

Child Care Policy Concept for CCDBG Reauthorization

MARCH 29, 2016

WORKFORCE FORUM

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Agenda

- ▶ Overview of Policy Concept for Amendments to Child Care Services Rules
- ▶ Timeline for Implementation
- ▶ Impact on Monitoring and Investigations

Policy Concept (PC)

- ▶ First PC– Option to End Care during 12-month Eligibility Period for permanent (non-temporary) end of work, training or education
 - ▶ Must provide 3-Month of Continued Care (for job search)
- ▶ Category 1 – Required Changes with No Options
 - ▶ Status Changes within the 12-Month Eligibility Period
 - ▶ Parent Reporting Requirements
 - ▶ \$1 Million Asset Test
 - ▶ Background Checks for Youth Day Camps
 - ▶ Consumer Education Information*
 - ▶ Information on Developmental Screening*

*Not included in this presentation

Status Change within the 12-month Eligibility Period

- ▶ **CCDF REQUIREMENTS/PC RECOMMENDATIONS:** Care can end during the 12-month eligibility period ONLY if:
 - ▶ The family has a change of income that exceeds 85 percent of the state median income (SMI) (considering fluctuations of income);
 - ▶ OR
 - ▶ The parent has a permanent job loss or permanent end of training or education activities; AND
 - ▶ The parent does not find employment or resume job training or education activities within three months of the permanent job loss or end of training or education
- ▶ **CCDF REQUIREMENTS/PC RECOMMENDATIONS:** Care must continue at the same level if the parent experiences a reduction of hours or temporary change in activities

Status Change within the 12-month Eligibility Period (Cont'd)

- ▶ **CCDF REQUIREMENTS/PC RECOMMENDATIONS:** Care cannot end during the 12-month period if the parent has a non-permanent change in work, training or education activities:
 - ▶ Time-limited absence from work for periods of family leave or sick leave
 - ▶ Interruption in work for a seasonal working who is not working between regular industry work seasons;
 - ▶ Student holiday or break for a parent participating in training/education
 - ▶ Reduction in work, training, or education hours (as long as remains working or in training or education)
 - ▶ Other cessation of work, training, education that does not exceed three months.
- ▶ **CCDF REQUIREMENTS/PC RECOMMENDATIONS:** Care cannot end for:
 - ▶ Child's change in age, including turning 13 years old during the eligibility period
 - ▶ Change in parent/family residency within the state

Status Change within the 12-month Eligibility Period – Rule Clarification

- ▶ Clarifications in Rule:
 - ▶ Initial eligibility will continue to require 25/50-hour requirement;
 - ▶ Care will continue if the parent has a permanent loss of job, training, education, but resumes activities at *any level* during the 3-month job search period
 - ▶ Prohibit a reduction in the level of care if the parent has a temporary reduction in activities
 - ▶ No requirements to track parent job search activities
 - ▶ No requirements to redetermine family eligibility using the initial eligibility requirements
 - ▶ Only requirements to verify:
 - ▶ Parent(s) resume work, training, education (at any level);
 - ▶ Family does not exceed 85% SMI (considering fluctuations in income)

Parent Reporting Requirements during the 12-month Eligibility Period

▶ CCDF REQUIREMENTS/PC RECOMMENDATIONS:

▶ Limit parent reporting ONLY to:

- ▶ A change in family income or family size that would cause the family to exceed 85% SMI;
- ▶ If the parent(s) experience a non-temporary end of work, training, education
- ▶ A change in family residence or contact information

▶ Allow parents to report changes that may result in a decrease in parent share of cost or increase the level of care (part-time to full-time, additional days)

▶ Clarification in Rule:

- ▶ Extend required reporting period to 15 calendar days
- ▶ Remove the requirement that care may be terminated for failure to report changes

\$1 Million Asset Certification

- ▶ **CCDF REQUIREMENTS/PC RECOMMENDATIONS:**

- ▶ Family member must certify that the family assets do not exceed \$1 million

- ▶ Clarification in Rule:

- ▶ Determined at initial eligibility and redetermination ONLY by family certification (self-attestation)

