHA with all exhibits;
- OLC will appear at the hearing and defend the tax intercept action;
- PACU will assist 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 years after an overpayment claim reaches a zero balance or is written off (see Wisconsin Statutes [s. ection59.52\(4\) \(a\) 18](#)).



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

Agencies and tribes 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. 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 DA or to fraud investigators (Wisconsin Statutes ~~s. section~~ [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 is pending a criminal charge alleging that they have committed a serious crime or have been convicted of committing a serious crime as defined in Wisconsin Statutes [s. section 48.686\(1\) \(c\)](#).
- The child care provider has been convicted or is pending conviction of 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, Wisconsin Statutes [s. section 49.155\(7\) \(b1\)](#).
- The child care provider has been convicted of a serious crime (such as abuse or neglect), Wisconsin Statutes [s. section 49.155\(7\) \(b\) \(3\)](#).
- The Department or local agency reasonably suspects that the person has violated any provision under the Wisconsin Shares program, Wisconsin Statutes [s. section 49.155\(7\)](#).
- If more than 40 percent of all children enrolled by the provider are children of employees, Wisconsin Statutes [s. section 49.155\(3m\) \(e\)](#). 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 4.9.1.3](#)).

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 provider must explain show why he/she would not exceed the applicable group size limitation. Providers can validate show 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 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](#)).

#### 4.8.2 Written Payment Agreement

Providers are required by Administrative Rule [DCF 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](#), ~~or they may~~ **if the provider chooses to** use their own form **if 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 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 [DCF 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](#).

#### 4.8.3 Prohibited Actions by a Provider

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

- Require a parent to disclose the balance in the parent's subsidy account.
- 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 MyWICChildCare 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 MyWICChildCare 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 subsidy for child care has not attended within the previous 30 days (see Administrative Rule [DCF 201.038\(8\)](#)), and Section 4.11.1.2.2.7)

Any facility, license, or staffing changes must be reported to the provider's licensor 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.

Providers must report all facility closures to the local agency and the Bureau of Early Care Regulation (BECR). Unexpected or unplanned closures may be subject to provider overpayment.

If a local agency worker is notified by the provider of a child's absence, the worker should make multiple attempts to contact the parent to determine the cause of the absence. 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 DCF [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.

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. Providers that discontinue their participation in the Wisconsin Shares program must also 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, Parent Share, and YoungStar payments. Providers receive monthly notices and have access to the ebtEDGE Provider Portal, and the Child Care Provider Portal to verify transaction information. The information provided is real-time payment information.

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

### 4.9.2 Provider Investigation Referrals

Examples of child care provider fraud referrals to submit to the Child Care Fraud mailbox include, but are not limited to:

- Care provided at a location where the child does not have an authorization
- Certified provider holding outside employment during the facility's hours of operation
- Children attending the center live with the provider
- Payments are being made to the provider for children not attending who have not attended for 30 or more consecutive days (see Administrative Rule [DCF 201.038\(8\)](#))
- Payment 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
- Improper attendance record keeping, including, but not limited to:
  - Missing or incomplete attendance records
  - Children in attendance are not on attendance records or are missing 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 ~~has no~~ does not have a written payment agreement in place with each family receiving Wisconsin Shares (see section 4.8.2 and Administrative Rule [DCF 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 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
- 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 ~~EBT~~ CSAW (reference [Operations Memo 18-33](#) and [Operations Memo 17-54](#))
- Suspicious expulsions and disenrollment of children
- ~~Location~~ 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](#))
- 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 4.5.5.1)
- 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 are related to provider employees
- 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](#)

**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 referral reason, provider name or number, location **number**, client name or number, date of incident, and contact information of complainant. If information is incomplete, please submit all information received from the complainant.

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

#### 4.9.2.1 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 Technical Assistance Form](https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form): <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>

#### 4.9.3 40% Rule

According to Wisconsin Statutes [s. section 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, the Department and local agencies may refuse authorizations. 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 to a child care provider licensed under Wisconsin Statutes [s. section 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 monthly basis, the local agency must monitor child care providers by obtaining the Parent Employment List(s) in [EBT CSAW](#), documenting the status of each provider and reporting this to their Bureau of Regional Operations (BRO) [Regional Human Services](#) child care coordinator.

