

AGREEMENT

BY AND BETWEEN

THE

CATTARAUGUS COUNTY DEPARTMENT OF SOCIAL SERVICES

AND THE

CATTARAUGUS COUNTY DISTRICT ATTORNEY

WHEREAS, New York State Regulation 18 NYCRR399.4(e)(2) requires a written agreement between the local Social Services District and the District Attorney providing advance written notification regarding consequences to a SNAP or Public Assistance household considering the execution of a Disqualification Consent Agreement, in lieu of prosecution, and

WHEREAS, the Cattaraugus County Department of Social Services has established a policy and procedure regarding treatment of SNAP and Public Assistance over-issuances which incorporates the notification requirement (Attachment A),

THEREFORE, it is mutually agreed that the policy and procedure set forth in Attachment A will be followed effective January 1, 2016, and until such time as there is agreement by both parties to amend its content



Cattaraugus County Commissioner of
Social Services

7/5/17

Date

Harrison, Kim 01HA6282411
Notary Public, State of New York
Qualified in Cattaraugus County
My Commission Expires 05/20/21

Kim Harrison 7/6/17



Cattaraugus County
District Attorney

7-3-17

Date

BETTY L. WILLIAMS
Notary Public, State of New York
No. 01W16136883
Qualified in Cattaraugus County
Commission Expires Nov. 14, 2017

Betty L. Williams 7/3/17

Attachment A

Amendment I:

The Cattaraugus County District Attorney's office will accept fraud cases for possible prosecution upon the recommendation of the Chief/Senior Investigator and or the Sheriff Investigator assigned to Social Services.

The Sheriff Investigator, as a police officer, may make arrests on possible fraud cases, based solely on his discretion as a police officer that an IPV has been committed. The Investigator need not confer with the District Attorney's office prior to making arrest, although he may. Once the case is in court the District Attorney's office will determine the course of prosecution with the cooperation and assistance of the Sheriff Investigator and Chief/Senior Investigator.

The determination of whether a case should be considered as a DCA case or prosecuted will generally rest with the Chief/Senior Investigator and Sheriff Investigator with the consent of the District Attorney.

Amendment II:

The Department monitors all prosecuted cases throughout the court procedure. The Chief/Senior Investigator or his designated representative is kept apprised of convicted and sentenced cases. At arraignment, the defendant and his/her attorney shall be provided with a notice of consequences of being found guilty by plea or trial of an IPV at court. It will be the Chief/Senior Investigator or agency representative's responsibility to ensure this notice of consequences is attached to and made part of the accusatory instrument.

Investigative Unit Operations Plan

County: Cattaraugus
Contact Person: Renée Williams
Title: Senior Investigator
Phone#: 716-701-3557
E-mail Address: rwilliams@cattco.org

1. **What unit is responsible for the investigation and prosecution of client fraud allegations (name of the unit, # of positions, titles of positions, how allegations are processed)**

The Fraud & Legal Unit is responsible for investigations and prosecutions. There are currently 3 positions: Senior Investigator, Welfare Examiner and a Detective contracted from the Sheriff's Department.

When there is an allegation or complaint the Senior Investigator does a preliminary review of the information to determine if further investigation is warranted. If further investigation is needed, the case is assigned to either the Welfare Examiner or the Sheriff's Detective. When the investigation is complete, the case is reviewed by the Senior examiner to determine the next step.

2. **What unit is responsible for the prosecution of client fraud allegations?**

(name of the unit, # of positions, titles of positions, how allegations are processed)

The Fraud & Legal Unit in conjunction with the District Attorney's office is responsible for the prosecution of the client fraud allegations.

Upon completion of fraud allegation investigation(s), the Senior Investigator will determine whether or not the fraud allegations are valid and whether or not the agency will be pursuing criminal and/or administrative action against the accused. If the agency WILL be pressing criminal charges the case either remains with the Detective or is turned over to Detective with all evidentiary material to make the arrest. If the agency decides to pursue a DCA in lieu of prosecution, the evidentiary information is provided to the District Attorney's office for review and approval prior to the implementation of the disqualification period.

