



Child and Community Services Division Policy & Procedures

Subject: Emergency Rental Assistance Program Fraud Management
Process Owner: Child and Community Services Division
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Revision Number: 1

Emergency Rental Assistance Program Fraud Management

I. POLICY STATEMENT

The purpose of this policy is to provide guidance on the Child and Community Services Division (CCSD or Division), Community Services Program (CSP), processes for review and action on fraudulent activity in the Emergency Rental Assistance Program. Separate Program-specific policies detail processes and procedures to prevent and detect fraud.

Revision 1

Clerical fixes

Clarifies processing requirements for fraudulent Overpayments

Adds Fraud Denial standards and procedures

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III. APPLICABILITY

This policy applies to all DES Employees and contracting staff who are involved with administration of DES Programs.

IV. AUTHORITY

[2 C.F.R. 200](#), see also [Subpart E](#) Uniform Administrative Requirements, Cost Principles for Federal Awards

V. DEFINITIONS

Administrative Error: A Client unintentionally giving the Department incomplete or incorrect information, or failing to correct erroneous information, or other error at no fault of the client.

Administrative Review Team (ART): A designated panel of CCSD CSP Program experts that review grievances and associated case files, evidence, and statements provided by Clients, when requested.

Appellate Services Administration (ASA): Administration within the Office of Inspector General (OIG) that holds administrative tribunal hearings related to unemployment and public assistance benefits for multiple programs within DES.

Applicant (or Client): A person who applies for, or receives Program benefits in subject to this policy.

Employee: Any full-time or part-time worker, or temporary paid or unpaid worker, who is employed directly by DES.

Fraud: Any knowing misrepresentation or concealment of material facts to obtain benefits to which the Client is not lawfully entitled.

Office of Inspector General (OIG): Administration which conducts administrative and criminal investigations to prevent and detect fraud, waste, abuse and misconduct in public assistance programs administered by DES; and conducts investigations of suspected cases of Welfare Fraud under this Policy.

Overpayment: Any payment of funds that exceeds the amount to which the Client was lawfully entitled.

Program Subject to this Policy (Program): This Policy applies to the Emergency Rental Assistance Program (ERAP).

VI. STANDARDS

A. Administrative Errors

1. An Administrative Error includes:
 - a. A Client unintentionally giving the Department incomplete or incorrect information, or failing to correct erroneous information, or
 - b. Other error at no fault of the Client.

2. It is presumed that an Administrative Error has occurred, unless there is **clear and convincing evidence** of Fraud and it is **highly probable** that Fraud occurred.
3. Administrative Errors may include:
 - a. A Client:
 1. Transposing letters or numbers in an application;
 2. Clearly contradictory information provided in an application due to apparent confusion or misunderstanding;
 3. Apparent misclicking of selection-boxes (e.g., an applicant selects “no” to having income, but provides income documentation);
 4. Incomplete applications (e.g., applications which generally require more information to be processed);
 5. Errors due to misunderstanding of Program rules or benefits (e.g., requesting assistance for an ineligible expense); or
 6. Other application errors which may be resolved through Employee navigation assistance, and which do not have clear evidence of Fraud.
 - b. The Department:
 1. Erroneously approving or denying an application that is not eligible for benefits;
 2. Erroneously approving a higher or lower benefit amount than a Client is entitled; or
 3. Experiencing payment processing errors such as a duplicate payment, or payment failure.

B. Fraud

1. Fraud is any knowing misrepresentation or concealment of material facts to obtain benefits to which the Client is not lawfully entitled.
 - a. To be classified as Fraud, the violation must be with the knowledge of the Client. An unknowing, inadvertent, or unintentional violation is not Fraud (See Administrative Error).
 - b. A Client is not lawfully entitled to a benefit when they fraudulently attempt to obtain benefits when they are ineligible, or benefits beyond that which they are lawfully entitled.
2. Fraud must be supported by “**clear and convincing evidence**” indicating that it is “**highly probable**” that the Fraud occurred.

3. Fraud may include:
 - a. A knowing act or omission that misrepresents, conceals, or withholds material information related to an application and/or benefits determination;
 - b. A knowing act or omission that could (but does not) result in a Client receiving assistance or services to which the Client is not entitled, or greater than that to which the Client is entitled;
 - c. Providing false or inaccurate documentation as part of an application;
 - d. Abuse or misuse of Department or Program systems; or
 - e. Any other failure to repeatedly or substantially comply with Department rules regarding the Program or eligibility.
 4. In all cases, action will be taken on Fraud in accordance with the procedures established by this Policy.
 5. Applicants who commit Fraud may be subject to:
 - a. Administrative Disqualification;
 - b. Investigation;
 - c. Recoupment of benefits; and
 - d. Criminal and civil penalties.
- C. Employees will follow applicable law, policy, procedures and other guidance in managing and reporting Fraud in the Program.
- D. Nothing in this Policy shall limit an adjudicator or navigator's ability and duty to assist in the Program application or navigation process.
- E. Employees will always continue to treat Clients with dignity and respect regardless of whether a Client has committed or is suspected of Fraud, and exercise discretion in any interaction with Clients who are subject to Fraud processing reporting procedures.
- F. Fraud procedures will be conducted in a timely manner in accordance with the timelines established by this Policy.