**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 are](#) 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 to those providers that do not come into compliance. [Monitoring may require contacting the providers for further explanation.](#)

#### 4.9.3.1 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, 2014, 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 of them are children of employees of the provider and are considered “non-qualifying” children. However, in ~~EBT~~-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). Thus, the total number of children is 75, divided by 7 (the number of non-qualifying children), = 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 ~~EBT~~ 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 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 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.

#### 4.9.3.2 Out of State Providers

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%.

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

#### **4.9.3.3 Enforcement**

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** ~~are currently~~ 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. [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** ~~continuing to be out of compliance~~. [Two-Week Notice Template](#).

##### **3. Ending Wisconsin Shares Authorizations**

Within seven 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 month, unless the provider has given sufficient documentation to show that the provider is now in compliance. This will allow ~~EBT~~ CSAW to issue a notice ~~over night the seven-day 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 authorizations may be restored 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.

#### **4.9.3.4 Repeat Violations**

After repeat offenses of the same violation and/or the non-corrective action of the initial notice, the following actions will be taken:

1. **Initial Violation:** For a first time violation of the 40% rule, issue a notice of compliance. This is the initial notification of the violation and directs the provider to come into compliance before the next monthly authorization cycle.
2. **Second Violation:** For a second time violation of the 40% rule, issue a notice of compliance, and refuse to issue any new authorizations to this provider, including backdated authorizations. **Local** agencies should also offer Technical Assistance to the provider.
3. **Third Violation:** For a third time violation of the 40% rule, issue a notice of compliance, and refuse to issue any new authorizations to this provider, including backdated authorizations. Notify the licensor to issue a citation. **Local** agencies should also offer Technical Assistance to the provider.
4. **Fourth Violation:** For a fourth time violation of the 40% rule, issue a notice of compliance, and refuse to issue any new authorizations to this provider for six (6) months, including backdated authorizations. Notify BPI of the issue and potential permanent suspension (provider IPV). **Local** agencies should also offer Technical Assistance to the provider.
5. **Fifth/Final Violation:** Notify BPI of the offense and proceed with a recommendation for permanent suspension.

### 4.9.4.3 Red Flags

#### 4.9.4.3.1 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 providers that may be violating a policy or where there is reasonable suspicion of fraudulent activity. The findings from these reports are then utilized to generate possible referrals.

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

1. Unusual Payment Timing Report
2. Payment Grouping Report
3. Provider Over Capacity Report
4. Child Mobility Report
5. Reimbursement per Slot Report

#### 4.9.4.3.2 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. Local **agency** 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. 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** ~~Utilization is high~~ but few or no children are present each time the provider is monitored
  - Times on attendance records **appear seem** 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, ~~or~~ 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** ~~Three~~ 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**

#### 4.9.5.4 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 **collected**
- 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 **terminations** **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 via the Fraud Mailbox ([DCFMBCHILDCAREFRAUD@wisconsin.gov](mailto:DCFMBCHILDCAREFRAUD@wisconsin.gov)).

Local agencies may request assistance ~~If a agency requires assistance~~ with an investigation, ~~by submitting a request for they may submit~~ Technical Assistance ~~requests~~ to BPI ~~by accessing~~ <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>.

A BPI **staff person** ~~auditor/mentor~~ may be assigned to assist with the completion of the investigation.

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

This section ~~briefly~~ 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 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 **S**ection 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, and can remove up to three (3) years of the records since

the child's last date of attendance for auditing purposes. It is recommended that 52 weeks 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** ~~send~~ them to the provider within 10 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?
- 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** ~~bill~~ 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 they **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?** (~~Not applicable after MyWICChildCare implementation~~)
- ~~Who bills the Wisconsin Shares program? (Not applicable after MyWICChildCare implementation)~~
- **Request to review provider/parent written payment agreements**
- **Payment practices**

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 should complete an Incident Report summarizing the visit.

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

- Date and Time of the visit
- Provider 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
  - How attendance is entered
  - Whether transportation is provided
  - Licensee's work hours at the facility

**Note:** When conducting an on-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 strongly 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 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. This includes: requesting punch in and out times ("punch times"), conducting surveillance, or 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 billing. For instance, ~~(prior to MyWIChildCare implementation)~~ 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 may collect any other

required records including provider policies, staff punch 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 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](https://dcf.wisconsin.gov/ccregulation).  
~~Child Care Resources page: https://dcf.wisconsin.gov/childcare/resources.~~

#### 4.10.1.5 Parent Interviews

Local agencies have the authority to conduct parent interviews. Parent interviews are occasionally utilized to explore determine whether or not the provider is reporting false information, and whether or not 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. Because Wisconsin is a one party consent state, investigators may record an interview without notifying or receiving consent from the subject (Wisconsin Statutes s. ~~ection~~[968.31\(2\)\(c\)](#)).

