

I. CHAPTER OVERVIEW

Both the State and the local purchasing agencies (LPA) have a responsibility to assure proper administration of state and federal funds that pay for child care services for children and to take steps to prevent and deter [fraudulent misrepresentation](#). This responsibility depends on the efficiency, thoroughness, and integrity of the processes by which initial and continuing eligibility is determined and payments for child care services are issued by the LPA. A recipient or a child care provider may receive services or payments for which she is not eligible due to several factors. These factors are described in this Chapter. The steps to correct an underpayment/overpayment depend upon the nature of the error and are described later in this Chapter.

II. FRAUD

A. Fraudulent Misrepresentation

Fraudulent misrepresentation constitutes an intentional program violation of the Subsidized Child Care (SCC) Program and can result in a criminal conviction and loss of services or payments as described in this section.

1. Definition of Fraud

Chapter 110 of the General Statutes, Section 110-107, defines child care subsidy as the “use of public funds to pay for day care services for children” and person as an “individual, association, consortium, corporation, political body, partnership, or other group, entity, or organization.” The law also states that a provider or recipient of child care subsidies, or someone claiming to be a provider or recipient of child care subsidies, commits the offense of fraudulent misrepresentation when the following occurs:

A person makes a false statement or representation regarding a material fact, or fails to disclose a material fact that results in obtaining, attempting to obtain, or continuing to receive child care subsidy funds for himself or herself or for another person.

The person who has intentionally committed fraud and has received child care subsidy funds of one thousand dollars (\$1,000) or less, can be convicted of a Class I misdemeanor. When the receipt of subsidy funds totals more than one thousand dollars (\$1,000), a conviction of a Class I felony may occur. Any person convicted of fraudulent misrepresentation will be permanently ineligible to participate in the Subsidized Child Care Program. In addition to criminal convictions, the LPA must impose sanctions on recipients and providers who received child care subsidy funds for which they were ineligible. These sanctions are described in [Section II. C.](#)

NOTE: A recipient must be at least age 18 or older at the time of the overpayment in order for the LPA to pursue repayment that occurred as a result of fraudulent misrepresentation.

2. Intentional Program Violation (IPV)

An **intentional program violation (IPV)** exists when it can be proven that the recipient or provider intentionally misrepresented or withheld information. Intentional program violations occur when an individual does one or more of the following:

- a. Misrepresents information by making a false statement either orally or in writing to obtain or attempt to obtain services or payments for which the individual is not eligible.
- b. Conceals information to obtain services or payments to which the individual is not eligible.
- c. Withholds information needed to determine eligibility.
- d. Fails to report a change in a timely manner or does not report a change in order to continue services to which the individual is not entitled.
- e. Falsifies or alters authorization documents to obtain services or payments to which the individual is not entitled.
- f. Misrepresents private paying rate information.

B. Responsibilities of the LPA Staff

Each LPA determines whether fraud has occurred and designates staff to handle fraud cases. Some agencies may have Program Integrity staff who handle fraud investigations. If an agency does not have a Program Integrity Unit, the child care worker or other staff may be designated to handle the fraud investigations. All instances of fraud must be investigated by the LPA. Program Compliance staff of the Division of Child Development and Early Education (DCDEE) must be notified by the LPA of any investigations initiated for suspected fraud or misuse of subsidy funds. When the LPA determines that fraud has occurred, all child care payments which were paid improperly must be entered into the Subsidized Child Care Reimbursement System (SCCRS).

1. Responsibilities of the Child Care Unit

When there is an indication that a recipient or provider obtained or attempted to obtain SCC payments to which the individual was not entitled because of a possible inadvertent error (Refer to [Section](#)

III.A. Definition of Inadvertent Error) or an intentional program violation, the child care worker must conduct a preliminary assessment. The child care worker will review the recipient's record or the provider's file with the child care supervisor to assess if staff determined eligibility and documented information obtained according to current policy. In addition, the child care worker must gather related information from other agency records if available, review provider claims, and document reasons for suspected fraud.