Background Checks for Youth Day Camps

- ▶ **CCDF REQUIREMENTS/PC RECOMMENDATIONS:**

- ▶ States shall conduct FBI fingerprint background checks for all providers of CCDF child care services (except relatives)

- ▶ Clarification in Rule:

- ▶ Youth Day Camps licensed by the Texas Department of State Health Services are not required by state law to conduct FBI fingerprint background checks
- ▶ Youth Day Camps will no longer be eligible to provide subsidized child care services

Policy Concept

- ▶ Category 2 – Required Changes with State Options
 - ▶ Additional Eligibility Requirements
 - ▶ Income Calculations to Consider Income Fluctuations
 - ▶ Graduated Phaseout of Eligibility
 - ▶ Parent Share of Cost during the 12-month Eligibility Period
 - ▶ Priority and Eligibility for Homeless Children
 - ▶ Attendance and Provider Reimbursement
 - ▶ Improper Payment, Fraud, and Recoupment

Additional Eligibility Requirements

▶ **CCDF REQUIREMENTS**

- ▶ States may have eligibility requirements in addition to those required by CCDF (i.e. age of child, family income not exceeding 85% SMI, parents in work, training, education) as long as the additional eligibility requirements are ONLY enforced at:
 - ▶ Initial eligibility determination; and
 - ▶ The 12-month eligibility re-determination.

▶ **Policy Options to Consider:** TWC and Board Additional Eligibility Requirements

- ▶ Minimum Activity Requirements
- ▶ Successful Progress Toward Completing Education/Job Training
- ▶ Parent Responsibility Agreement (PRA)

Additional Eligibility Requirements (Cont'd)

▶ **PC Recommendations:**

- ▶ Retain the minimum activity requirements of 25/50 hours per week ONLY at:
 - ▶ Initial eligibility determination; and
 - ▶ The 12-month eligibility redetermination
- ▶ Remove the requirement that parents must demonstrate successful progress toward completion of training or education programs
 - ▶ Parents remain eligible as long as the parent is enrolled in the training/education program
- ▶ Remove the PRA as the requirements cannot be applied during the 12-month eligibility period

Income Calculation Considers Income Fluctuations

- ▶ **CCDF REQUIREMENTS:** States must take into consideration irregular fluctuations of earnings when calculating income for eligibility and parent share of cost, including temporary increases during the 12-month eligibility period.
- ▶ **Policy Options to Consider:** Income calculation methodology that takes irregular income fluctuations into consideration when determining eligibility and assessing parent share of cost.
- ▶ **PC Recommendations:**
 - ▶ Standardize income calculation by adopting the methodology and income sources required by WIOA, which requires the calculation of 6-months of income.

Graduated Phaseout of Eligibility

- ▶ **CCDF REQUIREMENTS:** Requires states to have a graduated phaseout of eligibility if the family income exceeds the state's eligibility requirements, but does not exceed 85% SMI.
- ▶ **Policy Options to Consider:** CCDF provides the following options:
 - ▶ 1. Establish a second tier of eligibility at 85% SMI at the time of eligibility re-determination and at each re-determination; or
 - ▶ 2. Establish a second tier of eligibility at 85% SMI at the time of eligibility re-determination for a limited period of time of not less than an additional 12 months
- ▶ **PC Recommendations:** If a Board has an initial eligibility limit below 85% SMI, require Boards to establish a second tier of eligibility at 85% SMI at the time of eligibility re-determination and at each re-determination (Option 1)

Parent Share of Cost during the 12-month Eligibility Period

▶ **CCDF REQUIREMENTS:**

- ▶ prohibits states from increasing the parent share of cost during the 12-month eligibility period, regardless of increases in the family income;
- ▶ requires that states act upon information provided by the parent that would result in a reduction in the parent share of cost;
- ▶ requires that the parent share of cost be based on income and the size of the family and may be based on other factors as appropriate, *but may not be based on the cost of care or amount of the subsidy payment.*
- ▶ allows increases in the parent share of cost for instances in which the family has exceeded a state's initial eligibility income threshold, but still remains under the federal 85 percent of SMI.