#### 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)

Wisconsin Statutes 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 upon completion of if a violation is identified during an investigation or audit. The 7M Letter provides details regarding the violated rules and policy(ies), and requests the provider respond or provide an explanation for the violations within 15 ~~30~~ days. The provider's response may be verbal (an arranged meeting or via telephone), or in writing. It is encouraged that the providers give provide



an explanation in person (also known as a provider meeting). The 7M letter is sent via regular and certified mail.

If a provider has not responded within 10 ~~25~~ 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 ~~submission of~~ an explanation. 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 ~~30~~ 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 TA provided to providers. An effective way 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 and returned to the local agency.

#### 4.10.3 YoungStar Investigation Referrals

BPI conducts provider YoungStar Investigations. If a local agency encounters a situation where they believe a provider may does not have an accurate YoungStar rating Registry Program Profile that is linked to YoungStar, submit a fraud referral to the BPI 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 primary 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 as high as they are
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 YoungStar rating 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 BELP.

**Note:** If YoungStar makes an error that would cause a 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. Contact BPI for assistance with these cases.

#### **4.11 Sanctions**

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

Under the authority of [DCF 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 Wisconsin Statutes [section 49.155](#), or [DCF 201](#), and the provider fails to provide to the satisfaction of the Department an explanation for the noncompliance.

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. [DCF 201.04\(5\) \(e\)](#) or [DCF 201.04\(5\) \(ed\)](#), or recover overpayments
4. Impose forfeiture on the provider under [DCF 201.04\(5\) \(cg\)](#).

Additional 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 A written notice that explains the required conditions for remaining in the Wisconsin Shares program, including any hearing rights. This is usually awarded 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.**
3. **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 awarded, the provider is permanently suspended from the Wisconsin Shares program. This will result in the revocation of existing child care authorizations to the provider.

#### 4.11.1 Overpayments

The Department, local agencies and tribes shall take all reasonable steps necessary to recover any overpayment made due to administrative error, provider error, or intentional program violation, [DCF 201.04\(5\) \(b\)](#) when the provider was not eligible for the amount of subsidy paid. All calculated overpayments resulting from an investigation and attendance record review, regardless of the dollar amount, shall be established in CSAW. For provider overpayments, the negative adjustment amounts shall be entered in CSAW for each affected week and authorization. ~~Once entered in CSAW, a notice will be generated and sent out that weekend. Recoupment of any negative adjustments will begin two weeks later.~~ A manual overpayment notice should be mailed to the provider outlining the overpayment.

~~Overpayments are issued when a provider received a higher payment amount than they were eligible to receive. Provider overpayments may be as a result of an administrative error, provider error, or permanent suspension.~~

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

<p><b>Note:</b> BPI has authority to issue overpayments and sanctions to child care providers as written in Wisconsin Statutes <del>s.</del> <a href="#">section 49.155(7b)</a> and <a href="#">49.155(7m)</a>, and <a href="#">DCF 201.04(5)</a>, <a href="#">250.04(1)</a>, <a href="#">250.05(4)</a>, <a href="#">251.04(1)</a>, and <a href="#">251.05(4)</a>.</p>
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##### 4.11.1.1 Overpayment Calculations

To determine the overpayment amount for a provider, the following items must be verified or determined:

1. Identify violation
2. Determine Overpayment Period.
3. Verify funds have not already been recovered from the client for the same time period.
4. Verify 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. The overpayment period for an administrative error overpayment cannot begin more than 12 months prior to the notification date of the overpayment ([DCF 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, do not penalize the provider for giving care in good faith. In this situation, pursue recovery from the ineligible client.

#### 4.11.1.1.1 Correcting an Overpayment

For claims beginning June 2017 or later, recoupment is no longer possible. Any provider negative adjustments entered in CSAW will be referred to BV for recovery.

