OVERVIEW

Intentional Program Violation (IPV) occurs when the client, individual caregiver, agency provider, or client's authorized representative intentionally make a false or misleading statement, hides, or misrepresents/withholds facts to receive or to continue receiving benefits. IPV is considered fraud and must be reported to the Michigan Department of Health and Human Services (MDHHS) Office of Inspector General (OIG).

Client Suspected of Intentional Program Violation (IPV)

Suspected IPV means an overpayment exists when all three of the following conditions occur:

- The client (or legally responsible party) **intentionally** failed to report information or gave incomplete or inaccurate information needed to make a correct benefit determination.
- The client was clearly instructed regarding his or her reporting responsibilities to the Department.

  Note: A signed DHS-390, Adult Services Application instructs the client of their reporting responsibilities. The adult services worker (ASW) must reiterate the client's responsibility to report any changes **within 10 business days** during the client case reviews.
- The client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill their reporting responsibilities.

An IPV is suspected when there is credible evidence that the client has **intentionally** withheld or misrepresented information for the **purpose** of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. In such cases where these conditions exist, the ASW must make a fraud referral to the OIG.

Example: The client (or legally responsible party) intentionally reports inaccurate or incomplete information to conduct an accurate comprehensive assessment of need for Home Help services.

No recoupment action is taken on cases that are referred to OIG for investigation, while the investigation is being conducted.

Individual Caregiver or Agency Provider Suspected of Intentional Program Violation (IPV)

A suspected individual caregiver or agency provider IPV is an overpayment caused by an individual caregiver or agency provider's intentional false billings or intentional inaccurate statements. Examples of individual caregiver or agency provider overpayment that may be an IPV are:

- Failing to bill correctly (intentionally submitting an incorrect invoice).
- Receiving payment for hours when the client was unavailable, such as, but not limited to, hospitalizations, nursing home, or AFC stays.
- Receiving payment for hours when the individual caregiver or agency provider was unavailable and did not provide care.

Example: Individual caregiver or agency provider receives and cashes a single party warrant for a time period they were unavailable and did **not** provide care.

An intentional program violation is suspected when there is credible evidence that the individual caregiver or agency provider has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility.

No recoupment action is taken on cases that are referred to OIG for investigation, while the investigation is being conducted.

OIG REFERRAL CRITERIA

When an adult services worker believes fraud has occurred within the Home Help program, the ASW must make a referral to the

Office of Inspector General (OIG). Prudent judgement should be used in evaluating an overpayment for a suspected IPV.

Consider the following questions when reviewing the case for fraud:

- Does the case record indicate that department staff advised the client of his or her rights and responsibilities?

  Note: The DHS-390 instructs clients of their rights and responsibilities; however, the ASW must remind the client, individual caregiver, or agency provider of his or her reporting responsibilities at each case review.

- Does the case contact in MiAIMS reflect the client's acknowledgement of these rights and responsibilities?

- Did the client, individual caregiver, or agency provider neglect to report timely when required to do so after being informed of their responsibility to report?

- Did the client, individual caregiver, or agency provider make false or misleading statements?

- Does the client, individual caregiver, or agency provider error meet suspected IPV criteria?

Home Help Fraud/IPV Scenarios

The following scenarios are provided as guidance for when a Home Help fraud referral should be made to the Office of Inspector General:

- Client alters or forges the DHS-54A, Medical Needs form in order to become eligible for services.

- Client forges the individual caregiver signature on a dual-party warrant and services were **not** provided.

  Note: If the client forges the individual caregiver's signature on a dual-party warrant and services **were** provided, this becomes a civil matter and should **not** be referred to OIG.

- Client, individual caregiver, or agency provider has an arrangement to split the warrant and services were **not** provided.

- Individual caregiver reports earnings indicated on their W-2 are inaccurate and the ASW discovers services were not provided.

- Agency provider reports earnings indicated on their 1099 are inaccurate and the ASW discovers services were not provided.

Example: Individual caregiver asserts they ended services on a specific date, but the warrants continued to be cashed under their name.

- Client fails to disclose changes that would affect their eligibility or cost of care and was clearly instructed regarding their reporting responsibilities.

Example: Client gets married and the spouse is able and available to provide care.

Example: Client's health improves and they fail to report the change in care needs.

Example: Client fails to disclose others living in the home which would affect the proration of instrumental activities of daily living (IADLs).

- The individual caregiver or agency provider cashes the warrant when the client was unavailable.

Example: Client was admitted into a nursing facility and the individual caregiver or agency provider continued to cash the warrant(s).

- The individual caregiver or agency provider continues to receive and cash warrants after the client's death.

- A pattern exists of continued improper billing even after the ASW has repeatedly reviewed reporting and billing procedures with the client, individual caregiver, or agency provider.

Example: An individual caregiver or agency provider has multiple instances of billing for services during a client's hospitalization even after discussion with the ASW about proper billing procedures and recoupments for overpayment.

If the ASW questions the appropriateness of a referral, it should be forwarded to OIG who will determine whether to investigate.

Making a Referral to OIG

The ASW must refer all suspected cases of fraud/IPV in the Home Help program to OIG using the DHS-1131, Medicaid Services Fraud Intake Form. Complete the DHS-1131 and provide copies of all supporting documentation that would assist in the investigation.

Email the DHS-1131 and supporting documentation to the OIG Fraud Complaint mailbox at:

MDHHS-OIG-InvestigativeSupport@michigan.gov

The adult services worker will be notified if a referral is denied for investigation.