When child care fraud is suspected, it is critical that the child care staff communicate with the program integrity investigator and complete a thorough and accurate referral in order to build the case. The child care worker in the LPA completes a referral to the Program Integrity Unit (Refer to Attachment 2 below.) that is signed by the child care supervisor and sends it, along with all pertinent information and documents, to the Program Integrity Unit in the county department of social services. (The Program Integrity Unit investigates to determine if fraudulent misrepresentation occurred.) This referral should include, but is not limited to, the documentation below for the time period in question, if applicable:

- a. Child Care Referral to Program Integrity (Chapter 23, Fraudulent Misrepresentation and Overpayments, Attachment 2).
- b. Application for Child Care Services (DCD-0456).
- c. Child Care Voucher (DCD-0446).
- d. Child Care Action Notices (DCD-0450).
- e. Documentation of income.
- f. Recipient Responsibilities for Subsidized Child Care Services Form (DCD-0106).
- g. Case Narrative.
- h. SCC Child Demographic screens from the Subsidized Child Care Reimbursement System (SCCRS).
- i. SCC Reimbursement Summary (The summary which reflects payments.)
- j. Narrative documentation, income information and attendance sheets.

- k. Subsidized Provider Reimbursement Summary.
 - l. Child Care Provider Rates.
2. Responsibilities of the Program Integrity Unit.

After the Child Care Unit of the LPA conducts a preliminary assessment of suspected non-compliance with the SCC Program, the case may be referred to the local Program Integrity Unit. The Program Integrity Unit conducts an interview, examines the documents, investigates the case, determines whether fraud has occurred, sets up the payment agreements and collections process, and takes legal action when necessary. The Program Integrity Unit is also responsible for submitting the required documentation to the Child Care Unit in the LPA to impose a sanction, as described in [Section II.D.](#)

- a. Recipient or Provider Interview

The program integrity investigator schedules an interview with the recipient or the provider to discuss the issue. The investigator will discuss inadvertent errors and fraud, the recipient's or provider's rights and responsibilities as listed on the application and the information in the child care case record or provider file. If the recipient or provider admits wrongdoing, the county department of social services may ask her to sign and date a written statement to that effect. It is recommended that the statement also be notarized (by a third party witness who is not involved in the investigation).

If the recipient or provider refuses to cooperate by not coming in for an interview within ten (10) workdays of the request, the Program Integrity staff can take action by recommending that subsidy services be terminated for failure to provide information to determine eligibility. This may involve the current or past receipt of subsidy services or funds. (Refer to [Chapter 11: Responding to Eligibility Changes and Redetermination](#) for more information.)

If the preliminary investigation does not establish any possible wrongdoing, no further action is needed. However, if there is reason to believe that fraudulent misrepresentation has occurred, the Program Integrity Unit will conduct a full investigation until sufficient information is obtained to warrant legal action, to recoup the overpayment, or close the case because of insufficient evidence.

If the program integrity investigator has established that fraudulent misrepresentation has occurred but is uncertain as to how to determine the overpayment amount, then the Division's Program Compliance Consultant assigned to that county should be contacted for guidance and consultation. Local program integrity staff must also communicate investigative findings with the Child Care Unit.

The program integrity investigator will consult with the agency's legal advisor or county attorney as needed in this process. The director of the county department of social services or a designee shall review each case after the staff's evaluation. If an overpayment for a recipient or provider is established by the Program Integrity Unit, then the overpayment must be recouped. Overpayments can be collected by voluntary repayment, involuntary repayment by pursuing court action or wage garnishment as permitted by law.

b. Determining the Amount of the Overpayment

For information about calculating the amount of an overpayment, please refer to [Section III.B.](#) and [Attachment 1.](#)

For Recipient: The amount of the overpayment must be calculated to the date of occurrence and include all service months with errors. If the recipient was initially ineligible, calculate overpayments from the first day of service provision. A recipient is allowed five (5) workdays to report a change affecting eligibility and ten (10) workdays for the worker to take action on the change. When the recipient fails to report a change within the allowable time period, the recipient related overpayment must be calculated beginning with day 16, i.e., the first service day following the expiration of this 15 day period.

For Provider: When the overpayment is provider related, determine the time period in which the overpayment was made and calculate the LPA's overpayment(s) to the provider during that period. The calculations must start with the date of occurrence and include all of the service months with errors. The child care worker can assist in the calculation of the amount of the overpayment based on the circumstances that led to the overpayment.

All corrections for recipient or provider errors must be corrected in the SCCRS from the point of discovery and rectified with the State within 60 days from the time that overpayment is substantiated by the LPA staff.

c. Repayment Agreement

The program integrity investigator should contact the recipient or provider to come into the agency to discuss repayment options. If possible, the child care worker or supervisor or program integrity investigator should negotiate a repayment agreement with the recipient or provider for the amount of the overpayment. The Program Integrity Unit should track the payments, if the child care worker or supervisor develops a repayment agreement with the recipient or the provider.

All repayment agreements must be in writing and the original must be maintained by the program integrity investigator or designated staff person of the LPA and a copy given to the recipient or provider. The agency must develop a reasonable repayment plan based on the recipient or provider's ability to pay.

