Program Integrity and Fraud, Waste, and Abuse

PY2024 Training

Thomas Hartnett-Russell
Community Programs Manager

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PURPOSE OF TRAINING

The purpose of this training is to provide guidance on the role of program integrity in EAP, address fraud, waste, and abuse, and provide guidance on conducting investigations.

AGENDA

1. Program Integrity, Noncompliance, Fraud, Waste, and Abuse

2. Addressing Noncompliance

3. Investigating Alleged or Suspected Fraud, Waste, or Abuse

4. Considerations and Best Practices

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DEFINITION OF PROGRAM INTEGRITY

Program Integrity refers to the ability of a federal, state, or local government agency to fulfill its mission while addressing fraud, waste, and abuse. It is a fundamental aspect of being a good steward of public funds.

- According to Amelia Hilliker, JD, Program Integrity can be broken down as ensuring that the money goes to:
    - The right **provider**, for
    - The right **service**, for
    - The right **member**, at
    - The right **amount**, at
    - The right **time.**

- The best way for us to ensure these "five rights" is to enforce compliance to the application requirements, ensure that the documentation in the file supports the information provided on the application, and empower intake to approach applications with a critical eye.

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NONCOMPLIANCE VS. FRAUD VS. WASTE VS. ABUSE

- **Noncompliance** is defined as an applicant's failure to adhere to the instructions or requirements of the application process.

- Noncompliance can include, but is not limited to, misrepresenting facts about the household, failing to disclose requested information about the household (including failure to disclose all household members or all sources of household income), signing forms that the applicant is not legally authorized to sign, or providing false, misleading, or invalid documentation.

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NONCOMPLIANCE VS. FRAUD VS. WASTE VS. ABUSE

- Both **noncompliance** and **fraud** both refer to a misrepresentation of facts (including misrepresentation by omission) during the application process or failure to adhere to the requirements of the application process.

- In order for noncompliance to rise to the level of fraud, the LSP must be able to demonstrate **both**:

  - That the misrepresentation, omission, or failure to adhere to requirements was **willful and intentional; and**
  - That the misrepresentation, omission, or failure to adhere to requirements was carried out with the **intention of personal or financial gain**, either by **receiving a larger benefit than the household is actually eligible to receive**, or by **receiving a benefit that the household is in fact not eligible to receive at all.**

- Fraud can be engaged in by applicants, subgrantee staff, utility/fuel vendors, or grantees.

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NONCOMPLIANCE VS. FRAUD VS. WASTE VS. ABUSE

- **Waste** is defined as thoughtless or careless expenditure, mismanagement, or abuse of resources to the detriment (or potential detriment) of a federal, state, or local government agency.

  - An example of waste within EAP is sending the incorrect amount of benefit to a utility vendor, then sending a negative transmittal to the vendor in order to correct it. This process demands more work from program staff, the utility vendor, and IHCDA staff, which has a negative effect on our use of administrative funds.

  - Waste can be the result of applicant noncompliance, subgrantee error, utility partner error, or IHCDA error.

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NONCOMPLIANCE VS. FRAUD VS. WASTE VS. ABUSE

- **Abuse** is defined as excessive or improper use of a thing, or to use something in a manner contrary to the natural or legal rules for its use. Abuse can occur in financial or nonfinancial settings.

    - Examples of abuse within EAP can include a utility vendor applying LIHEAP funds to unallowable costs; equipment purchased using LIHEAP funds being used for other purposes; or subgrantees claiming ineligible expenses in connection with Administrative, Outreach and Eligibility, or Assurance 16 budget line items.
    - Abuse can be engaged in by subgrantee staff, utility/fuel vendors, or grantee staff.

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NONCOMPLIANCE VS. FRAUD VS. WASTE VS. ABUSE

- **Fraud** is often a criminal act with more severe consequences for the individuals engaging in deception or intentional misrepresentation.

  - Fraud may also have consequences for other parties impacted by the fraud, although these consequences are less severe.

- While **waste** and **abuse** are not criminal acts, they may still have serious consequences for the parties directly responsible, and the consequences may extend to other involved parties if proper controls were not in place to protect against the waste or abuse, or if such controls were not correctly implemented.

- The best way to fight fraud, waste, and abuse is to have a strong, proactive defense against them. This is our model for **program integrity**.

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PROGRAM INTEGRITY OVERVIEW

Because we are administering a taxpayer-funded, income-eligible assistance program, ensuring program integrity is an integral part of what we do, and must be a consideration that is addressed in our program design.

However, we must also strive to deliver positive customer service experiences to our applicants and not to approach every situation from the mindset that the applicant is going to defraud the program.

It can be a delicate balance, but it is possible to do both, and this must be the standard we strive for.

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PROGRAM INTEGRITY OVERVIEW

Our subgrantee and vendor monitoring processes are required by HHS in order to ensure program integrity. However, in order to have an effective program integrity approach, we must also incorporate proactive measures to detect and prevent fraud, waste, and abuse before they happen.