No recoupment action is taken on cases that are referred to OIG for investigation, while the investigation is being conducted.

Threshold

Individual caregiver or agency provider fraud has **no** threshold and should be reported to OIG. An individual caregiver or agency provider IPV overpayment of $500 or greater is a felony.

Client suspected IPV has a threshold of $500. A referral to OIG must be made if the total overpayment is **less** than $500, **and** one of the following conditions exists:

- The client has a previous IPV, **or**
- The client has had at least two client errors previously, **or**
- The alleged fraud is committed by a state government employee.

If the overpayment is less than $500 and does not meet the conditions above, refer to ASM 165, Overpayment and Recoupment Process.

OIG RESPONSIBILITIES

The MDHHS Office of Inspector General is the sole contact point for all fraud referrals pertaining to the Home Help program and the investigation will be assigned based on the investigation type (client, individual caregiver, or agency provider).

Referrals are made to the Attorney General (AG) Medicaid Healthcare Fraud Division for prosecution when there is credible evidence of fraud that exceeds $4000.

Action Taken by OIG

Within 12 months OIG will:

- Refer suspected IPV cases that meet the criteria for prosecution to the prosecuting attorney or AG's office.
- Refer suspected IPV cases that meet the criteria for IPV administrative hearings to the Michigan Office of Administrative Hearings and Rules (MOAHR).
- Return all non-IPV client cases to the adult services worker to initiate recoupment.
- Pursue recoupment for non-IPV individual caregiver or agency provider cases. A DHS-566, Recoupment Letter**,** is sent to the individual caregiver or agency provider with a copy to MDHHS Medicaid Collections Unit and the adult services worker. **No further action is required by the adult services worker.**

  Note: OIG will not send a copy of the recoupment letter to the local county MDHHS office if the case is closed.

IPV Hearings

OIG shall request an IPV hearing when there is no signed DHS-4350, Intentional Program Violation Repayment Agreement obtained and correspondence to the client is returned as undeliverable, or a new address is located.

The Department may request a hearing to:

- Establish an intentional program violation against the client.
- Establish a collectable debt (client debt).

HOME HELP INDIVIDUAL CAREGIVER OR AGENCY PROVIDER SUSPENSION

Pursuant to federal law, codified at 42 CFR 455.23, a state Medicaid agency must suspend all Medicaid payments to an

individual caregiver or agency provider after the agency determines there is a credible allegation of fraud for which an investigation is pending under the Medicaid program against an individual caregiver, agency provider, or entity, unless there is good cause not to suspend.

The MDHHS OIG will notify the Home Help Policy Section when a credible allegation of fraud is evident against a Home Help individual caregiver or agency provider. The Home Help Policy Section will contact the local MDHHS office and instruct the ASW to suspend the payment authorization(s). The MDHHS Provider Enrollment unit will be notified to terminate or suspend the individual caregiver, agency provider, or agency caregiver eligibility in CHAMPS. OIG will inform the local office and the policy section if the individual caregiver, agency provider, or agency caregiver suspension is lifted.

RECOUPMENT

No recoupment action should be taken on cases that are referred to OIG for investigation until notified.

OIG will notify the referring adult services worker of non-IPV substantiated cases of client fraud. The ASW will be responsible for initiating the recoupment.

OIG will initiate recoupment on individual caregiver or agency provider fraud cases investigated but denied for prosecution. OIG will send the individual caregiver or agency provider a recoupment letter and forward a copy to the MDHHS Medicaid Collections Unit for recoupment. **No further action is needed by the adult services worker.**

FRONT END ELIGIBILITY (FEE)

The Office of Inspector General established the Front End Eligibility (FEE) program in response to the need for fraud prevention. The goal of the FEE program is to obtain and maintain a partnership between the MDHHS local office staff early in the eligibility determination process in order to reduce errors.

FEE Referral

The adult services worker may request a pre-eligibility investigation by the OIG regulation agent when it is believed the client is intentionally misrepresenting the need for Home Help services.

Referrals for FEE are also accepted for open cases when it is believed a client is misrepresenting the need for continued care.

Examples of an appropriate FEE referral for Home Help services would be the following:

- A Home Help case is denied due to a spouse (responsible relative who is **able** and **available**) in the home and the client later reapplies claiming the spouse has moved out of the home.
- The ASW suspects the client and individual caregiver, agency provider, or agency caregiver of Home Help are married to one another and they are not disclosing their marital status.
- The client indicates they live alone either verbally or on the DHS-390, Adult Services Application, but Bridges shows others living in the home.
- Client's medical condition improves, and fewer services are needed, but the client, individual caregiver, or agency provider fails to report the change.

Components of a Quality FEE Referral

The following are components of a quality FEE referral:

- The case should be active or pending for benefits.
- Ensure that policy supports why the client may not be eligible.
- Provide accurate case demographics.
- Attach all supporting documentation.

To make a FEE referral from the Inside MDHHS website, use the following path: Inside MDHHS > About > Offices and Departments > Office of Inspector General > FEE Referral/Instructions, and complete the FEE Referral Form.

OIG regulation agents must complete the investigation within 10-business days and respond to staff with their findings. Investigations are completed prior to opening the case or recertifying the applicant for benefits.

CONTACT

For questions contact MDHHS-Home-Help-Policy@michigan.gov.