The LPA must develop and maintain a repayment register to track the payments made by the recipient or provider that includes the following:

- (1) Recipient's name, address and case number.
- (2) Provider's name, mailing and location address, and license number.
- (3) Recipient's or provider's telephone number.
- (4) Date and amount of payment.
- (5) Type of payment (check, money order, etc.).
- (6) Balance of account.
- (7) On time or delinquent.
- (8) Date of follow-up (if applicable).
- (9) A comment area.

The LPA must give the recipient or provider a receipt for each payment made that denotes the reason for the payment, and indicates the remaining balance.

If the recipient or provider refuses to set up scheduled payments, then the program integrity investigator may pursue the issue with their county attorney.

When a recipient or provider enters into a repayment agreement and fails to comply with the terms of the agreement, eligibility to participate in the SCC Program must end. The LPA must issue a ten (10) work day notice to terminate participation in the SCC Program. The recipient or provider cannot participate again until repayment is made in full or the recipient or provider and the LPA agree to modify the repayment agreement.

d. Collections

Each LPA has its own established procedures for collecting repayments from recipients or providers. Until child care claims become a part of a state on-line tracking system, it is necessary for each county to develop a form to track child care collections that are the result of inadvertent error or fraud. Refer to the sample tracking form ([Attachment 2](#)). The tracking form must be available for review by staff of the Subsidy Services Section of DCDEE.

C. Legal Action and Sanctions

Imposing a sanction on a recipient or provider is the LPA's responsibility. A criminal conviction or a written admission of guilt from the recipient or provider is not required in order for a LPA to impose a sanction. A sanction follows an individual throughout the State of North Carolina. If the individual leaves the county where the first sanction occurred and a sanction is imposed by another county, it is considered a second sanction.

Sanctions must be imposed by the LPA on a provider or recipient in addition to requiring repayment of the amount of the child care subsidy for which they were ineligible. The following sanctions must be applied to a recipient or provider when the LPA determines that there have been one or more instances of fraud.

1. Recipient Sanctions

The recipient is defined as the parent(s) or responsible adult(s) approved for SCC services. When a sanction is imposed on the recipient, it applies to the person who applied for services. In two-parent households, it applies to both parents. The person who applied for services is accountable for any fraudulent act and/or payback for overpayment. The recipient will be permanently ineligible to participate in the SCC Program when the amount of the fraud is more than ten thousand dollars (\$10,000). If the

amount of fraud is less than ten thousand dollars (\$10,000), the LPA must impose one of the following sanctions:

- a. With the **first** incidence of fraudulent misrepresentation by a recipient, the recipient is ineligible to receive SCC services in any county until the overpayment is recouped in full or the LPA must enter into a repayment agreement with the recipient if the recipient makes the request.
- b. With the **second** incidence of fraudulent misrepresentation by a recipient, the recipient is ineligible to receive SCC services for **three (3) months** in any county. The recipient is also required to repay the overpayment in full or the LPA must enter into a new repayment agreement with the recipient if the recipient requests it.
- c. With the third incidence of fraudulent misrepresentation by a recipient, the recipient is **permanently ineligible** statewide to participate in the SCC Program and is required to repay the overpayment in full.

NOTE: Exceptions must be made for child care to support Child Protective Services (CPS) or a crisis situation which requires child care to support Child Welfare Services (CWS) as described in [Chapter 5: Establishing Need and a Plan of Care](#).

When the recipient is no longer receiving child care to support CPS or CWS, the child care worker must review the case record to determine the date that the sanction will end. Child care services can continue under another need category if the sanction end date has passed. If the sanction end date has not passed or the recipient has been sanctioned permanently, the sanction must be reinstated.

2. Provider Sanctions

The provider is defined as the owner of a child care facility that is enrolled in the SCC Program. If management of the child care facility is delegated to another employee other than the owner, the owner is held responsible for any fraudulent act and/or payback for overpayment. The provider will be permanently ineligible to participate in the Subsidized Child Care Program when the amount of the fraud is more than ten thousand dollars (\$10,000). If the amount of fraud is less than ten thousand dollars (\$10,000), the LPA must impose one of the following sanctions:

- a. With the first incidence of fraudulent misrepresentation by a provider, the provider will not receive subsidy funds from

any county for any **new** children who enroll in the provider's program for **12 months**. The provider must also repay the overpayment in full or the LPA must enter into a repayment agreement with the provider if the provider requests it.

NOTE: The provider can continue to receive payment for children currently enrolled receiving subsidy.