VII. PROCEDURES

A. Fraud Monitoring

1. Employees will monitor program applications and Client cases for Fraud in accordance with applicable Program guidance.
2. Employees will take appropriate action on identified Fraud, based upon the status of the application:
 - a. Fraud Denial

- i. A Fraud Denial is the immediate denial of an application for Fraud.
 - ii. Applies to applications under adjudication, prior to a benefits determination.
- b. Fraud Referral
 - i. A Fraud Referral is the referral of an application, suspected of fraudulently obtaining benefits, to OIG for investigation and later action.
 - ii. Applies to applications that have already been adjudicated and approved for benefits, where fraud is suspected

NOTE: If an overpayment is identified and no fraud is suspected, refer to ERAP Overpayments Policy for processing and referral to the CCSD Overpayments Unit.

B. Documenting Fraud

1. Fraud is documented and processed using the Overpayment and Fraud Report (DCAD-1002A).
 - a. Refer to the ERAP Overpayment Policy for overpayment processing, if an overpayment is associated with incident.
2. When an Employee identifies Fraud, the Employee will document the Fraud using the Overpayment and Fraud Report to:
 - a. Annotate all additional relevant Client and case information:
 - i. Client application and contact information;
 - ii. Program information;
 - iii. The Employee's name as a point of contact for the Fraud Report;
 - iv. How the Fraud was discovered and approximate date(s); and
 - v. A summary of the nature of the Fraud
 - b. Capture material Fraud data, such as:
 - i. A summary of any fraudulent statements and/or information known;
 - ii. A summary of any evidence or supporting information known related to the Fraud (specifically listing documentation and/or attachments);
 - iii. Any witnesses known (specifically listing names and any contact information); and

- iv. Any other evidence related to the Fraud.
- c. List attachments related to the Fraud for inclusion in the case file for processing.
- d. The Manager or Designee, will regularly monitor Overpayment and Fraud Reports to ensure accuracy, timeliness, and validity.

C. Fraud Action

1. General Principles

- a. Whether a suspect application is ultimately determined to be Fraud depends upon the evidence.
 - i. Adjudicators are the first line of defense against Fraud, and have the discretion, training, and experience to identify and take action on Fraud.
 - ii. If an adjudicator has questions regarding a Fraud determination, they should first consult with their supervisor. Supervisors should consult with their program manager. Program managers should consult with the Policy Unit.

2. Fraud Denial

- a. Applications are processed for denial when Fraud is identified and the application is under adjudication, prior to a benefits determination.
- b. ERAP is a sunset program that is no longer accepting or processing applications; the Program is not eligible for Fraud Denial processing under this Policy.¹

3. Fraud Referral

- a. An application will be processed for Fraud Referral when Fraud is identified and:
 - i. The application has already been adjudicated and **approved** for benefits

EXAMPLE 1: Applicant X is approved for rental assistance. Months later, Applicant X applies for rental assistance again at a new address while still receiving rental assistance at their prior address. After talking with the Client, it is discovered that the first application was fraudulent, and someone was impersonating Applicant X. The first application is processed as a Fraud Referral.

¹ For fraud denials under applications preceding this Policy, refer to denial procedures due to fraudulent activity / ineligibility under then-applicable ERAP policy.

EXAMPLE 2: Applicant Y's application is under review, and suspected to be fraudulent. The application is for Utility Assistance, but the Applicant appears to be providing incomplete income information. While attempting to verify income, the application is erroneously approved. Some hours later, it is discovered that the Applicant's income exceeds the Program minimum. This application must be processed as a Fraud Referral as the application was approved.

- b. For applications processed for Fraud Referral, the adjudicating staff must:
 - i. Track the application in a unified Fraud tracking system. This system will be utilized to monitor the total number of suspected fraud cases and their status.
 - ii. Complete an Overpayment and Fraud Report.
 - a) A copy of the Overpayment and Fraud Report will be sent to OIG
 - iii. In addition to sending the Overpayment and Fraud Report via email, complete an [OIG Investigation Referral Form](#) for the application:
 - a) Provide the case number
 - b) Provide the date and subject line used for when the Overpayment and Fraud Report were sent to OIG via email.
 - iv. Completed Fraud Referrals will be returned to the CCSD Overpayments Unit by OIG for processing in accordance with the ERAP Overpayments Policy.

