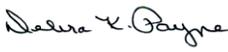


 <p style="text-align: center;">POLICIES AND PROCEDURES</p> <p style="text-align: center;">State of Tennessee Department of Intellectual and Developmental Disabilities</p>	Policy #: 70.2.1	Page 1 of 4
	Effective Date: February 23, 2015	
	Distribution: A, B, C	
Policy Type: Administrative	Supersedes: 70.2.1 (08/03/12)	
Approved by:  Debra K. Payne, Commissioner	Last Review or Revision: November 12, 2014	
Subject: REPORTING FRAUD, WASTE AND ABUSE OF GOVERNMENT FUNDS AND PROPERTY		

- I. **AUTHORITY:** Fraud Enforcement Recovery Act (FERA) of 2009, federal False Claims Act 31 U.S.C.3729 (B)(1)(A)-(B), State False Claims Act Tennessee Code Annotated (TCA) 4-18-101 through 4-18-106, Tennessee Medicaid False Claims Act TCA 71-5-181 through 71-5-184, and The Deficit Reduction Act of 2005.
- II. **PURPOSE:** The purpose of the policy is to provide guidelines for compliance with the federal laws listed above to address Medicaid fraud, waste and abuse. The Department shall comply with federal requirements and applicable state laws related to how to prevent, detect and report fraud, waste and abuse of government property.
- III. **APPLICATION:** This policy applies to all Department of Intellectual and Developmental Disabilities (DIDD) staff, service providers and their subcontractors, vendors and volunteers.
- IV. **DEFINITIONS:**
 - A. **Abuse** shall mean incidents or practices of providers that are inconsistent with sound fiscal, business, or medical practices, and result in unnecessary cost to the Medicaid program or in reimbursement of services that are not medically necessary or that fail to meet professionally recognized standards for health care.
 - B. **Fraud**, for the purpose of this policy shall mean the deception or misrepresentation made by a person with the knowledge that the deception could result in an unauthorized benefit to himself or another person. For purposes of this definition, no proof of specific intent to defraud is required.
 - C. **Waste** shall mean the extravagant, careless, or needless expenditure of government funds, or the consumption of government property, that results from deficient practices, systems, controls, or decisions. The term also includes improper practices not involving prosecutable fraud.
- V. **POLICY:** The Department shall combat fraud and losses resulting from fraud, waste and abuse pursuant to federal and state policy. In accordance with the federal False Claims Act and the state False Claims Act (TCA 4-18-105) and the Tennessee Medicaid False Claims Act (TCA 71-5-181) DIDD shall prohibit retaliation against staff, volunteers, providers and contractor staff who report information about suspected misconduct or questionable practices involving fraud, waste or abuse of government funds or property.

Types of Fraud: actions that may constitute fraud, waste and abuse may include but are not necessarily limited to the following:

1. Knowingly presenting, or causing to be presented a false or fraudulent claim for payment or approval.

Effective Date: February 23, 2015	Policy #: 70.2.1	Page 2 of 3
Subject: REPORTING FRAUD, WASTE, AND ABUSE OF GOVERNMENT FUNDS AND PROPERTY		

2. Knowingly making, using or causing to be made or used a false record or statement material to a false or fraudulent claim.
3. Conspiring to get a false claim allowed or paid.
4. Knowingly making, using or causing to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the government, or knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay or transmit money or property to the government.
5. Having possession, custody or control of property or money used (or to be used) by the government and knowingly delivering (or causing to be delivered) less than all that property or money.
6. Being authorized to make or deliver a document certifying receipt of property used (or to be used) by the government and intending to defraud the government, making or delivering the receipt without completely knowing that the information on the receipt is true.
7. Knowingly buying, or receiving as a pledge of an obligation or debt, public property from an officer or employee of the government who lawfully may not sell or pledge property.

PROCEDURES:

- A. Prevention and Detection of Fraud, Waste and Abuse. DIDD shall:
 1. Provide staff, volunteers, interns, providers and contractors with information about the responsibility for reporting wasteful, inefficient, and/or fraudulent activity associated with the misuse of government funds and property.
 2. Prominently display signs in the DIDD central and regional offices, ICF/IIDs, resource centers and developmental centers which inform staff, providers, volunteers, interns and contractors how to report false claims or wasteful, inefficient, or fraudulent activity involving government funds and property through the toll-free hotline (1-800-232-5454) established by the Tennessee Comptroller of the Treasury Department of Audit or through the DIDD Director of Risk Management and Licensure;
 3. Make copies of federal and state laws available in the DIDD central and regional offices for staff, volunteers, and contractors to review upon request; and
 4. Routinely include information on how to report false claims or fraud, waste or abuse of government funds and property in DIDD newsletters.
 5. DIDD staff from all units shall immediately report tips and referrals as they identify evidence of potential fraud, waste and abuse. Tips and referrals may be reported either verbally or in writing to the DIDD Director of Risk Management and Licensure or the Tennessee Comptroller of the Treasury Department of Audit.

Effective Date: February 23, 2015	Policy #: 70.2.1	Page 3 of 3
Subject: REPORTING FRAUD, WASTE, AND ABUSE OF GOVERNMENT FUNDS AND PROPERTY		

B. Cooperation with Investigations

1. Staff, volunteers, providers and contractors shall fully participate and cooperate with any investigation into suspected misconduct or questionable practices involving fraud, waste, or abuse of government funds or property and shall make records available for inspection and duplication in accordance with state and federal laws and DIDD policy and procedures; and
2. The Department shall support the full prosecution of involved individuals when there is an indication of false claims being made to any agency or if misconduct is uncovered involving fraud, waste, or abuse of government funds or property.
3. Providers and contractors that fail to cooperate in any investigation are subject to sanctions in accordance with Section A 21 of the Provider Agreement.

C. Deficit Reduction Act of 2005 Requirements. On an annual basis, the Office of Risk Management and Licensure shall identify all providers and grantees that received \$5,000,000 or more in annual Medicaid reimbursement. Providers and grantees that have crossed that threshold for the first time shall be notified in writing of their responsibility to abide by the following requirements:

1. To adopt written policy(s) about the False Claims Act and Tennessee's comparable anti-fraud statues, including whistleblower provisions;
2. To inform staff about the fraud and abuse laws and about the whistleblower provisions in those laws, including such information in the provider's employee handbook where applicable; and
3. To submit their written policy(s) about the fraud and abuse laws and about the whistleblower provisions in those laws to the Office of Risk Management and Licensure for review and approval.

VI. **CQL STANDARDS:** None.

VII. **REVISION HISTORY:** November 12, 2014

VIII. **TENNCARE APPROVAL:** November 12, 2014

IX. **ATTACHMENTS:** None