~~Recoupment begins two weeks after a negative adjustment is entered in CSAW for a provider. Negative adjustments can be corrected in CSAW prior to recovery. Once recoupment begins, the worker cannot change the negative adjustment.~~

If a worker needs to change the amount after **collection** ~~recoupment~~ has begun, please contact BPI 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 Entering an Overpayment

~~If it is an overpayment from a time period prior to MyWICChildCare implementation for your agency, enter it in CSAW using the appropriate procedure.~~

~~If it is a provider overpayment after MyWICChildCare implementation:~~

If the overpayment is for YoungStar, Accreditation, or a Provider Price correction, the calculation should be completed in 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 through the online BPI TA form at <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form> ([DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov)) for assistance with the calculation in PLBC.

~~For any other provider overpayments: Calculate the overpayment off system and enter the amount in the Ad Hoc Functionality in EBT CSAW. No additional steps need to be taken after the entry has been made in the Ad Hoc Functionality in EBT CSAW.~~

All other provider overpayments are calculated in CSAW. For guidance on entering or calculating overpayments please contact BPI 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

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 **local** agency entered information that was incorrect. There are several types of Administrative Errors that may be assessed: those that affect eligibility and those that affect authorizations.

**Note:** If a provider overpayment occurs that is an administrative error for YoungStar, the overpayment will be recouped at **25%** ~~40%~~ from future YoungStar issuances to a continuing provider.

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

1. Incorrect Entry of Provider Information
- ~~2. Incorrect Entry of Provider Billing Information (Prior to MyWICChildCare Implementation)~~

##### 4.11.1.2.1.1 Incorrect Entry of Provider Information

This error may occur when a worker enters a provider's information incorrectly. This may include accreditation, provider price, YoungStar rating, etc. Correct the information in PLBC for impacted (past or current) months and in ~~EBT~~ CSAW for future months. If the correction calculates an overpayment, enter the overpayment in CSAW.

##### ~~4.11.1.2.1.2 Incorrect Entry of Provider Billing Information~~

~~This error may have occurred under the previous payment structure (the structure up until MyWICChildCare implementation). In this case, a local agency worker may have entered the provider's ARFs into CCPI incorrectly, resulting in either an under or overpayment. If the correction calculates an overpayment, enter the overpayment in CSAW.~~

##### 4.11.1.2.2 Provider Error(s)

Provider Errors are unintentional or inadvertent errors made by a provider where they reported incorrect information (~~such as billing incorrectly~~), 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 Errors 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 a YoungStar The Registry Program Profile linked to YoungStar rating
- Failure to Report a Child Who Has Not Attended Within the Previous 30 Days
- Missing records

**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.

#### **4.11.1.2.2.1 Over Billing/Reporting**

~~This is assessed when a provider received reimbursement based on attendance records that billed for more hours than a child was in attendance. Evidence supporting this error includes: childr(en) are not listed on the attendance records, or billing when there was no access to the facility documented by Department or agency staff.~~

~~This error is only possible for cases that were under the payment system prior to MyWICChildCare. This type of overpayment can be made for up to six (6) years after the implementation of MyWICChildCare.~~

~~**Example:** According to the provider's attendance records, Jenny Jones arrived at 7:25 a.m. on February 17 and left at 3:55 p.m. However, when Jenny's hours were reported on the attendance records, the provider billed her as arriving at 7:00 a.m. and leaving at 4:00 p.m. The total overpayment would be for 25 minutes from the morning, because rounding rules instruct the provider to report Jenny as arriving at 7:30 a.m. on the attendance records.~~

~~**Example:** A provider billed for John Smith attending 40 hours the week of August 10; however, no attendance records were available when the Department made the onsite visit. 35 hours are considered a full time authorization; therefore, a 35-hour overpayment would be established.~~

#### 4.11.1.2.2.12 Providing Care at an Unauthorized Location

This overpayment is assessed when a provider received **payment reimbursement** for care provided at a location other than the location for which the authorization was issued.

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.

#### 4.11.1.2.2.23 Overcapacity

This overpayment is assessed when a provider received **payment reimbursement** for care when the provider was in violation of the limits on the maximum number of children in care. 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. A full overpayment will be assessed for every child for the time in which the facility was overcapacity.

**Example:** Mary Jones is a licensed family provider with a capacity of 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 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.

#### 4.11.1.2.2.34 Billing 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 **for children** during times that they are not regulated **or at a location that is not authorized/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.

