

WORKFORCE SOLUTIONS TEXOMA POLICIES & PROCEDURES

CHAPTER 8 PROGRAM SERVICES

SECTION 13 FRAUD FACT-FINDING AND RECOUPMENT

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8.13.1 DEFINITION OF FRAUD

Fraud is the misrepresentation or intentional concealment of information to obtain services or financial gain.

8.13.1.1 AREAS OF INVESTIGATION

WST will investigate the following areas of suspected fraud:

- 1) Workforce Center Contractor fraud or criminal malfeasance,
- 2) Provider/Vendor fraud, and
- 3) Client fraud.

8.13.1.1.A WORKFORCE CENTER CONTRACTOR FRAUD

Examples of possible contractor or contractor employee fraud include but are not limited to:

- Knowingly authorizing an improper claim for others
- Knowingly authorizing ineligible participation in WST programs
- Knowingly authorizing payment to ineligible providers or clients
- Intentionally manipulating data or other factors to enhance or artificially inflate performance
- Conflict of interest issues
- Extorting money or accepting favors from subcontractors, employers, clients, or providers
- Failing to follow applicable federal laws, TWC rules, WST policies or local procedures
- Improperly disclosing information
- Misusing state or WST owned property (computers, equipment, telephones, etc.)
- Knowingly overstating travel expense reimbursement claims
- Receiving kickbacks from subcontractors, employers, clients or providers
- Using WST supplies for personal use
- Using WST telephone lines for personal calls to avoid long distance charges
- Installing and/or using unauthorized computer programs on WST owned computers
- Installation of WST owned software on personal computers
- Violating contract or grant procedures

Examples of policy violations include, but are not limited to:

- Entering data which illegally alters records
- Failing to follow applicable rules, policies or procedures
- Improperly using passwords or other security controls
- Extorting money or accepting favors from subcontractors, employers, clients or providers
- Preparing inaccurate fiscal reports on programs

- Falsifying official documents or records
- Receiving or giving gifts, fees, entertainment, or favors that might give the appearance of influencing objective execution of duties
- Providing WST services to friends or relatives without prior authorization or following existing eligibility procedures

8.13.1.1.B PROVIDER/VENDOR FRAUD

Examples of potential provider fraud include but are not limited to the following:

- Knowingly claiming reimbursement for services not actually provided
- Knowingly claiming reimbursement or goods and services at a different rate than market value
- Claiming reimbursement for services when providing care for more children than allowed by the Texas Department of Protective and Regulatory Services
- Providing services for WST funded children without a current license or registration from the Texas Department of Protective and Regulatory Services, unless the provider is an eligible relative
- Relatives providing child care services that do not meet the criteria specified in TWC Rule 809.91 Minimum Requirements for Providers or WST Policy 8.4.3.2 Relatives Providing Care

8.13.1.1.C CLIENT FRAUD

Examples of potential client fraud include but are not limited to the following:

- Receiving services when the client knew or should have known that they were not eligible to receive such services
- The client knew or should have known that information provided is false or fraudulent
- Received services, including supportive services, when the client was not participating in program activities as required or otherwise not eligible to receive services funded by WST
- Possible misrepresentation or intentional concealment of information to obtain services which the client is not entitled.

This may include:

- Information regarding income
- Information regarding family composition
- Information regarding employment and/or training activities
- Misrepresentation about guardianship of children, and/or

- Misrepresentation of a child's disability

8.13.2 GENERAL POLICY

It is the policy of the WST that all instances of suspected fraud be treated as serious and investigative procedures begin immediately upon discovery or report of suspected fraud.

Any act which raises questions concerning possible illegal expenditures, unlawful activity, or that otherwise constitutes an action or situation leading to violations of federal law, TWC rules or WST policies must be reported to the WST staff. If the suspected fraud is discovered during routine monitoring or auditing, it must not be discussed at the exit briefing or in the written report pertaining to the visit.