IHCDA's position is that in programs such as EAP, some level of attempted fraud and noncompliance will take place. Likewise, waste and abuse is inevitable in programs like this. However, this does not mean that **all** applicants are attempting to defraud the program, and applicants shall be given the benefit of the doubt unless the agency or IHCDA is given reason to suspect that a conscious attempt to defraud the program was made.

We believe that most application noncompliance is not fraudulent in nature, but is rather a result of applicants not understanding the requirements or the application process.

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PROGRAM INTEGRITY OVERVIEW

- In general, the applicant is to be given the benefit of the doubt and their statements should be taken at face value.

- Where statements conflict with each other or with other documentation, intake must be able to recognize these conflicts and be empowered to work to resolve them.

- If the conflicts cannot be easily resolved, the subgrantee must escalate an investigation.

- The investigation must discern between application **noncompliance** and application **fraud**.

- If noncompliance is found not to be fraudulent, any measures taken against the applicant shall by corrective/educational in nature, not punitive.

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IDENTIFYING NONCOMPLIANCE

- While we do not expect nor want intake to "play detective" while processing EAP applications, it is still important for intake to be able to observe and identify apparent conflicts or contradictions in the application information and to think critically about the information being provided.

- If the information being provided by the applicant is inconsistent or does not make sense, then intake is justified in asking follow-up questions or requesting additional information/corroboration.

- Consistently following up with applicants about these issues and openly communicating with them about what we need and why is also a good way of "training" our applicants to the requirements and expectations, and hopefully resulting in higher-quality, more complete applications in the future.

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IDENTIFYING NONCOMPLIANCE

Common errors we see in which potential noncompliance is not caught/addressed by intake:

- Additional deposits on bank statements that are not questioned.

- IVAs incomplete or completed incorrectly.

- LLA indicates that landlord/property owner lives at same address, but is not on application.

- LLA handwriting/signature matches applicant handwriting/signature, indicating landlord/property owner did not review or complete form.

- Names of non-household members appear on supporting documentation but is not addressed.

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IDENTIFYING NONCOMPLIANCE

Common errors we see in which potential noncompliance is not caught/addressed by intake:

- Household member marked as disabled without documentation that they meet the state definition for at-risk status.

- Household member marked as a veteran without documentation that they meet the state definition for at-risk status.

- EAPConnect warning that a household member appears on another application that is disregarded by intake/acknowledged without being followed up on.

STRATEGIES FOR IDENTIFYING NONCOMPLIANCE

- Intake must be trained to read all EAPConnect warnings and errors and evaluate them, rather than complacently acknowledging them.
    - Often, EAPConnect will give an indication that something is incorrect or inconsistent, but intake sometimes does not respond to the prompt.
    - We are working with Roeing to ensure that gratuitous or innocuous warnings are reduced or eliminated.

- Intake must be both trained and empowered to review all forms with a critical eye, especially for entries that require a response from the applicant.
    - For example, on an IVA, the applicant must indicate how they met household expenses for any months with zero income. Intake should be reviewing those answers to ensure they make sense and are consistent with household composition, and any payments made directly to applicant are to be counted as income.
    - For further example, when an applicant submits an LLA, the intake should be actively checking to make sure that the landlord indicates they do not live on the premises and also ensuring that the landlord section does not appear to have been completed and signed by the applicant.

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STRATEGIES FOR IDENTIFYING NONCOMPLIANCE

- Training should explore the boundary between looking for fraud/ noncompliance and being observant of potential fraud/noncompliance.
    - While it can sometimes be easy to focus on the data entry elements of this kind of work, it is important to remember that critical thinking is an essential skillset for our intake.
    - There's an inherent tension between approaching with a critical eye and approaching with a skeptical eye, and it is healthy for subgrantees to explore that in training with intake.
    - To repeat my earlier point, we don't want intake to play detective, but we do want them to approach each application critically and objectively and we want them to be empowered to follow up on inconsistencies or irregularities, up to and including forwarding to a manager's attention for investigation.

