



NATIONAL CENTER ON

Subsidy Innovation and Accountability



# FY 2019 National Program Integrity Webinar Series

**Webinar #4: So You've Completed Your  
Fraud Investigation ... Now What?  
Alaska and Utah's Strategies**

**September 10, 2019 - 3:00 EST**

# Call Logistics

- Interactive session with breaks for Q and A
- If you're using the Phone Call option, you MUST enter your audio PIN in order to be heard
- If you would like to ask a question, "raise your hand" or type in questions and comments using the "Questions" panel
- For PowerPoint or registration issues please contact Katie Watts at [kwatts@wrma.com](mailto:kwatts@wrma.com)

# Introductions

## National Center on Subsidy Innovation and Accountability



**Leigh Ann Bryan**  
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Manager



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Program Integrity SME

# Agenda



- Fraud Toolkit – Detection
- Timely Appeal and Resolution Processes
- Preparing for the Hearing
- Recovery
- Sanctions
- State Presentations
- Open Discussion
- Closeout/Next Steps

# The Fraud Tool Kit (FTK)

Will assist Lead Agencies in increasing program integrity and accountability while decreasing potential fraud.

In May of 2018 the Fraud Risk Assessment Tool and Instructions were approved and made available to Lead Agencies.

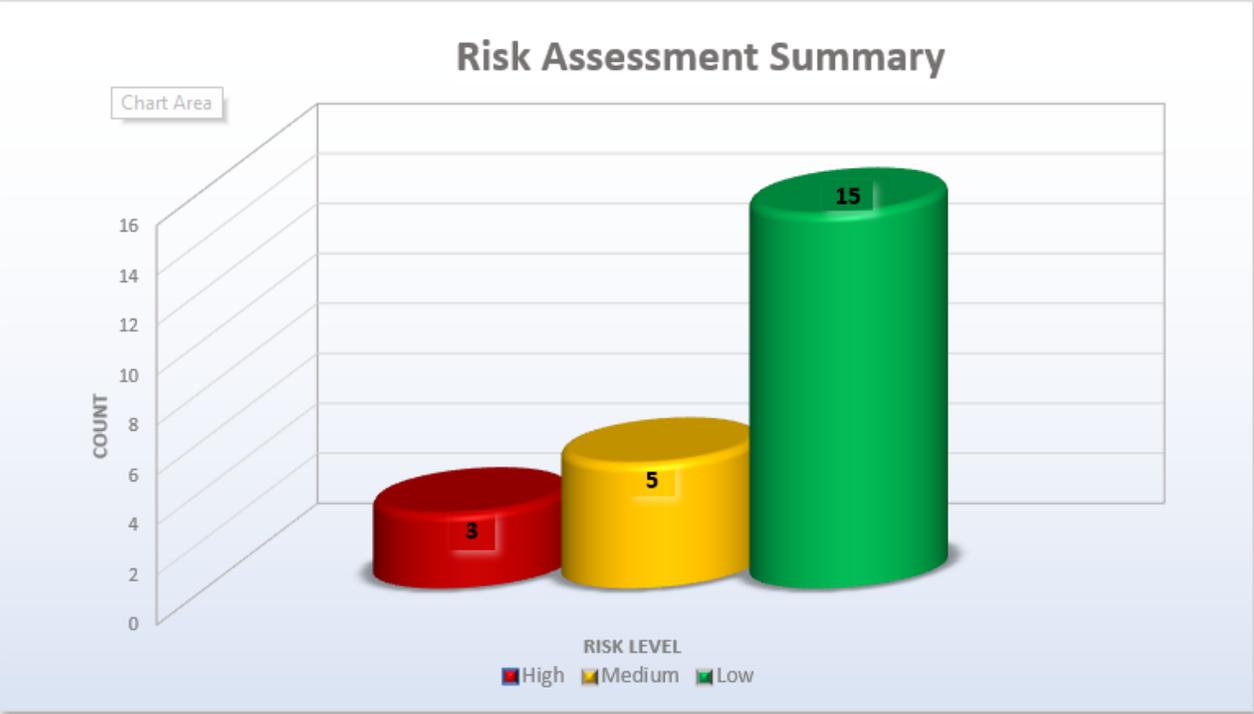
The various sections of the FTK will guide users through an assessment of program administration, case management and training, IT, and verification strategies.