**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, consider the hours from 6:01 p.m. to 11:30 p.m. (5 ½ hours) to be overpayment hours. This should also be reported to her licensor.

~~**Note:** This will only be possible for cases that were under the payment system prior to MyWICChildCare. This type of overpayment can be made for up to three years after the implementation of MyWICChildCare in your region.~~

#### 4.11.1.2.2.45 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, gaps in care, or make it unclear where the child actually was, or whether they were in care.

The following are representative examples of these instances (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 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
- ~~Overbilling: The provider billed the parents for more hours than children actually attended~~
- ~~Billing with no name on attendance records: The provider billed for children who did not appear on the attendance records for the week~~
- ~~Billing with no hours on attendance records: The provider billed for children whose names appeared on the marked but were marked as absent or had zero hours of attendance on the attendance records for the week~~
- ~~Missing attendance record times: The provider billed for children who were missing a sign-in or out time~~
- ~~Parent Schedule Discrepancies: The provider is billing for time when the parent was not in their approved activity~~
- 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



#### 4.11.1.2.2.56 Provider Reported Incorrect Information

A provider reported to an authorization worker 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 this is a provider error rather than 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 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** ~~\$325~~ a week for the age group 0-1 year olds. The **local** agency must enter this correction in PLBC for all of the previous months, in this case September, October and November. If PLBC results in an overpayment, this should be entered in CSAW 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, unless the difference is due to the children being in different age ranges or a child's special needs (Administrative Rule [DCF 201.038\(6\)](#)).

#### 4.11.1.2.2.67 Displaying Incorrect Information on ~~the YoungStar Program~~ the Registry Program Profile **Linked to YoungStar Rating**

This occurs when a provider **intentionally** misrepresents information on ~~their YoungStar Program~~ 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 4.11.3**).

YoungStar adjustments will be 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 3** star or higher rated facilities. For **32** star ~~or lower~~ facilities, this amount must be entered in **CSAW** ~~the BV system~~.

Contact BPI with the information. BPI 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 3** Star or higher rated facility, the overpayment will be recouped from future issuances.
  - b. If the facility is **3 two** 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 in which providers have the ability to ~~report the change and~~ find a new staff member to maintain their current Star Rating.
3. Move the provider through 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 December 1 (due to the 90 day grace period after August 10), through the last day of January, and the rating will be updated for future months.

~~**Example:** ABC Child Care has a lead teacher with a profile registry of 9. This teacher's rating makes the facility a 4 Star facility. The teacher leaves ABC Child Care on August 10. The Director intentionally does not report this to the agency in order to preserve their 4 Star rating. The Bureau of Program Integrity discovers this in January. The overpayment begin date will be November 10, through the last day of January, because of the 90 day grace period, and the rating will be updated for future months.~~

**Example 2:** Sandy's 5 Star Child Care 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. 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 1.

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 that~~ the provider was eligible to receive (Administrative Rule [DCF 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 [DCF 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.

### 4.11.2 Stipulations

Stipulations are issued to providers by ~~senior auditors at~~ BPI, or local agencies, following the formal investigation process, or if requested by an **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 receptive of the corrections, and there is evidence that the provider will come into compliance in the future. ~~Stipulations may also be awarded to cases where there is not enough evidence to support a permanent suspension.~~ If a stipulation is issued, an audit should be conducted six months later. This allows the Department **to return and monitor progress of compliance** for violations initially uncovered and to offer additional Technical Assistance, ~~and assist~~ **This process assists** in maintaining the Department's mandate for having accessible, high-quality child care centers. ~~An overpayment should still be taken for any overpayments attached to the stipulation.~~ **Overpayments must be assessed for any violations discovered in correlation with the stipulation.**

### 4.11.3 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 approved by Division administrators. 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 violations are uncovered
- Egregious overpayments are uncovered
- The provider had a previous stipulation
- Possessing and/or utilizing parent's MyWICChildCare EBT cards, account numbers, and/or PINs to issue payment to themselves, or any representation of these items
- Cashing benefits or providing "kickbacks" to parents

If an **local** agency believes that a permanent suspension is warranted, they must submit the case to BPI 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 team member will contact the requestor for additional assistance. The **local** agency worker will have to complete a recommendation document that will be provided by BPI. All requested permanent suspensions will be heard at the **monthly bi-weekly** permanent suspension meeting.