8.13.3 FACT-FINDING FOR SUSPECTED FRAUD

When an incidence of suspected fraud is reported or discovered the following procedures will be followed:

- Document the suspected fraud and begin collecting evidence
- Submit an initial report to WSTTWC within 5 business days
- Interview witnesses or other individuals who may have knowledge or information relevant to the case
- Give the individual(s) involved in the suspected fraud an opportunity to review the evidence gathered and provide an explanation or other evidence to refute the allegation(s) of fraud
- Individual(s) may be given time to collect evidence to refute the allegations of fraud, not to exceed 30 days
- Issue a final report with the results of the investigation and steps taken to resolve the fraud issue.

WST staff will review the progress of the investigation and may offer additional instruction. At any time the WST may take jurisdiction in the matter as deemed appropriate by WST staff overseeing the investigation.

8.13.4 REPORTING REQUIREMENTS

In order for the WST to take action on potential fraud, any WST employee or Contractor must report suspected fraud within 2 business days of discovery or report of suspected fraud, theft, program abuse, violations of federal law, TWC rules or WST policies to the appropriate board staff. A written report with any supporting documentation obtained during the initial investigation will be submitted within 5 business days of discovery or report of suspected fraud.

Limited dissemination of the information obtained during a suspected fraud investigation is crucial to a successful investigation; therefore, all persons involved in reporting the suspected fraud or preparing written reports should be advised to maintain strict confidentiality. Only persons with an absolute need to know will have

access to information concerning the fraud investigation or written reports pertaining to the investigation.

8.13.4.1 REPORTING SUSPECTED FRAUD

The initial report of suspected fraud must be made to the WST staff within 2 business days of discovery or report of suspected fraud. WST The report will include the following:

- Person(s) involved
- WST program(s) involved
- Nature of suspected fraud (contractor, provider or client)
- Source of discovery or disclosure
 - Routine monitoring
 - Staff reporting
 - Other individual
 - Other agency
 - Anonymous tip
 - Or other method of discovery/disclosure
- Timeframe of suspected fraud activity
- Amount of WST funds involved, by program
- Brief description of the incident
- Back up documentation, as appropriate

8.13.5 REPORTING SUSPECTED FRAUD TO TWC

Instances of suspected fraud involving more than \$500 in program funds will be reported to TWC within 5 business days of the date of discovery. The WST staff overseeing the investigation will use Form OPI-32 to report instances of suspected fraud to TWC Office of Investigations.

8.13.5.1 INITIAL REPORT

The initial report to TWC Office of Investigations will include the following:

- Completed Form OPI-32,
- Cover letter that briefly describes:
 - The incident or reason for suspected fraud
 - Actions taken to contact the individual(s) involved
 - Planned future course of action to resolve the issue

8.13.5.2 JURISDICTION

TWC Office of Investigations will maintain full jurisdiction for cases involving the following:

- Losses of \$150,000 or more, or
- Cases involving:
 - Texas Workforce Commission employees,
 - Board employees, or

- Contractor employees if they are suspected of a conspiracy or involvement in an offense involving a larger scheme or plan

8.13.5.3 FINAL REPORT

Once all feasible fact-finding has been completed a final report will be submitted to the TWC (not to exceed 60 days of the initial report date), including the following:

- Steps taken during the fact-finding process;
- The findings (i.e., what was discovered during the fact-finding process);
- Any additional issues detected during the fact-finding process;
- A description of the actions taken to resolve the allegations; and
- Any procedural or policy modifications that are needed to strengthen the integrity of the affected program.

8.13.5.4 FURTHER FACT-FINDING

WST will respond to TWC requests for further-fact finding and will submit a supplemental Final Report disclosing any additional information discovered or actions taken within 30 days from the mailing date of the Further Fact-Finding Letter from TWC Office of Investigations.

8.13.6 ACTION(S) TAKEN DURING A SUSPECTED FRAUD INVESTIGATION

Steps may be taken to prevent further loss of funds during the investigation of suspected fraud. Any action taken by the contractor in frauds/suspected fraud must have prior approval of the WST staff overseeing the fraud investigation.