D. OIG Investigation

- 1. OIG investigates cases of suspected Fraud in accordance with OIG policy and procedures. OIG may:
 - a. Conduct a full case investigation; or
 - b. Decline and return the case to CCSD.
- 2. Upon completion of investigation, OIG will refer cases to the appropriate agencies for action. Based upon OIG referral, CCSD will process cases accordingly.
 - a. Cases processed for Overpayment:
 - i. *Fraud is found against a Program by OIG, but prosecution is declined or the case does not meet the charging standards to*

be submitted to the prosecuting authority. CCSD will process Overpayment after OIG refers the case back to CCSD.

- ii. *OIG declines to investigate.* If CCSD determines there is sufficient evidence to support that Fraud was committed against a Program or that there otherwise was an Overpayment, CCSD processes the Overpayment.

NOTE: Declining to investigate is *not* an Fraud determination, but an administrative decision *not* to review or investigate the case - this is distinct from any finding that Fraud did, or did not occur.

- b. Cases resulting in closure with no action:

- i. *OIG determines there is evidence to support Fraud did not occur.* CCSD closes the case with no action and annotates non-fraud determination in the Fraud tracking system.

NOTE: This is a specific determination that there is exonerating evidence, or other information showing that Fraud *did not* occur or *insufficient evidence to make a Fraud finding* - this is distinct from OIG declining to investigate, which does not make finding or determination regarding any Fraud.

- ii. *Referred for prosecution, Client is acquitted or otherwise not convicted of any crime or petty offense against the Program.* CCSD closes the case with no action and annotates non-fraud determination in the Fraud tracking system.

- a) Exception: Overpayment processing may be pursued in the above case after review and approval by the Assistant Director, CCSD, or her designee.

NOTE: Criminal prosecution requires a finding that an offense was committed *beyond a reasonable doubt*, the highest burden under the law for criminal defendants. This legal burden does not apply to administrative hearings related to program violations (instead governed by the, "clear and convincing evidence" standard). As such, there may be instances where DES review is appropriate absent a conviction.

- c. Other Actions

- i. *Referred for prosecution, Client is convicted of any crime or petty offense against the Program.* CCSD will forward information regarding any court-ordered restitution to OARC

for processing/tracking for collections purposes (CCSD Overpayment Processing is not required).

- ii. *Any other cases* will be handled on a case-by-case basis, in coordination with DCAD and OIG for Fraud and Overpayment processing.

E. Overpayment Processing

1. When an Applicant receives an Overpayment due to Fraud, the Overpayment will be processed in accordance with ERAP Overpayments Policy.
2. If CCSD's calculation of an Overpayment due to Fraud does not match the fraudulent payment amount determined by OIG investigation, consultation with OIG prior to action is required.

F. Duties and Responsibilities

1. Adjudication Staff
 - a. Monitor applications for Fraud, and conduct Fraud Referrals in accordance with this Policy and applicable Program policies.
 - b. Complete CCSD Fraud & Overpayment Report for identified Fraud
2. Overpayments Unit
 - a. Receives completed Fraud Referrals from OIG:
 - i. Processes cases with Fraud finding referred to CCSD for administrative action for Overpayment and Disqualification
 - ii. Conducts secondary Fraud case review for cases returned to CCSD with no action / determination; processes substantiated cases and closes unsubstantiated cases with no action
3. OIG
 - a. Investigates Fraud Referrals in accordance with OIG policy and procedures.
 - b. Refers completed Fraud Referrals (or cases with no action) back to the CCSD Overpayments Unit for processing.

G. Confidentiality

1. All personally identifiable information concerning any applicant for benefits, or claimant for any grievance, is confidential under A.R.S. § 41-1959 unless such confidentiality is waived or otherwise provided by law.
2. The U.S. Treasury, Office of Inspector General, U.S. Department of Health and Human Services, and the U.S. Government Accountability Office, or authorized representatives of either, shall have the right of access to confidential records to conduct audits or investigations in accordance with A.R.S. § 41-1959(C)(5).

H. Records Retention

1. Records shall be maintained in accordance with the CCSD Records Retention Schedule, DES *Records Management and Reports Policy* ([DES 1-37-12](#)) and associated procedures ([DES 1-37-12-01](#)), and applicable law and regulation. Records must be kept for five (5) years for ERAP. If any litigation or claim is started before the expiration of the retention period, the records must be retained until all litigation or claims involving the records have been resolved and final action taken after all funds allocated to the state have been expended.