#### **4.11.3.1 Permanent Suspension Meeting**

If an investigator recommends a permanent suspension, a meeting must be held with the lead investigator/auditor, BPI Supervisors, OLC, and DECE administration. The investigator must **explain defend** why they are recommending permanent suspension, and **explain defend** 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 never be allowed to participate in Wisconsin Shares again (as a provider) 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.

#### **4.11.4 Provider Appeal Process**

Providers have the opportunity to 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 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 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.

##### **4.11.4.1 Pre-Hearing Conference Call**

See Section 4.5.7.3.1 for policy and procedure.

#### 4.11.4.2 Witness Lists

See Section 4.5.7.3.2 for policy and procedure.

#### 4.11.4.3 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 ~~and attendance report forms (ARF)~~ for the overpayment period
- ~~In/out mode report from CCPI, if applicable~~
- 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
- ~~Signed ARF and CCPI language that the provider attests to the accuracy of the information submitted for billing (maintain for three years)~~
- **Portal or authorization reports**
- Summaries of ~~parent~~ 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** ~~Anything else~~ relevant to the investigation

#### 4.11.4.4 Hearing

See Section 4.5.7.3.4 for policy and procedure.

#### 4.11.4.5 Proposed Decision

After the hearing is held, the ALJ may request either oral or written closing arguments. Within 30 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.

#### **4.11.4.6 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.

#### **4.11.4.7 Dismissal**

See Section 4.5.7.3.6 for policy and procedure.

#### **4.11.4.8 Remand**

See Section 4.5.7.3.7 for policy and procedure.

#### **4.11.4.9 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 **Bureau** 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** **PACU** to retrieve the state and federal monies that were deemed inappropriate for the parent or provider to have received.

<p><b>Note:</b> DCF has authority for all collection actions described in this section through Wisconsin Statutes <a href="#">s.49.155(7m)</a>, <a href="#">49.85</a>; and <a href="#">DCF 201.04(5) (b)</a>, <a href="#">201.04(5) (c)</a>, <a href="#">201.04(5) (e)</a>, <a href="#">201.04(5) (ed)</a>, <a href="#">201.04(5) (eh)</a>, <a href="#">201.04(5) (ep)</a>, and <a href="#">201.04(5) (et)</a>.</p>
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#### **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, ~~which will generate a Child Care Payment Adjustment Notice of Decision. The notice is mailed to the last known address in CSAW and informs the provider of the overpayment, child(ren)'s names and attendance date(s) that caused the overpayment, the reason for the overpayment, and the provider's appeal rights.~~

~~The provider may also receive an~~ **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. ~~If the local agency sends a manual notice of overpayment, it should be sent at the same time as the system-generated notice, so that the time period to appeal is the same.~~

**Note:** Local Agencies may contact BPI for assistance with the manual Notice of Overpayment through the online BPI 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 for both inactive Wisconsin Shares providers, as well as those permanently suspended from the Wisconsin Shares program.

~~Recovery of an overpayment will occur in one of the following ways:~~

- ~~1. Referred to the Benefit Recovery (BV) system in CARES through the Quick Collect Process.~~

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

The Voluntary Repayment Process occurs when a provider agrees ~~of their own accord~~ to return funds to the Wisconsin Shares program. The VPA may be utilized in limited circumstances, where it has been demonstrated that the parent was ineligible for the funds received, **or the provider received funds in error**. The VPA may only be utilized when the ineligible funds were paid to the provider. If the funds are still on the card, see **S**ection 4.5.1 for retractions.

Examples in which EBT funds may be recovered via a VPA include:

- 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 as appropriate.

If the provider agrees to the Voluntary Repayment, 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 email, scan or fax.

The Department will then contact Fidelity **National** Information Services (FIS) to initiate the Voluntary Repayment 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 will communicate the VPA failure to the local agency.

~~BPI will communicate any VPA failures to the local agency.~~ In situations where funds are not able to be recovered via a VPA, a client investigation should be completed by the local agency to determine who may be liable for the overpayment.

**Local** agencies are responsible for tracking situations that may require a VPA 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. **Local** agencies must still enter a negative adjustment in CSAW in order for the check to be processed by **the Bureau of Finance PACU**.

#### **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. However, Wisconsin Statutes ~~s~~[ection 49.155\(7m\) \(b\)](#) allows the Department to **collect** ~~recoup~~ 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. These people may be found personally liable for overpayments if the business, corporation, or limited liability company is unable to repay the Department.