▶ **Policy Options to Consider:** changes in share of cost if family income exceeds Board initial income limit, but remains below 85% SMI

▶ **PC Recommendations:** Clarify in rule that the parent share of cost is assessed only:

- ▶ At initial eligibility determination;
- ▶ At the 12-month eligibility redetermination; and
- ▶ When a parent reports a change in income or family size that would result in a reduced parent share of cost

Priority and Eligibility for Homeless Children

▶ CCDF REQUIREMENTS:

- ▶ states must give priority to children experiencing homelessness as defined by the McKinney-Vento Homelessness Act of 1987;
- ▶ State procedures must permit enrollment of homeless children while required documentation is obtained;
- ▶ Gives states flexibility in how priority is offered, including:
 - ▶ Prioritizing enrollment;
 - ▶ Waiving share of cost;
 - ▶ Paying higher rates for access to quality care;
 - ▶ Using grants or contracts to reserve slots

Priority and Eligibility for Homeless Children (Cont'd)

- ▶ **Policy Options to Consider:** eligibility requirements for and offering priority of services to homeless children
- ▶ **PC Recommendations:** Priority of services will be offered through the following:
 - ▶ Children meeting the McKinney-Vento definition of homelessness will be considered to have met the income eligibility requirements
 - ▶ Homeless children will be initially enrolled for a period not to exceed 3 months if the parent is employed or in job training by cannot provide documentation verifying the parent is meeting the required number of hours
 - ▶ If, after the 3 months, the family does not meet the minimum activity requirements for eligibility, child care services may be terminated.
 - ▶ Parents of homeless children are exempt from the parent share of cost

Attendance and Provider Reimbursement

- ▶ **CCDF REQUIREMENTS:** Requires states to support the fixed costs of providing care by delinking payments from a child's occasional absence. Options include:
 - ▶ Paying on enrollment, rather than attendance;
 - ▶ Full payment as long as a child attends for at least 85% of the authorization;
 - ▶ Full payment as long as a child is absent for 5 days or fewer in a four-week period;
 - ▶ Other methodology as long as the state describes how the approach is not weaker than any of the above.

Attendance and Provider Reimbursement (Cont'd)

- ▶ **Policy Options to Consider:** standardize attendance and payment practices on one of the CCDF options provided
- ▶ **PC Recommendations:**
 - ▶ full payment to the provider if the child is absent for five or fewer days in a four-week period.
 - ▶ If the child is absent for more than five days in a four-week period, the provider would be reimbursed the full authorization minus five days.
 - ▶ Continue to allow additional absences due to:
 - ▶ A child's ongoing medical needs; or
 - ▶ Court-ordered custody and visitation requirements
 - ▶ Remove requirement to end care if the child exceeds the number of annual paid absences.

Improper Payment, Fraud, and Recoupment - Requirements

▶ CCDF REQUIREMENTS:

- ▶ Because a child meeting eligibility requirements at the most recent eligibility determination or redetermination is considered eligible between redeterminations, any payment shall not be considered an error or improper payment due to a change in the family's circumstances during the 12-month period.
- ▶ Clarified that there is no Federal requirement to recoup CCDF except in instances of fraud.
- ▶ Encouraged states to consider what constitutes fraud, particularly in the case of individual families

Improper Payment, Fraud, and Recoupment

- ▶ **Policy Options to Consider:**

- ▶ options for determining parent fraud for recoupment purposes;
- ▶ options for recoupments for failure to pay the parent share of cost, if the Board policy is to pay providers for the parent share of cost.

- ▶ **PC Recommendations:** Redefine Improper Payment as:

- ▶ any payment of CCDF grant funds that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements governing the administration of CCDF grant funds; and
- ▶ includes any payment of CCDF grant funds:
 - ▶ to an ineligible recipient;
 - ▶ for an ineligible service;
 - ▶ for any duplicate payment; and
 - ▶ for services not received.

Improper Payment, Fraud, and Recoupment - Recommendations

- ▶ **PC Recommendations:** Clarify that recoupment of funds from parents occurs only when:
 - ▶ the Board or TWC has determined the improper payment was due to the parent committing fraud; or
 - ▶ the parent fails to pay the parent share of cost and the Board's policy is to pay the provider for the parent's failure to pay the parent share of cost.
- ▶ **PC Recommendations:** for child care services, fraud is defined as "a willful act or course of deception, an intentional concealment, omission, or perversion of truth, with the intent to obtain a material benefit or service for them or another, for which that person may not be eligible."

