



State of Wisconsin
Governor Tony Evers

TO: **Income Maintenance Supervisors**
Income Maintenance Lead Workers
Income Maintenance Staff
Income Maintenance Fraud Staff
Training Staff
Child Care Coordinators

DECE/BPI OPERATIONS MEMO

No: 19-21

DATE: 05/30/2019

Child Care

FROM: Junior Martin, Director
Bureau of Program Integrity
Division of Early Care and Education
Department of Children and Families

SUBJECT: Bureau of Program Integrity Waiver of Administrative Hearing and Client Intentional Program Violation Approval Procedures

CROSS REFERENCE: Section 4.5.4.3 Wisconsin Shares Child Care Policy and Process Handbook

EFFECTIVE DATE: 05/30/2019

PURPOSE: The purpose of this operations memo is to provide procedural guidance for the use of the Waiver of Administrative Hearing and obtaining client Intentional Program Violation (IPV) approval from the Bureau of Program Integrity (BPI).

BACKGROUND: 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.

BPI reviews and approves all client IPVs recommended by local agencies, and MECA through an established process.

POLICY:

Waiver of Administrative Hearing

Clients have the right to request a hearing once an IPV has been established. An administrative law judge determines if the department or local agency has met its burden of proving the IPV. If it has, the appeal will be dismissed. If it has not, the IPV will be overturned and the case remanded to the Department or local agency to remove the IPV. Clients must request a hearing within 45 days from the effective date of the IPV notice.

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

Utilizing the Waiver of Administrative Hearing form is at the discretion of the local agency upon approval from BPI. If the local agency wishes to submit an IPV request without the waiver, refer to the *Bureau of Program Integrity Client IPV Approval Procedure* section of this document.

PROCEDURE:

1. Complete the IPV request form [DCF-2893-E](#).
2. Submit IPV request form and supporting evidence to BPI to obtain approvals for the IPV Request and for use of the waiver to the BPI TA Mailbox at DCFBPITARrequest@wisconsin.gov.
3. Meet with the client in person or over the phone to explain the violation, evidence, appeal rights, length of suspension, prosecution disclaimer, and the acknowledgement sections. Having two agency representatives present is best practice (one person as the lead investigator and the other as a witness).
4. Present the pre-filled Waiver of Administrative Hearing form to client in person or mail with a cover letter. Inform the client the waiver is voluntary. If the client refuses to sign the waiver, the IPV can be processed since it was already approved.
5. The client may submit the waiver to the local agency in person or through the mail.
6. Document details of the meeting. Agencies also have the option to audio record the meeting.
7. The local agency enters the IPV in the CWW CC IPV page, establishes overpayments, and sends the appropriate notices to the client within ten calendar days regardless if the waiver is signed or not.
8. The local agency contacts BPI at DCFBPITARrequest@wisconsin.gov to supply results of the meeting and submits a copy of the signed waiver and meeting documentation within ten days.

Bureau of Program Integrity Client IPV Approval Procedure

The Client Intentional Program Violation Request form ([DCF-2893-E](#)) must be submitted to BPI for approval. Approvals for first time IPV's are completed by email. Second and third time IPV's are approved by phone meeting. Once approved, the IPV must be entered in CWW within ten calendar days. Second and third IPV's cannot be established for violations that occurred during a previous sanction period. For example: If a first IPV was established with a violation period from 1/1/18-4/30/18, and the agency later discovers the client made an additional violation on 3/15/18, a second IPV cannot be established for that violation.

Example: An agency establishes a first IPV with a violation period from 1/1/18-4/30/18 for a client fraudulently reporting their household composition. On 12/14/18, the agency discovers the client submitted a forged EVFE on 3/15/18. A second IPV cannot be established for the additional violation that occurred on 3/15/18.

PROCEDURE:

1. Complete the IPV request form [DCF-2893-E](#).
2. Submit IPV request form and supporting evidence to BPI to obtain approvals for the use of the waiver to the BPI TA Mailbox at DCFBPITARquest@wisconsin.gov.
 - a. First IPVs require investigator, child care supervisor/manager, DCF Office of Legal Counsel, and BPI Supervisor approval.
 - b. Second IPVs require the investigator, child care supervisor, income maintenance supervisor/director, DCF Office of Legal Counsel, BPI Supervisor and BPI Director approval.
 - c. Third IPVs require the investigator, childcare supervisor, income maintenance supervisor/director, Office of Legal Counsel, BPI Supervisor, BPI Director, and DECE Administrator or designee approval. BPI recommends the local agency discuss the request with the local agency Human Service Director and corporation counsel prior to submission.
3. BPI staff will review and request edits if needed, prior to approval.
4. BPI staff may request an additional phone meeting with the local agency if clarification and/or technical assistance is needed for first IPV.
5. BPI staff will contact the investigator with the approval or denial decision by email.
6. The local agency enters the IPV in the CWW CC IPV page, establishes overpayments, and sends the appropriate notices to the client within ten calendar days.
7. Update the client referral in BRITS to reflect the establishment of the overpayment and IPV by completing the post investigation tab, entering comments, and uploading documents.

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

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

CONTACTS:

For investigation, overpayment, and program integrity internal procedure development questions; written resource and subject matter expert requests; and VPAs and Retractions, please contact the Bureau of Program Integrity (BPI) at: DCFBPITARquest@wisconsin.gov or the [Technical Assistance Request Page](#) on the DCF Website.

For Wisconsin Shares Child Care Chapter 3 and 4 policy questions outside of Milwaukee County contact the Bureau of Regional Operations (BRO) Child Care Policy Help Desk at BROCCPolicyHelpDesk@wisconsin.gov.

For referrals regarding alleged client or provider child care fraud or other program integrity concerns, please submit a referral to the Child Care Fraud Mailbox at DCFMBCHILDCAREFRAUD@wisconsin.gov.

DCF/DECE/BPI/MRH