8.13.6.1 WORKFORCE CENTER CONTRACTOR FRAUD

The following action(s) may be taken during the investigation of suspected Contractor fraud:

- Additional monitoring, oversight and/or technical assistance by WST
- Suspension of the contract
- Temporarily withholding any payments to the contractor until investigation has been completed (not to exceed 60 days)
- Other measures as deemed appropriate by the WST Board

8.13.6.2 PROVIDER/VENDOR FRAUD

The following action(s) may be taken during the investigation of suspected provider fraud:

- Temporarily withholding payment for services until investigation has been completed (not to exceed 60 days)
- Suspension of the Provider Financial Agreement
- Removal of all WST funded children and/or funding
- Prevent the provider/vendor from receiving any new client referrals

- Additional monitoring and technical assistance by contractor staff
- Other measures as deemed appropriate by WST

8.13.6.3 CLIENT FRAUD

The following action(s) may be taken during the investigation of suspected client fraud:

- Suspension of services
- Certify the client eligible for services in smaller intervals (ex: certify client for child care services in 3 month intervals)
- In cases of Relative provider fraud, require the client to choose a Regulated provider

8.13.7 NOTIFICATION OF FRAUD INVESTIGATION RESULTS

Once the fraud investigation is complete the following steps will be taken:

- The individual(s) will be notified of the results of the investigation and actions to be taken as a result within 10 business days of the final investigation report and given 15 days to respond
- The individual(s) will be given information on their right to appeal and the appeals process

8.13.8 ACTIONS TAKEN AS A RESULT OF A FRAUD INVESTIGATION

Individual(s) found to have been engaged in fraudulent activity(ies) may have the following actions taken:

8.13.8.1 WORKFORCE CENTER CONTRACTOR FRAUD

The following action(s) may be taken in cases of Contractor fraud:

- Additional monitoring, oversight and/or technical assistance by WST
- Termination of the contract
- Withholding payments for services provided during the period of fraudulent activity
- Other measures as deemed appropriate by the WST Board

8.13.8.2 PROVIDER/VENDOR FRAUD

The following action(s) may be taken in cases of provider/vendor fraud:

- Withholding payment for services provided during the period of fraudulent activity
- Termination of Provider Financial Agreement
- Removal of all WST funded children and/or funding
- Prevent the provider/vendor from receiving any additional WST funds
- Prevent the provider/vendor from receiving any new client referrals
- Additional monitoring and technical assistance by contractor staff
- Other measures as deemed appropriate by WST

8.13.8.3 CLIENT FRAUD

The following action(s) may be taken during the investigation of suspected client fraud:

- Termination of services
- Certify the client eligible for services in smaller intervals (ex: certify client for child care services in 3 month intervals)
- In cases of Relative provider fraud, require the client to choose a Regulated provider

8.13.9 RECOUPMENT OF FUNDS

Program funds may be recouped for fraud or for reasons other than fraud. A tracking system must be developed and maintained for recouped funds. Tracking system should include at least the following information: customer name, name of the program funds are being recouped for, the start and end date of the recoupment agreement, the anticipated monthly payment amount, total amount owed, and a detailed listing of funds recouped and dates payments were received.

8.13.9.1 Recoupment for Fraud

Funds will be recouped when an investigation of suspected fraud reveals that funds have been misused/misapplied. The Fraud recoupment process is as follows:

- 1) The contractor will identify costs to be recouped and collect support documentation. This information is forwarded to WST who will complete the collection process as the fiscal agent.
- 2) Individual(s) will be notified by WST in writing of the amount of funds to be recovered within 10 business days after the total amount owed is determined and given 30 days to:
 - a) make payment in full, or
 - b) arrange to pay the amount owed in a written/signed payment plan.
 - Payment plans will not exceed 36 months
 - Payment plans will contain information relating to the due date(s) of the payments, the agreed-upon payment amount to be collected each month, and consequences of non-payment.
- 3) Individuals who enter into a repayment agreement may receive child care assistance and/or WST funds while repaying funds under the following conditions:
 - a) The individual has a signed repayment agreement for the full amount that does not exceed 36 months,
 - b) The amount owed is greater than \$250,
 - c) The individual is making payments at least once each month,
 - d) Payments are being made in accordance with the repayment agreement signed by the parent
- 4) Individuals who have entered into a repayment agreement and become delinquent (fail to make any payments for more than 60

days) or fail to make the minimum monthly payment specified in their repayment agreement for 3 consecutive months may be subject to the following:

- a) Termination of child care assistance,
 - b) Blocked from receiving further services until the individual has made payments in accordance with their repayment agreement for at least 60 days,
 - c) Withholding payments for services provided until the provider begins making regular payments toward their repayment agreement,
 - d) Reported to the TWC Office of Investigations to place the customer on a Warrant Hold list of the Texas Comptroller of Public Accounts, or
 - e) Other measures deemed appropriate by WST
- 5) Individuals who fail to repay the amount owed in full, enter into a repayment agreement or repay funds in accordance with their written agreement will be subject to the following consequences:
- a) Amounts less than \$3,000:
 - Reported to the TWC Office of Investigations to place the customer on a Warrant Hold list of the Texas Comptroller of Public Accounts.
 - The customer may also be subject to the following:
 - Termination of services,
 - Reduction or termination of support services
 - Blocked from receiving further services or support services until full restitution is made, or
 - Other measures deemed necessary by WST.
 - b) Amounts \$3,000 or greater:

WST will submit a Report of Findings to TWC Office of Investigations for consideration for legal prosecution. The Report of Findings will contain the following:

 - The complete casefile, including the customer's eligibility application and Acknowledgement of Rights and Responsibilities.
 - Any witness statements pertaining to the case
 - The customer's statement attesting to the facts of the case or a Board letter stating the customer refused to cooperate, could not be located, etc.
 - Any relevant documentary evidence relating to the case
- 6) Due diligence must be made in collection attempts. Monthly statements should be generated and mailed to the customer. Records must be kept of all contacts/attempted contacts to collect funds. If customer is not responsive to collection efforts, a certified

letter will be sent notifying them of the possible legal consequences that will be taken if the debt is not repaid.

8.13.9.2 Recoupment for Reasons Other than Fraud

Funds may also be recouped for the following reasons:

- 1) when customers drop out of training or fail to maintain employment,
- 2) for overpayments of supportive services,
- 3) for payments made to customers in error,
- 4) for failure to report a status change,
- 5) for failure to report all family income sources that would result in the parent paying a higher parent fee for child care assistance,
- 6) for child care provided while parent was waiting for an appeal, if the parent loses the appeal, or
- 7) other reasoned deemed appropriate by WST

The recoupment process for funds that are being recouped for reasons other than fraud as follows:

- 1) The contractor will identify costs to be recouped and collect support documentation. This information is forwarded to WST who will complete the collection process as the fiscal agent.
- 2) Individual(s) will be notified by WST in writing of the amount of funds to be recovered within 10 business days after the total amount owed is determined and given 30 days to:
 - c) make payment in full, or
 - d) arrange to pay the amount owed in a written/signed payment plan.
 - Payment plans will not exceed 36 months
 - Payment plans will contain information relating to the due date(s) of the payments, the agreed-upon payment amount to be collected each month, and consequences of non-payment.
- 3) Individuals who enter into a repayment agreement may receive child care assistance and/or WST funds while repaying funds under the following conditions:
 - a. The individual has a signed repayment agreement for the full amount that does not exceed 36 months,
 - b. The amount owed is greater than \$250,
 - c. The individual is making payments at least once each month,
 - d. Payments are being made in accordance with the repayment agreement signed by the parent
- 4) Individuals who have entered into a repayment agreement and become delinquent (fail to make any payments for more than 60 days) or fail to make the minimum monthly payment specified in their

repayment agreement for 3 consecutive months may be subject to the following:

- a. Termination of child care assistance,
 - b. Blocked from receiving further services until the individual has made payments in accordance with their repayment agreement for at least 60 days,
 - c. Withholding payments for services provided until the provider begins making regular payments toward their repayment agreement,
 - d. Reported to the TWC Office of Investigations to place the customer on a Warrant Hold list of the Texas Comptroller of Public Accounts, or
 - e. Other measures deemed appropriate by WST
- 5) Individuals who fail to repay funds in accordance with their written agreement may be subject to the following consequences:
- a. Termination of services,
 - b. Reduction or termination of support services
 - c. Blocked from receiving further services or support services until full restitution is made, or
 - d. Other measures deemed necessary by WST.