Improper Payment, Fraud, and Recoupment – Recommendations (Cont'd)

- ▶ **PC Recommendations:** the following actions by parents may be grounds for suspected fraud and cause for Boards to conduct fraud fact-finding or TWC to initiate a fraud investigation:
 - ▶ not reporting or falsely reporting at initial eligibility or eligibility redetermination:
 - ▶ household composition, income sources or amounts that would have resulted in ineligibility or a higher parent share of cost; or
 - ▶ work, training, or education hours that would have resulted in ineligibility;
 - ▶ not reporting during the 12-month eligibility period:
 - ▶ changes in income or household composition that would cause the family income to exceed 85 percent SMI (taking into consideration fluctuations of income); or
 - ▶ a permanent loss of job or cessation of training or education that exceeds 90 days; and
 - ▶ improper or inaccurate reporting of attendance.

Implementation Timeline (Tentative)

- ▶ Policy Concept
 - ▶ March 29, 2016 – Approved by Commission
 - ▶ April 15, 2016 – End of Board Comment Period
- ▶ Proposed Rules
 - ▶ May 31, 2016 – Approved by Commission
 - ▶ June 17, 2016 – Published in the Texas Register for 30-day Comment Period
 - ▶ July 18, 2016 – End of Public Comment Period
- ▶ Final Rules
 - ▶ September 6, 2016 – Adoption by the Commission
 - ▶ October 1, 2016 – Rules Effective



*Proposal for a TWC/Board Workgroup to
Improve the Child Care Fact-finding, Fraud
Determination and Recoupment Process*

Regulatory Integrity Division / Office of Investigations

March 29, 2016



Opportunity?

- Are the new child care Reauthorization Law changes and the Child Care Recoupment Internal Audit report an opportunity to streamline child care fact-finding process to remove administrative burden on boards and contractors, and modify the current child care recoupment process?
- Office of Investigations (OI) thinks so
- Leverage changes and new OI case management system to simplify current process





Proposed Fraud Definition

“A willful act or course of deception, an intentional concealment, omission, or perversion of truth, with the intent to obtain a material benefit or service for them or another, for which that person may not be eligible.”



Grounds for Suspected Fraud Fact-finding

- Not reporting or falsely reporting at initial eligibility or eligibility redetermination:
 - Household composition, income sources or amounts that would have resulted in ineligibility or a higher parent share of cost; or
 - Work, training, or education hours that would have resulted in ineligibility;
- Not reporting during the 12-month eligibility period:
 - Changes in income or household composition that would cause the family income to exceed 85 percent SMI (taking into consideration fluctuations of income); or
 - A permanent loss of job or cessation of training or education that exceeds 90 days; and
 - Improper or inaccurate reporting of attendance.



Parent Recoupment

- Determining fraud correctly is important because recommended changes to Chapter 809, Child Care Services Rules, clarify that funds will be recouped from parents only when:
 - The Board or TWC has determined the improper payment was due to the parent committing fraud; or
 - The parent fails to pay the parent share of cost and the Board's policy is to pay the provider for the parent's failure to pay the parent share of cost.



Child Care Workgroup

Propose forming a joint TWC/Board workgroup to conduct a Rapid Process Improvement (RPI) in May 2016 to streamline and align the child care program fact-finding, fraud determination and recoupment process with the Rules changes resulting from the Child Care and Development Block Grant Act of 2014, and to incorporate TWC's new case management system.



Proposed Workgroup Goals

- Simplify and reduce the administrative burden on the Boards for child care fact-finding and recoupment processes
- Provide clear, understandable, well-defined guidance for a standardized fact-finding and fraud determination process
- Create a process with measurable minimum requirements to determine a Board's fact-finding and recoupment compliance and performance
- Incorporate TWC's new case management system into the fact-finding and recoupment process



Fact-Finding Concept

- Align the child care fact-finding system with the proven UI benefits system fact-finding and fraud determination approach
- When a potential overpayment is suspected, board child care contractor will conduct desk-top fact-finding to determine if there were any period(s) of ineligibility
- If a period of ineligibility is proven by a preponderance of the credible evidence, then the fact-finder calculates an overpayment



Fact-Finding Concept (cont.)