<https://childcareta.acf.hhs.gov/resource/fraud-risk-assessment-tool-instructions>

# FTK - Fraud Detection Assessment Tool

## Fraud DETECTION Risk Assessment Summary



**OVERALL RISK COUNT BY RISK LEVEL**

RISK LEVEL	COUNT
High	3
Medium	5
Low	15

## Category Based Risk Summary

Fraud Hotline		Data Usage		Public Websites	
RISK LEVEL	COUNT	RISK LEVEL	COUNT	RISK LEVEL	COUNT
High	0	High	1	High	0
Medium	1	Medium	2	Medium	0
Low	2	Low	5	Low	1

Provider Audits		Fiscal Management		Fraud Investigations	
RISK LEVEL	COUNT	RISK LEVEL	COUNT	RISK LEVEL	COUNT
High	0	High	0	High	2
Medium	0	Medium	0	Medium	2
Low	3	Low	1	Low	3

# CCDF Fraud Toolkit Poll and Discussion

- Has your state utilized either the CCDF Fraud Toolkit Risk Assessment or Prevention Assessment? Or Both?

Share experience with tool and agency takeaways after its use.





So You've  
Completed  
Your Fraud  
Investigation ...  
**Now What?**

# Timely Appeal and Resolution Process - Requirements

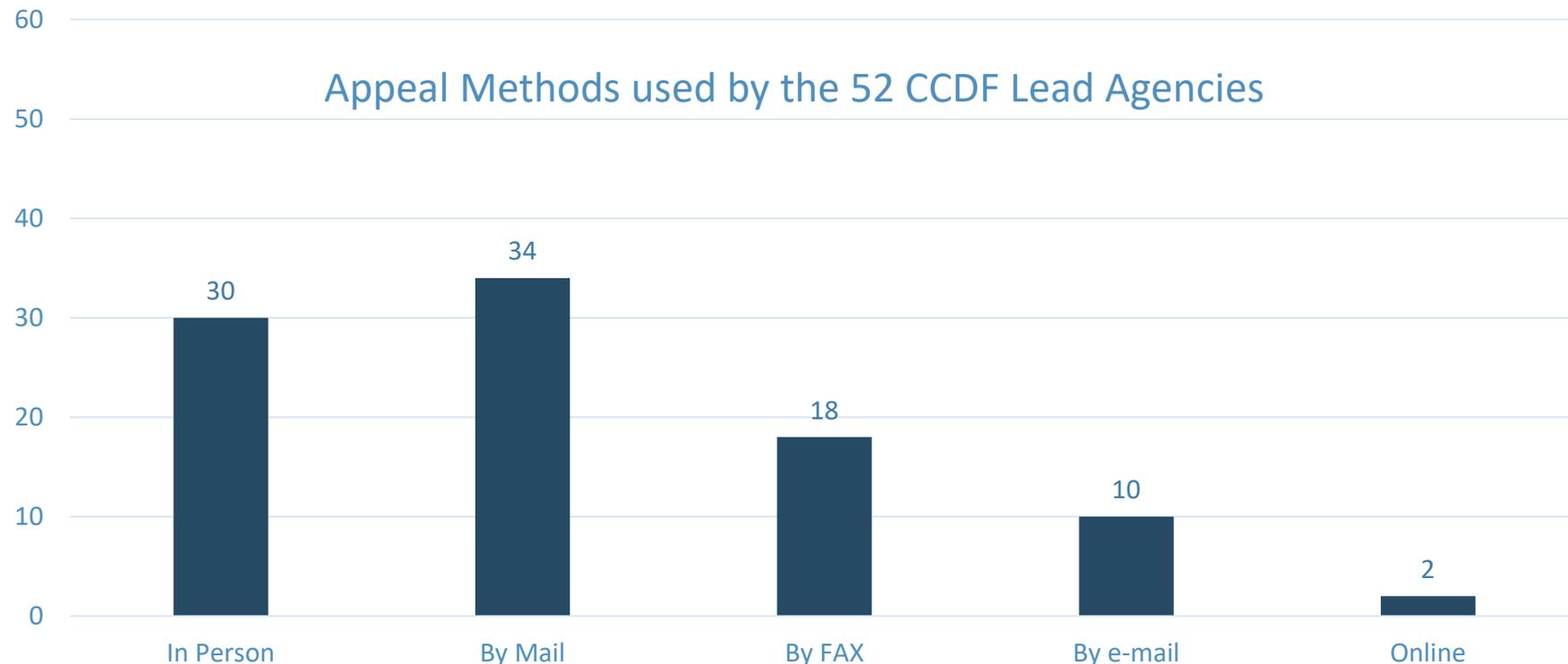
## 45 CFR § 98.45(I)(6)