3. What unit is responsible for determining the overpayment amount, establishing the claim and collection activities?

The Senior Investigator and Welfare Examiner are both trained to properly calculate overpayment amounts and will determine overpayment amounts if absolutely needed - but most times the case is sent to the undercare worker of the case with specific parameters and required documentation and asked to calculate the overpayment and return it to the Fraud/legal department within a specific amount of time. The overpayment calculation is then reviewed by their supervisor and returned to legal for final review. After the final action on the investigation has been made, the overpayment information is sent to the CAMS unit to establish the claim. The CAMS unit performs all collection activities but the Legal Unit does also informally track collections made on established IPV / Fraud cases.

4. What are the step by step procedures for the referral of fraud cases for administrative hearings, including the notices provided and the timing of providing such notices?

At this time, Cattaraugus County does not do Administrative Hearings. If and when this process becomes necessary in the future, a step by step procedure will be initiated and created.

5. What are the step by step procedures for the referral of fraud cases to your District Attorney, including the notices provided and the timing of providing such notices?

The Cattaraugus County District Attorney's office will accept fraud cases for possible prosecution upon the recommendation of the Senior Investigator and/or the Sheriff Detective assigned to Social Services. The Sheriff Detective, as a police officer, may make arrests on possible fraud cases, based solely on his/her discretion as a police officer that an IPV has been committed. The Detective need not confer with the DA's Office prior to making an arrest. All investigations are reviewed and discussed with the Senior Investigator before any course of action is taken.

There are no notices to speak of, issued to suspects who are arrested. They are provided with an appearance ticket to be arraigned in court.

Even though the agreement with the District Attorney's office states that the determination of whether a case should be considered as a DCA or prosecuted, rests with the Senior Investigator and Sheriff Investigator assigned to the agency, cases that are pursued with a DCA in lieu of prosecution are sent to the District Attorney's office for review and approval prior to the implementation of any disqualification period. A notice of consequences is provided to the client. This notice is generally provided to the client at a face to face interview and hand delivered, giving them 10 days to respond to the proposed action.

6. What are your procedures for offering a Disqualification Consent Agreement (DCA)

Even though the District Attorney would accept IPV prosecutions that involve little to no overpayment, the agency's standard practice, with some exceptions, on those cases is to offer the offender a Disqualification Consent Agreement (DCA). When a DCA is the decided course of action, all of the evidence is presented to the offender in a face to face interview - with a very few exceptions. This is done by either the Welfare Examiner or Senior Investigator of the Legal Unit. The agency advises that they are willing to offer this repercussion for the IPV in lieu of prosecution. This is ONLY done on cases which the agency is willing to pursue criminal prosecution. The offender is provided with a notice of consequences and every aspect of the DCA and the impending disqualification is clearly explained to them. They are given several opportunities to ask any questions they may have. They are advised and encouraged to take all the information with them, review it, understand it, and contact legal counseling if they wish - before committing to a decision. They are asked to sign an acknowledgment of receipt and understanding of the notice of consequences. They are given 10 days to get back in contact with the agency. If the offender decides they want to sign the DCA at that meeting and does not wish to wait the 10 days, they are given the opportunity to do so but are very clearly advised that they still have 10 days in which to change their mind. These signed documents are then held for AT LEAST 10 days to allow the accused to change their mind if they choose. An evidentiary packet with the case information and investigation results are sent to the District Attorney's office to review and approve prior to any implementation of a DCA disqualification.

If the client fails to make contact with the agency within the 10 days or decides that a DCA is not the route they wish to go, the completed investigation and all of the evidence is turned over or returned to the Sheriff Detective assigned to the agency to move forward with pursuing criminal charges.

7. **How is it proven that an individual has been advised on the court record of the Temporary Assistance disqualification penalties?**

When an arrest is made, the *NOTICE TO ADVISE INDIVIDUALS ON A COURT RECORD OF DISQUALIFICATION PROVISIONS; LDSS-4906* is attached to and made part of the accusatory instrument and is submitted with the arresting officer's charges and evidentiary packet. The accusatory instrument that is read into the record by the judge at arraignment, advises the accused of this attachment AND that their plea and/or conviction may be basis for disqualification from receipt of public assistance benefits. A copy of this is also given to the District Attorney's office with the evidentiary packet.

*Any time there is to be a disqualification, the Senior Investigator researches EDRS and any other resources to ensure the proper penalty period is being imposed.

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