- b. With the second incidence of fraudulent misrepresentation by a provider, the provider is **permanently ineligible** statewide to participate in the SCC Program. The provider must repay the overpayment in full and will not be paid for any services provided to children enrolled in the provider's facility from the date of notification of the sanction.

NOTE: If a provider has been permanently disqualified, children receiving subsidy funds must be relocated to a new facility without adversely affecting the families. Families choosing to remain at the facility will be responsible for child care payments.

D. Process for Imposing a Sanction

The North Carolina Administrative Code that governs the SCC Program gives the LPA the responsibility to oversee sanctions for fraudulent misrepresentation. It is the function of the Child Care Unit to review fraudulent cases and apply a sanction based on the information submitted to the Child Care Supervisor. When the LPA imposes a sanction, the following steps are followed:

1. The supervisor of the Program Integrity Unit of the LPA (or other designated staff) submits a request to impose a sanction when there has been **one (1) or more instances of fraud**. The request must include all of the supporting documentation.
2. The Child Care Unit reviews the information packet and may request additional information.
3. A certified letter with return receipt is mailed by the LPA staff to the recipient or provider within 30 calendar days regarding the sanction. The letter must provide the process for requesting an appeal.
4. The LPA staff verifies that the letter has been received by the recipient or the provider.
5. The LPA must give the recipient or provider a ten (10) workday written notice regarding the implementation of the sanction.

NOTE: The sanction cannot begin until the individual has been properly notified and the LPA has a notice verifying the receipt of the letter. Even if the recipient or provider chooses to appeal the decision, the LPA proceeds with implementing the sanction.

Recipients and providers may appeal the decision to impose a sanction made by the LPA and must be made aware of their right to appeal by LPA staff via a certified letter. See [Chapter 24: Appeals and Hearings](#).

E. Required Documentation

When the LPA imposes a sanction on a recipient or provider, the sanction must be accompanied by the documents listed below. This list is not all inclusive of the documents that may be needed to support the sanction.

1. Sanction documentation must include:
 - a. Child Care Referral to Program Integrity (county form).
 - b. Investigative Interview Letter, including date letter was mailed.
 - c. Summary of investigation and supporting attachments.
 - d. Signed admission statement, if available.

NOTE: The **summary of investigation** must be detailed, clear and informative. The summary must include a description of the fraudulent act that attests to how and when the fraud occurred, who committed the fraudulent act, and any repayment agreement established.

2. Recipient documentation must include the following:
 - a. Verification of Income and Work Schedule, if applicable.
 - b. Copy of recipient's signed Application for Child Care ([DCD-0456](#)).
 - c. Copy of recipient's signed Recipient Responsibilities for Subsidized Child Care form ([DCD-0106](#)).
 - d. Child Care Agreement between parent and county, if applicable.
 - e. Copy of signed Child Care Voucher ([DCD-0446](#)), if applicable.

- f. Copy of Child Care Action Notice ([DCD-0450](#)), if applicable.
 - g. Case Narrative.
3. Provider documentation must include:
- a. Copy of signed Application for Enrollment to Be a Provider of Subsidized Child Care ([DCD-0451](#)).
 - b. Copy of signed Child Care Provider Agreement ([DCD-0452](#)), including any attachments.
 - c. Copy of Child Care Reimbursement Summary.
 - d. Copy of Child with Special Needs Additional Expense Documentation ([DCD-0454A](#)), if applicable.
 - e. Copy of Provider Information Form ([DCD-0454B](#)), if applicable.
 - f. Copy of Private Paying and Other Fees form ([DCD-0458](#)).

F. Reporting Fraud that Occurs Within the LPA

LPA staff is responsible for reporting suspicion of child care fraud to the director of the county department of social services when an LPA staff is involved. The director must report it to the Program Compliance Manager in the Subsidy Services Section of DCDEE at 1-800-859-0829 or 919-662-4561. If the LPA staff is a recipient or provider, the appeals process for recipients or providers must be followed. See Chapter 24 Appeals and Hearings.

III. ADMINISTRATIVE AND INADVERTENT ERRORS

A. Definitions of Errors

An *overpayment* or *underpayment* can occur as the result of an *administrative* error on the part of the LPA, or as an *inadvertent* error on the part of the recipient or provider. All errors resulting in an overpayment must be corrected at the point of discovery and to the date that the errors occurred. Contact your Program Compliance Consultant for guidance regarding the correction of underpayments that exceed 30 days. (Refer to [Section III.B.4.](#) below for more information on correcting errors.) The list below represents examples only **and** is not all inclusive of inadvertent errors.