*The Lead Agency shall demonstrate in the Plan that it has established payment practices applicable to all CCDF child care providers that include timely appeal and resolution processes for any payment inaccuracies and disputes.*

CCDF regulations do not specify requirements around client appeal processes, however many Lead Agencies follow similar processes.

# Timely Appeal and Resolution Process

\*In 2017, 52 Lead Agencies reported ongoing processes in place regarding participant appeals.



\*CCDF Policies Database (<https://ccdf.urban.org>)

# Timely Appeal and Resolution Process

## Common practices regarding the appeal process:

**Agencies accept appeals** anywhere from ten to 90 days of receipt of the notice of adverse action or the agency decision

Most agencies require **the appeal to be in writing** and signed with a statement indicating the reason for the request

**Appeals may be sent directly** to the assigned eligibility worker, a manager or the office of hearings and appeals (may depend on action appealed)

Most agencies have a **deadline for an appeal decision**; generally somewhere between 30 to 60 days from the date of the hearing

\*CCDF Policies Database and 2019-21 CCDF Plans

# Timely Appeal and Resolution Process

As an agency best practice, consider contacting the participant or provider prior to a hearing.



# Timely Appeal and Resolution Process

Contact prior to the hearing allows for...

- One more chance to review the action as well as the reason for the action
- Ensure proper notice was given
- Review the verification provided as well as any case notes
- Provide the petitioner with a copy of the appeal packet prior to the hearing
- Explain the reason for the action from the agency perspective
- Carefully review and evaluate their reasons for the appeal
- Can the issue be resolved prior to the hearing?



**REMINDER**

**You have the  
burden of proof!**

# Preparing for the Hearing

- ✓ Compile a case summary and evidence packet, using the same format for each when possible
  - Application language related to rights and responsibilities, signature page, notices, acceptable verification, etc.
- ✓ Create an exhibit list that identifies each piece of evidence you intend to present during the hearing
- ✓ Level of proof is “clear and convincing evidence”
- ✓ Familiarize yourself with courtroom demeanor, including referring to the judge as “your honor” and other parties by their last name (Ms. Jones)



**Stick to the facts;  
opinions and  
commentary are  
not needed**

# Appeal ➡ Hearing ➡ Criminal Court

## Agency Review of the Appeal

- The Lead Agency is involved in the process and outcome
- Attempt to resolve prior to formal hearing

## State Administrative Hearing (Your Office of Hearings and Appeals)

- The Lead Agency normally presents
- Administrative Law Judge or Hearing Officer decides on outcome
- Will need to prepare for the hearing

## Criminal Court Hearing

- Normally, the Lead Agency does not present
- Case is generally handled by the district attorney's office
- Judge decides the outcome
- May need to prepare for the hearing

# Let's Talk About It –

- Are your hearings in person or via telephone?
- How do you determine appeal notice requirements and time frames?
- Tell us why your process works
- Preparation is the key to success!