- Once an overpayment is established, the fact-finder determines if there is clear and convincing proof the overpayment resulted from intentional misrepresentation on the parent's part
- If there is clear and convincing evidence fraud occurred, the board will review the findings and vote "yes" or "no". If "yes" a fraud determination is made; if "no," no fraud
- The child care contractor sends the parent an overpayment and fraud determination letter, including any impact on child care eligibility – the customer can appeal any or all of the determinations within 14 days

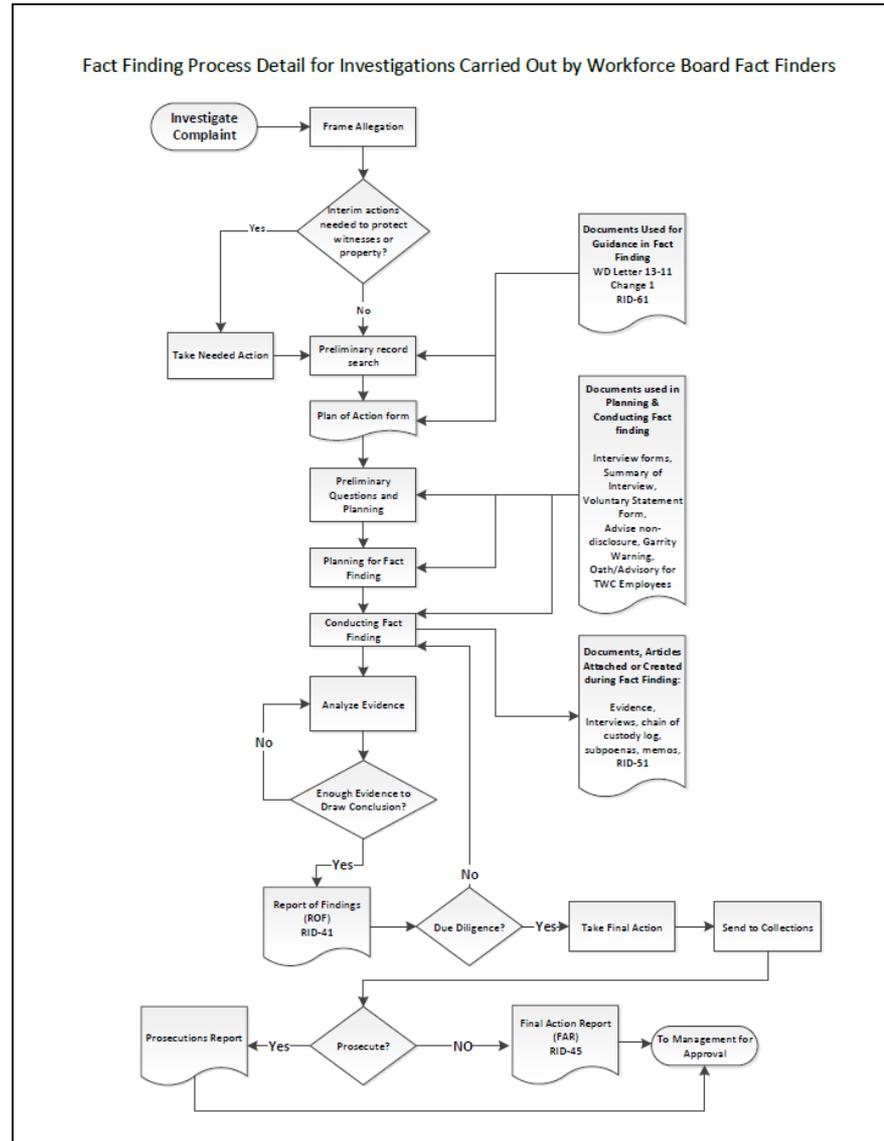


Fact-Finding Concept (continued)

- The case will be opened, documented, managed and archived using the OI case management system, projected to go live in April - May 2016.