#### **4.12.2 Collections Process**

##### **4.12.2.1 Referring a Provider to Benefit Recovery (BV)**

Once an overpayment has been established for a child care provider, they are referred to the **Bureau of Finance** ~~Benefit Recovery (BV) system in CARES by BPI and sent to the Department's Public Assistance Collection Unit (PACU)~~ for further repayment and collection action, if applicable.

~~Once the overpayment has been calculated and the negative adjustment is established in CSAW, a claim is created on the BVCO (Claims for Child Care Provider) screen.~~

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

A payment arrangement can be made by contacting the **Bureau of Finance** ~~local agency or Public Assistance Collection Unit (PACU)~~ to negotiate a repayment amount., if **T**he



balance **must** ~~cannot~~ be paid in three ~~(3)~~ years ~~or~~ (36 months). The minimum payment accepted ~~by PACU~~ is \$20 per month per liable person. Failure to return a RPA **and/or** to make a payment ~~arrangement~~ **no later than the 25<sup>th</sup> of the following month** will result in delinquency and further collections actions.

~~Benefit Recovery Provider Repayment Agreement (BVPP) screen in CARES is used to record all returned provider RPAs. All providers for whom an overpayment has been established are required to complete and sign a repayment agreement. If the overpayment is under \$500, monthly installments of at least \$50 per month must be paid. If the overpayment is over \$500, equal monthly installments in an amount sufficient to pay the balance in full within three (3) years or 36 months must be paid.~~

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.

All payments and outstanding repayment agreements must be returned to the local agency no later than the 25<sup>th</sup> of the month. 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, a Dunning Notice will be generated. A Dunning Notice is a past due notice that informs the provider that they are required to pay the balance of the debt and failure to complete and return a repayment agreement could result in delinquency and further collections actions.

If a provider receives three (3) Dunning Notices over the life of the debt, **CARES determines** the provider **is determined** to be delinquent and the debt is referred ~~to the Central Recoveries Enhanced System (CRES) collection system~~ 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. **submits** a check **or money order**) to the **Bureau of Finance PACU** for an established overpayment. If a local agency receives this **payment check**, please send it to the **Bureau of Finance PACU** for processing.

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

### 4.12.3 Delinquency Collections Process

#### 4.12.3.1 Referring a Provider for Delinquency

~~At the end of the first business day of each month, a cycle will run that looks at the prior month's claim creations, repayment agreements (RPAs), 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 look on BVPA to see if a returned RPA was entered.
  - ~~• If it was, the system will look for payments received during that time period. All payment amounts must total at least the installment amount on BVPA. If all payments for the previous month do not add up 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 Notices, if the payment satisfies the amount in the repayment agreement; otherwise, no action is necessary by the worker.~~

~~—  
If a provider receives three (3) Dunning Notices over the life of the debt, BPI determines the provider to be delinquent and the provider is referred to CRES for additional collection action including levy, warrant/lien and DOR for state tax intercept. The referral date is noted on BVPA as "Referred to CRES."~~

#### 4.12.3.2 Delinquency Collections Actions

~~There are several ways that a provider may be considered delinquent:~~

- ~~1. The provider has not submitted payments, or has not met the payment amount required by the repayment agreement, for three (3) months.~~

- ~~2. The provider has received three (3) or more Dunning Notices over the life of a debt.~~
- ~~3. The provider receives an additional overpayment while delinquent on a current overpayment, the second overpayment is also automatically considered delinquent.~~

~~If a provider is found delinquent, a Levy, Warrant/Lien, or DOR State Tax Intercept may occur.~~

#### **4.12.3.12.1 Levy**

See Section 4.6.2.2 for policy and procedure.

#### **4.12.3.12.2 Warrant/Lien**

See Section 4.6.2.3 for policy and procedure.

#### **4.12.3.12.3 DOR State Tax Intercept**

See Section 4.6.2.4 for policy and procedure.