# Recovery of Improper Payments – What is Required?

## **45 CFR § 98.68(b)(2)**

*Lead Agencies are required to describe in their Plan the processes that are in place to investigate and recover fraudulent payments and to impose sanctions on clients or providers in response to fraud.*

## **45 CFR § 98.60(i)**

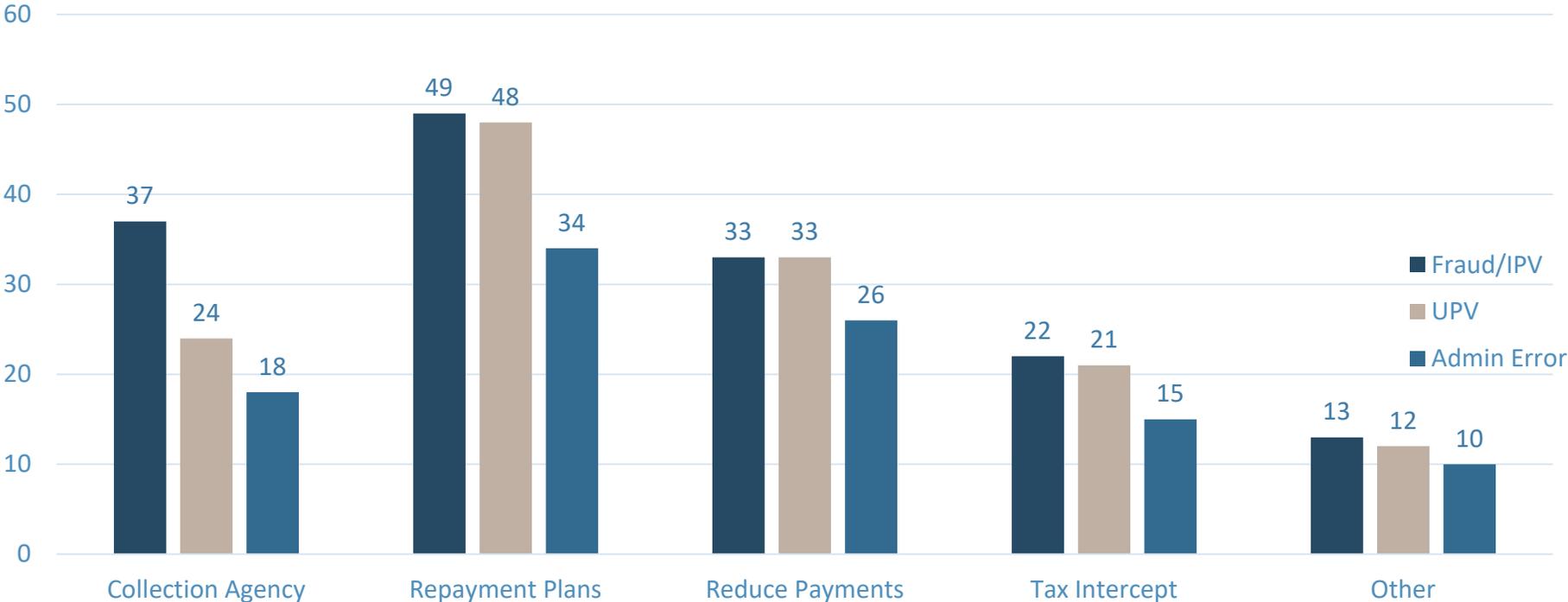
*Lead Agencies shall recover child care payments that are the result of fraud. These payments shall be recovered from the party responsible for committing the fraud.*

# Recovery of Improper Payments

- Recover from participants and providers
- Must recover fraudulent improper payments
- Four types of improper payments
  - Fraud
  - Intentional Program Violations
  - Unintentional Program Violations
  - Administrative/Agency Error
- Many states establish a minimum threshold for recovery actions
  - According to Section 8.1.5a of the CCDF Plans, thresholds range from \$1 to \$300.

# Recovery of Improper Payments

## Lead Agencies Use Various Options for Recovery



\*2019-21 CCDF Plan Data

# Sanctions – What is Required?

## 45 CFR § 98.68(b)(2)

*Lead Agencies are required to describe in their Plan the processes that are in place to investigate and recover fraudulent payments and to impose sanctions on clients or providers in response to fraud.*

# Imposing Sanctions

- Once it has been established that fraud has occurred, states are required to impose sanctions on clients and providers
- Many states align their sanction periods with other programs
- Providers may be suspended for a period of time or permanently for an IPV or fraud

The most common sanction periods for participants are:



Six months for the first violation



Twelve months for the second violation



Permanently for the third violation

# Let's talk about it - Recovery & Sanctions

- Agency options for recovery
- Who do you collaborate with?
- IPV versus fraud determination
- When does the sanction take effect?
- Out-of-state IPV's
- Use of waivers
- Best practices from your state?
- Challenges?