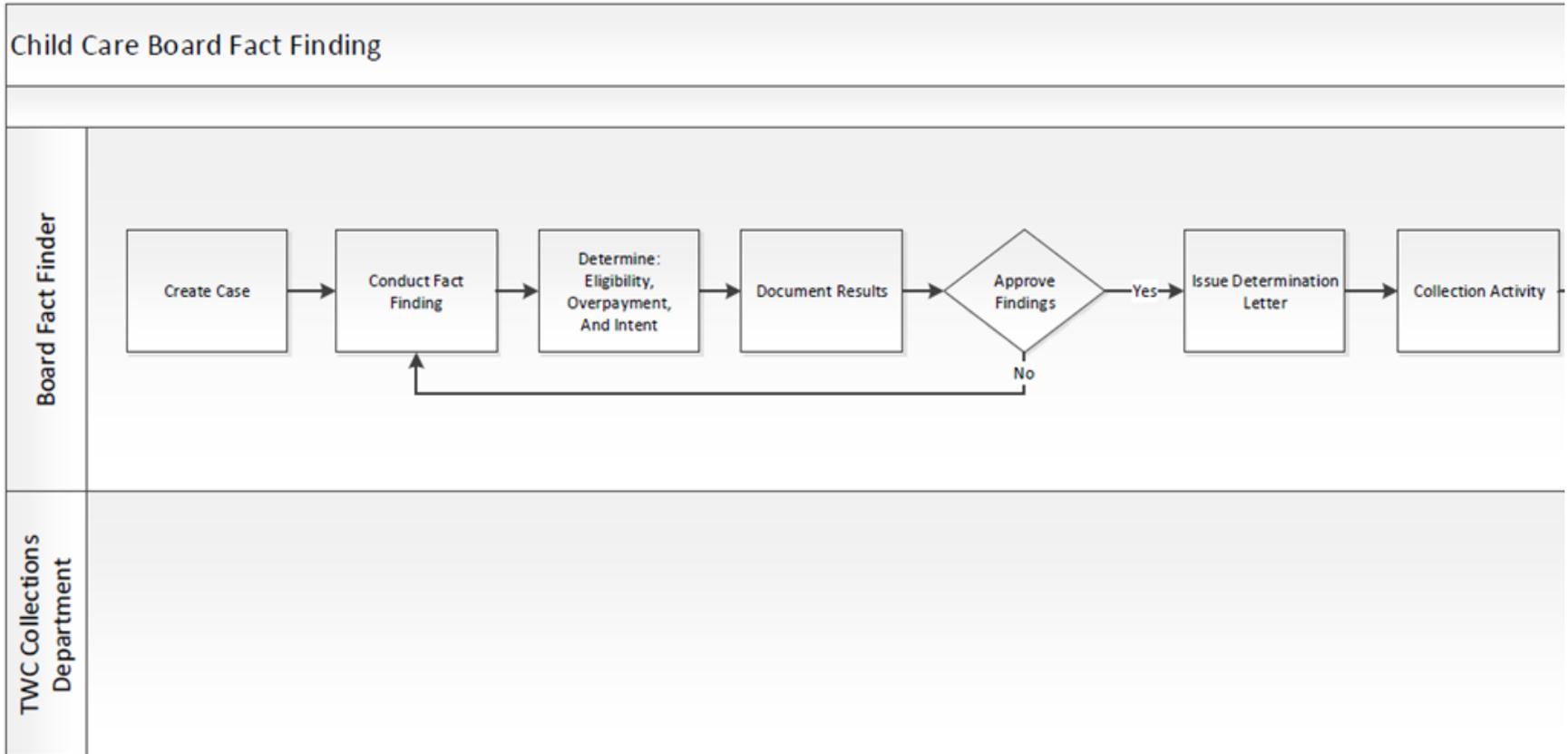


Current CC Fact Finding Process





Proposed CC Fact Finding Process





Thoughts on Future Child Care Fact-finding Processes

Current

- Report **all** TWC, board and contractor cases to TWC on RID-32 Incident Report
- Report **all** cases over \$3,000 to TWC on RID-32 and receive case number
- Conduct fact-finding; **send a RID-41 (Report of Findings)**, overpayment (OP) and fraud findings to TWC OI for review and re-work or approval
- After fact-finding approved, take final actions
 - Prepare Prosecution Report to “Beyond a Reasonable Doubt” standard of evidence and refer the case to the County District Attorney
 - Attempt recouping OP by sending Collections Letter followed 30 days by a Demand Letter
- **Submit RID-45 (Final Action Report (FAR)) for TWC review and RID approval**
- Case closed

Future?