#### **4.12.3.23 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.

~~In provider overpayment cases, the local agency that established the overpayment is responsible for handling the delinquency collection appeal process for levy, warrant/lien, and DOR tax intercept.~~

~~-~~

~~The PACU will receive all requests for collection-related appeals and will forward the Request for Summary to the local agency. The agency must complete the Request for Summary and return it to DHA. DHA will then process the appeal and notify the agency of the scheduled hearing date and time.~~

~~The required documents for these hearings include:~~

- ~~• Calculation of the overpayment~~
- ~~• Original overpayment notice that includes the provider's hearing rights~~
- ~~• The decision from any prior hearing(s)~~
- ~~• Three (3) Dunning Notices from the benefit recovery (BV) system~~
- ~~• Signed repayment agreement (RPA), if applicable~~
- ~~• Delinquency collection notice(s)– notice prior to levy, levy notice, DOR certification notice to tax refunds or credits, and notice of warrant docketed~~
- ~~• Any other supporting documentation that will support the reason for the overpayment~~

~~-~~

~~The PACU will provide the agency with copies of the appropriate delinquency collection action notices, which include levy notices, warrant notices and tax offset notices. If you have not received the documentation prior to the hearing, please contact PACU at 1-800-943-9499 or [dwspace@wisconsin.gov](mailto:dwspace@wisconsin.gov).~~

~~-~~

~~The ALJ should limit collections hearings to questions of procedure, prior payment and/or mistaken debtor identity; however, under certain circumstances the ALJ may decide to review the underlying merits of the overpayment. Therefore, the agency must be prepared to defend the original overpayment determination as well as the collection action. If the ALJ expands the inquiry into the underlying reason for the overpayment, please alert the DCF OLC.~~

#### **4.12.4 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. Any questions regarding confidentiality and disclosure of information should be sent to BPI through the online BPI Technical Assistance Form <https://dcf.wisconsin.gov/progintegrity/bpi-technical-assistance-form>, or by email to [DCFBPITArequest@wisconsin.gov](mailto:DCFBPITArequest@wisconsin.gov).

**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. 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.

**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.

<b>Note:</b> This is established under Wisconsin Statutes <a href="#">s. <del>section</del>49.83</a> .
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#### 4.14 Contact Information

Issue	Specific	Who to Contact	Information
<b>For Technical Assistance:</b>	Chapter 3 and 4 Policy Clarifications  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	BPI	To receive TA, please contact BPI via the TA Mailbox using the online technical assistance form at the following link: <a href="#">BPI 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>
	Eligibility or Authorization Questions. <i>Note: For eligibility or authorization policy questions outside of Milwaukee County, please first contact your BRO coordinator with your question prior to contacting the Child Care Subsidy and</i>	Child Care Subsidy and Technical Assistance Line	Bureau of Regional Operations (BRO) Coordinators <a href="mailto:BROCCPolicyHelpDesk@wisconsin.gov">BROCCPolicyHelpDesk@wisconsin.gov</a>  Child Care Subsidy and Technical Assistance Line: 1. <a href="mailto:ChildCare@wisconsin.gov">ChildCare@wisconsin.gov</a> 2. (608) 422-7200

	<i>Technical Assistance Line</i>		
	Collection Questions	PACU	1. PACU helpline: (800) 943-9499 2. PACU Assistance Mailbox: <a href="mailto:dwspace@wisconsin.gov">dwspace@wisconsin.gov</a>
	Legal Questions	OLC	<a href="mailto:DCFCalLegal@wisconsin.gov">DCFCalLegal@wisconsin.gov</a>
	YoungStar Questions	YoungStar	<a href="mailto:youngstar@wisconsin.gov">youngstar@wisconsin.gov</a>
<b>For Fraud Reporting:</b>	<del>For Milwaukee County</del>	<del>MEGA</del>	<del>Parent referrals only: 1. MEGA fraud hotline: (414) 289-5799 2. MEGA fraud mailbox: <a href="mailto:DCFMBMEGACCFRAUD@wisconsin.gov">DCFMBMEGACCFRAUD@wisconsin.gov</a></del>
	<b>Client and Provider Referrals</b> <del>For the Balance State, Outside of Milwaukee County</del>	BPI	For Clients and Providers: 1. The DCF fraud mailbox: <a href="mailto:dcfmbchildcarefraud@wisconsin.gov">dcfmbchildcarefraud@wisconsin.gov</a> 2. The DCF fraud hotline: (877) 302 - 3728 3. Submit the <a href="#">Report Child Care Fraud Form</a> 4. Writing to: Department of Children and Families Bureau of Program Integrity PO Box 8916 Madison, WI 53708-8916