# State Strategies

Utah  
&  
Alaska

# Utah's Child Care Overpayments

NCSIA Webinar

# Investigations, Overpayments, Collections (IOC) Overview

- ▶ Investigations
  - ▶ 18 Investigators
- ▶ Overpayments
  - ▶ 10 Benefit Accuracy Analysts
  - ▶ 5 Adjudication Specialists
  - ▶ 2 Program Specialists
  - ▶ 1 Criminal Specialist
- ▶ Collections
  - ▶ 8 Collection Specialists
  - ▶ 2 Legal Secretaries
  - ▶ 1 Senior Business Analyst

# Tools Used to Determine and Calculate Overpayments

- ▶ Referrals from front line staff, Office of Child Care, Hotline, State Auditor
- ▶ Child Care provider reported hours and sign in-sign out sheets.
- ▶ Investigators
  - ▶ Gather evidence to support or refute the allegation of Overpayment
  - ▶ Incomplete claim closures
- ▶ Operations Manual
- ▶ eREP-Eligibility Program

# Third Party Coordination

- ▶ Hotline
  - ▶ Referrals from the public
- ▶ State Auditor
  - ▶ Works with Child Care provider to clear up discrepancies.
- ▶ Administrative Hearing Process
  - ▶ Classifications
- ▶ State Attorney General
  - ▶ Recipient with egregious intentional violations are screened for Criminal prosecution.

# Timelines and Disqualification

- ▶ Timeline customer and provider
  - ▶ Customer is sent a Notice of Agency Action
  - ▶ Customer's case is adjudicated, and Order is sent
  - ▶ Child Care Recipient Disqualifications (August 2019)
    - ▶ Timeframes 12/24/lifetime
    - ▶ 42 Current Disqualifications

# Collection-Child Care Recipient

- ▶ Fiscal Year 2018

- ▶ New Debts - 517
- ▶ Collected - \$623,679

- ▶ Fiscal Year 2019

- ▶ New Debts - 433
- ▶ Collected - \$819,685

Liability as of Fiscal Year 2020 is 1,718 debts for \$3,476,971

- ▶ Child Care Recipient Collection Methods

- ▶ Direct Pay
- ▶ Recoupment of Ongoing Child Care Benefits
- ▶ State Tax Refund Offset with Judgment

# Collection-Child Care Provider

- ▶ Fiscal Year 2018
  - ▶ New Debts - 1,861
  - ▶ Collected - \$2,033,236
- ▶ Fiscal Year 2019
  - ▶ New Debts - 1,708
  - ▶ Collected - \$1,551,183

Liability as of FY20 Start is 897 debts for \$1,007,681

- ▶ Child Care Provider Collection Method - Direct Pay

# Questions



# Alaska Child Care Assistance Program

Intentional Program Violation Process



# Child Care Assistance Program Structure

- ▶ CCAP is administered by three regional non-profit agencies (Grantees) for five service delivery areas through the State of Alaska grant process.
- ▶ The Division of Public Assistance, Child Care Program Office oversees and monitors grant compliance as well as the CCAP. CCPO writes program regulations and policies and procedures and monitors grantees compliance with administering the program.
- ▶ Grantees only have access to the Integrated Child Care Information System (ICCIS) for processing child care assistance cases.



# Fraud Detection and Referral

## ► Detection

- Grantee
- DPA Quality Assessment
- DPA Contracted Services Quality Assurance
- Fraud Unit
- Parent
- Anonymous

## ► Referral

- All suspected fraud cases are referred to the CCPO for further review
- At the time of Application – Grantees can request more information from the CCPO prior to approving the application
- During the family's certification period, Grantee provides conflicting information from the family's application/interview



# CCPO Incorrect Payment Preliminary Review Process

- ▶ CCPO will access all available databases
- ▶ CCPO determines
  - ▶ Information was provided to another DPA agency for a different program
  - ▶ Mistake
  - ▶ Intentional
- ▶ Additional information may be requested of the family
  - ▶ Information provided is worked as usual – eligible families will continue participation;
  - ▶ Ineligible families' program participation is ended – given opportunity for an administrative hearing if they disagree with the determination