- Report **only** TWC, board and contractor cases to TWC on RID-32 Incident Report
- Open case and enter allegation(s) in **OI Case Management (OICM) system**
- Fact-find to determine period(s) of ineligibility, OP and if intentional misrepresentation (fraud) occurred – enter **short summary** and results into OICM system (**Board, not TWC approves**) and issue a determination letter
- Attempt recouping Fraud OP by sending Collections and Demand Letters and **enter results in OICM system**
- Case closed
- Note: OI reviews all fraud determinations to select cases for further investigation and prosecution referral. **Boards are not required to refer cases for prosecution**



TWC Case Management System

COLUMN | Investigative - Case Console Message Center: (3)

Actions | Complaints | Cases | Tasks | People | Sites | Property | Vehicles | Solutions | Reports | Calendar | Bookmarks | Search | Approvals Case Admin | Logout

NEW | MODIFY | PRINT | ASSIGN TO ME | ASSIGN TO GROUP | LIST BOOKMARKED

Show ▾ My Cases > Open

Record ID	Status	Score	SLA	Disposition	Category	Modified Date	Department...	Assigned Gr...	Assigned Ind...	Summary
2015-0000021	Final Product	20	●		Fire Alarm Pull	11/5/2015 10:15		Investigative As: Case Admin		Child Care customer ove income
2015-0000020	Press Release	20	●		Drug Trafficking	11/5/2015 10:15		Investigative As: Case Admin		sample
2015-0000019	Under Investigation	40	●		Criminal Condu	11/5/2015 10:15	Juvenile	Investigative As: Case Admin		ID theft
2015-0000018	Under Review	120	●	Sustained	Bribery/Corrupt	11/5/2015 10:15	City Council	Investigative As: Case Admin		Report of bribery/corru
2015-0000009	Under Investigation	0	●	Referred	Criminal Condu	11/5/2015 10:15	City Council	Investigative As: Case Admin		Money orders counterfeit.
2015-0000008	Final Product	120	●	Sustained	Rules and Polici	11/5/2015 10:15	City Clerk	Investigative As: Case Admin		Failure to cor with state.
2015-0000006	Under Investigation	0	●		Fraud	11/5/2015 10:15	City Clerk	Investigative As: Case Admin		Fraud suspect with office su purchases for the base offic town.
2015-0000005	Under Investigation	20	●	Referred	Fraud	11/5/2015 10:15	City Council	Investigative As: Case Admin		Suspicious expense repo submissions back office.
2015-0000003	Press Release	120	●	Sustained	Bribery/Corrupt	11/5/2015 10:15	City Clerk	Investigative As: Case Admin		Report of Bri
2015-0000001	Final Product	20	●		Abuse of Office/	11/5/2015 10:15	City Clerk	Investigative As: Case Admin		Test record fr demonstration

2015-0000021 - Final Product

ADD NOTE | ADD EMAIL | ADD ATTACHMENT

SUMMARY
Child Care customer over income

Status: Final Product

Disposition: Fire Alarm Pull Station

Category: Fire Alarm Pull Station

Department:

ASSIGNMENT

Assigned Group: Investigative Assignment
Assigned Individual: Case Admin

Last 4 Journals

ATTACHMENT
DOCUMENT LIBRARY VARIABLES V5.0.docx
3 Nov 2015 at 11:12:35 AM

NOTE
2015-0000021 - Pulled record from customer child care certifications. Compared information in record...
2 Nov 2015 at 2:49:07 PM

Timeline ▾



Recommend TWC/Board Rapid Process Improvement

- Simplify and reduce the administrative burden on the Boards for child care fact-finding and recoupment processes
- Provide clear, understandable, well-defined guidance for a standardized fact-finding and fraud determination process
- Create a process with measurable minimum requirements to determine a Board's fact-finding and recoupment compliance and performance
- Incorporate TWC's new case management system into the fact-finding and recoupment process



Discussion





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