

Investigative Unit Operations Plan

County: Tioga County
Contact Person: Shawn L. Yetter
Title: Commissioner
Phone # 607-687-8302
E-mail address shawn.yetter@dfa.state.ny.us

1. A description of the organizational unit(s) responsible for the investigation of allegations of client fraud:

We have a Fraud Unit which consists of 2 Social Services Investigators. They are provided direct supervision by the Commissioner.

Social Welfare Examiners forward Fraud referrals directly to the Social Services Investigators on a Fraud Referral Form. The referrals are logged into the database and the appropriate action is taken.

Any complaints from the community are obtained through the mail or by phone calls going directly to one of the Investigators. The Investigator will record the information, log the referral into the database and take the appropriate action.

Once the referral is logged, an investigation is started to determine whether the Fraud allegation is valid. Depending on the results of the investigation, the case will either be referred for an arrest and court action, or a repayment will be pursued if intent to defraud the agency can't be determined or there is an agency error. If the allegation is unfounded, the Fraud case will be closed.

2. A description of any claims establishment (recoupments) and collection activities for which the Fraud referral unit also may be responsible:

The Fraud Unit determines any overpayment and refers the overpayment to the Accounting Department for establishment into the Cash Management System (CAMS). Any money paid to the agency goes directly to the Accounting Department and is posted into CAMS. The Fraud Investigator oversees the process and keeps track of payments made per the court order or repayment agreement. If payments are not made as established, the client is referred to the court for a violation.

3. Procedures for the referral of fraud cases for administrative hearings:

Tioga County doesn't participate in administrative hearings.

4. A description of the organizational unit(s) responsible for the prosecution of allegations of client fraud:

The aforementioned (Question #1) Fraud Unit is responsible for pursuing/referring for prosecution.

5. Detailed procedures for the referral of fraud cases to the prosecuting authority:

Depending on the results of the investigation, the case will either be referred for an arrest and court action, or a repayment will be pursued if intent to defraud the agency can't be determined or there is an agency error. If the allegation is unfounded, the Fraud case will be closed.

6. A detailed, step by step description of the DCA process following the guidelines set forth in 91-ADM-51 and 18 NYCRR 359.4. Additionally, attached for your reference are the "Protocol for DCA Interview" (Attachment 2) and "DCA Interview Acknowledgement" (Attachment 3) forms. These forms are not mandatory, but are included for your consideration and their use is encouraged:

Tioga County does not participate in the DCA process.

7. An explanation of how it is proven that the individual was advised on the record of the court of the disqualification provision prior to entering any plea:

The Temporary Assistance disqualification penalties are discussed with the District Attorney and the individual's attorney at a pretrial conference. The penalty information is then entered into the court order once the plea is made and they are sentenced.

8. A copy of or a statement of the agreement with the prosecuting authority's office in accordance with 18 NYCRR 348.2(c) and 359.4, and the federal regulation 7 CFR 273.16(g)(1). This agreement must include information on how, and under what circumstances, cases will be accepted for possible prosecution and the criteria set by the prosecutor for accepting cases for prosecution. The criteria should include, but not be limited to, the dollar threshold and the type of violation:

A copy of the most recent agreement is attached.

AGREEMENT

THIS AGREEMENT, made this 30th day of March, 20 10, between

LINDA HUFFNER, Commissioner of the Chemung County Department of Social Services, with offices at 425 Pennsylvania Ave. Elmira, New York, hereinafter called "COMMISSIONER"

Party of the First Part

- AND -

WEEDON WETMORE, ESQ, District Attorney of the County of Chemung, with Offices at 226 Lake St. Elmira, New York, hereinafter called "DISTRICT ATTORNEY"

Party of the Second Part

WHEREAS, the COMMISSIONER recognizes that it is the statutory responsibility of the DISTRICT ATTORNEY to prosecute crimes committed in the County of Chemung,

WHEREAS, the DISTRICT ATTORNEY recognizes the COMMISSIONER maintains the Special Investigations Unit with the responsibility to investigate allegations of Welfare Fraud in all program areas operated within the Department of Social Services and to recover overpayments of assistance that occur as the result of fraudulent activity, and

WHEREAS, the DISTRICT ATTORNEY recognizes the COMMISSIONER is required by the New York State Office of Temporary & Disability Assistance and the New York State Department of Health to make appropriate referrals to the DISTRICT ATTORNEY to prosecute cases of fraud committed against the Chemung County Department of Social Services, and

WHEREAS, the parties are desirous of instituting procedures in the referral of fraud Cases for criminal prosecution as accepted by the DISTRICT ATTORNEY, and for cases not

accepted for criminal prosecution , which are to be dealt with by the COMMISSIONER administratively pursuant to procedures set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is hereby agreed by and between the parties as follows:

ONE: The COMMISSIONER shall refer cases of Suspected Welfare Fraud to the DISTRICT ATTORNEY on activity involving a) concealment of a material fact (i.e. unreported income, unreported resources, etc.) resulting in an overpayment of assistance b) the filing of a false instrument or false statement c) any combination of a & b and/or d) Criminal use of Public Benefit cards or any other fraudulent activity as recommended by the DISTRICT ATTORNEY. The acceptance of the case for criminal prosecution based upon the evidence presented shall be at the discretion of the DISTRICT ATTORNEY.

TWO: The DISTRICT ATTORNEY recognizes that the Police Fraud Investigator assigned to the Department of Social Services Special Investigation Unit shall prepare the Accusatory Instrument and evidence package for all welfare fraud cases referred to the DISTRICT ATTORNEY by said Department and said Police Fraud Investigator may proceed directly to arrest in accordance with Police procedures under the New York State Criminal Procedure Law. The Police Fraud Investigator shall file an original copy of the Accusatory Instrument together with a complete evidence package with the DISTRICT ATTORNEY. The evidence package shall include a Statement for the Record identifying Temporary Assistance Disqualification penalties to be entered in the court record by the DISTRICT ATTORNEY.

THREE: If, after conferring with the Department of Social Services, the DISTRICT ATTORNEY believes that the administrative procedure is in the best interests of the People of the State of New York, then in that event the Social Services Investigator assigned to the case

shall attempt to seek restitution of the overpayment in the appropriate program area by Civil remedy. On overpayments involving the Public Assistance and Food Stamp programs an Administrative Disqualification Hearing transmittal may be filed for the purpose of establishing an Intentional Program Violation in lieu of criminal prosecution.

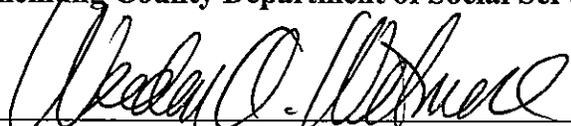
FOUR: The District Attorney authorizes the Department of Social Services to send advance written notification of consequences of signing a Disqualification Consent Agreement to the assistance unit or household, and enter into a Disqualification Consent Agreement, when deferred adjudication is contemplated on Intentional Program Violations (IPVs) resulting from a false statement with no overpayments of Public Assistance and/or Food Stamps or as directed by the Chemung County District Attorney.

FIVE: This Agreement may be terminated by either party upon thirty days written notice to the other party, which notice shall either be mailed by first class mail or delivered in person to the other party at the address for said party as shown on the first page of this Agreement.

IN WITNESS WHEREOF, the parties hereto have affixed their respective signatures on the day and date first above written.



Linda Huffner, Commissioner
Chemung County Department of Social Services



Weedon Wetmore, Esq., District Attorney
County of Chemung