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# Fraud Unit Process

- ▶ Conducts an investigation to include accessing bank records and possibly surveillance
- ▶ Interviews any person who may have knowledge of the allegation
- ▶ Interviews the participating parent



# Notice of Findings – Appeal Options

- ▶ Participating parent is given CCAP Recipient – Notice of Suspected Intentional Program Violation and Your Option to Waive an Administrative Disqualification Hearing
  - ▶ Describes allegations including a recalculation of benefits and amount overpaid
  - ▶ Describes rights
  - ▶ Advises penalties will be imposed even if they don't admit the facts as stated
  - ▶ May be prosecuted by state or federal government in court of law
- ▶ Appeal
  - ▶ Administrative Disqualification Hearing
  - ▶ Court of law
- ▶ Adjudication
  - ▶ Administrative or Court
  - ▶ CCPO notification to participant of penalty implementation

# Intentional Program Violation Penalties

## ► Family

- 1<sup>st</sup> IPV resulting in no dollar loss = provider type lock-in for 6 months
- 1<sup>st</sup> IPV with a dollar loss = Repayment of program loss  
Provider type lock-in for 6 months and 10% reduction of program benefits for 6 months
- 2<sup>nd</sup> IPV regardless of dollar loss = Repayment of program loss  
Provider type lock-in for 12 months and 20% reduction of program benefits for 12 months
- 3<sup>rd</sup> IPV regardless of dollar loss = Repayment of program loss  
Permanent termination from program participation

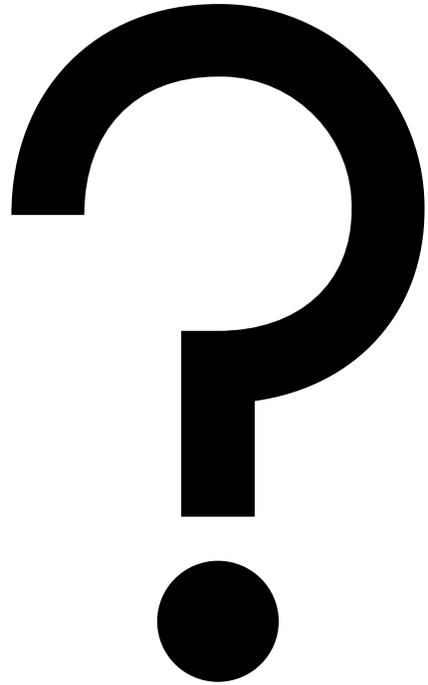
## ► Provider

- IPV must result in a dollar loss of \$100 or more
- 1<sup>st</sup> IPV = Repayment of the program loss
  - Compliance with a corrective action plan and more frequent review/ on-site
  - 2<sup>nd</sup> IPV = Repayment of the program loss
  - Suspension from program participation for 6 months; more frequent review / on-site
  - 3<sup>rd</sup> IPV = Repayment of the program loss, Permanent disqualification from program participation



# Case Review

- March 2012 > 2 parent family with 1 child
- January 2015 > renewal application was 1 parent family with 2 children. Married but separated – working on custody arrangement.
  - Later in 2015 3<sup>rd</sup> child born of same parents
- 2017 > renewal application – still 1 parent family with 3 children – no custody arrangement. Parent changed from working for an employer to becoming self-employed. 4<sup>th</sup> child born of same parents.
- Grantee referred case to CCPO – “suspected” spouse not reported as in the home.
- Case referred to Fraud Unit
- Administrative Disqualification Hearing not scheduled – pursued criminally through the court
- Court Order – Unsworn Falsification = 1<sup>st</sup> IPV with loss of \$53,627.90
- Parent signed notification, provided cashier's check for benefit overpayment and 2<sup>nd</sup> cashier's check for \$1000 to help offset investigation costs
- Parent is not participating due to family over income. Penalty runs regardless of program participation.



Thank You!

Questions?

# Questions and Open Discussion



# What's Next?

- FY2020 Program Integrity Webinar Series – Send us your ideas!
- FTK – Enforcement & Recovery
- Please complete the evaluation form. Your feedback is important to us.





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# Thank you!