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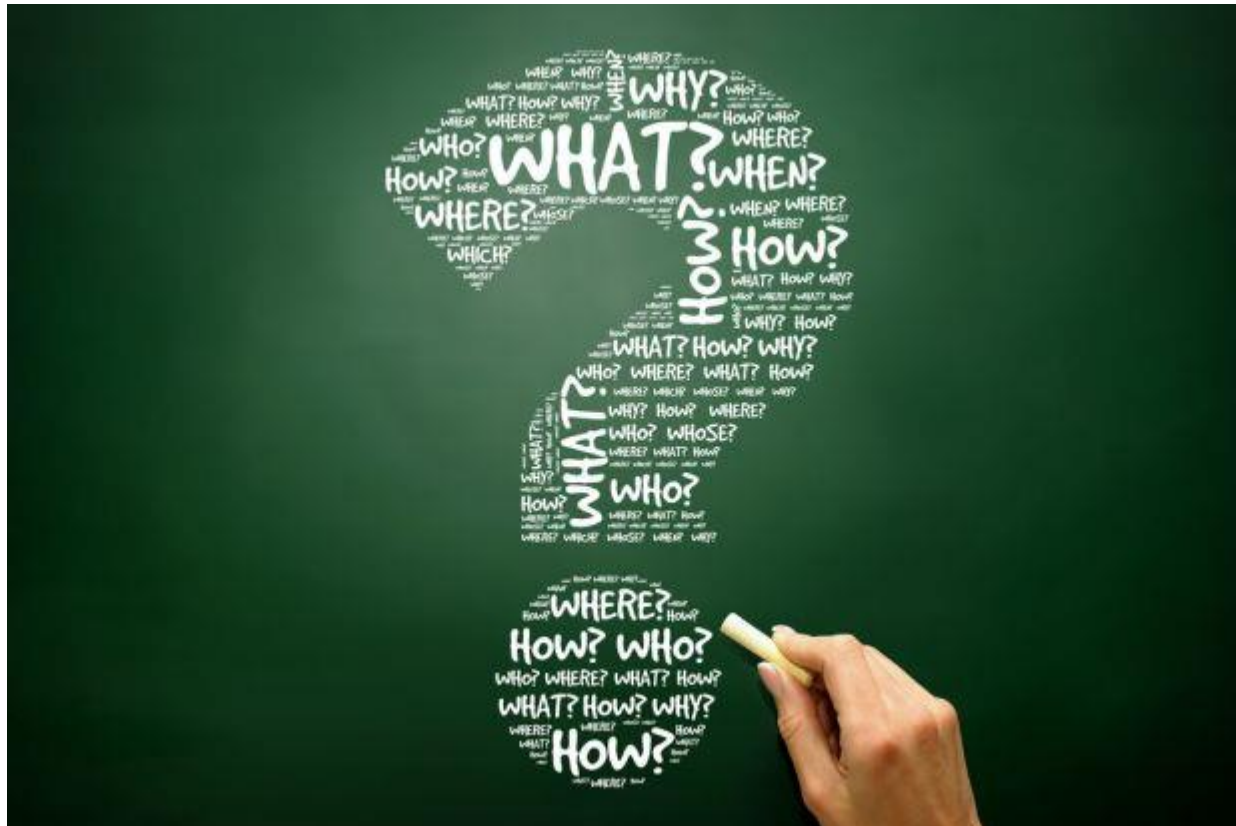Indiana Housing & Community Development Authority

ADDRESSING NONCOMPLIANCE

- The easiest and most direct way of addressing noncompliance is to contact the applicant and ask directly about the discrepancy.

    - In many cases, the conversation can be documented in the case notes and no further action is necessary.

    - In cases involving income attestation or the LLA, a new signed form, completed correctly, may be needed.

- If the intake is unable to reconcile any conflicting information or other apparent application noncompliance, they may need to escalate the application to management for further investigation.

QUESTIONS?

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INVESTIGATIONS

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INVESTIGATIONS

- If an application requires investigation, it should be handled by the EAP Manager/Director or by another designated staff member (e.g., Team lead/supervisor, QA staff, et cetera). **Intake staff should not be tasked with performing noncompliance/fraud investigations.** Most fraud is uncovered as a result of a whistleblower.

- This whistleblower is not necessarily an insider – often, it is a neighbor or acquaintance who has heard that a person qualified for more benefit than they themselves did through misrepresentation, either intentional or unintentional.

- It is vital that LSPs **acknowledge** all whistleblower reports of potential fraud, **communicate** such reports to IHCDA, and **investigate** all such reports.

INVESTIGATIONS

- Each agency should have policies and procedures for investigations that details who is tasked with carrying out the investigation, general procedures and guidelines, communications with IHCDA concerning the investigation, and actions to be taken if noncompliance or fraud is substantiated.

    - The LSP must communicate openly with IHCDA concerning the investigation.

    - LSPs do not need to prescribe specific consequences/actions to be taken for substantiation of noncompliance or fraud, but a range of possible actions, along with triggers for different levels of actions, should be present.

CONDUCTING INVESTIGATIONS

- When conducting an investigation, remember that privacy and confidentiality are key.

  - **Do not** inform the subject of the investigation that they are under investigation.

  - Do not share with any third party that you are conducting an investigation except for IHCDA and anybody in your agency who needs to be directly involved or is assisting in the investigation.

    - Once you tell any third party that you are investigating suspected noncompliance or fraud, you lose control over that knowledge/information.

    - The third party can tell another third party, and with each successive person who becomes aware, the spread expands exponentially.

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CONDUCTING INVESTIGATIONS

- Carefully document all contacts you make with regard to an investigation, and keep a separate file to keep this documentation together.

- Do not make unnecessary leaps of logic or draw conclusions that are not present within the documentation.

- Keep your questions as objective and demonstrable as possible.
  - Focus your questions on who, what, when, why, and how.

- Be consistent.

- Use IHCDA as a resource or a sounding board.

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CONDUCTING INVESTIGATIONS

- Use the tools available to you!

    - GIS/Assessor's office.
    - Indiana Secretary of State Business search: https://inbiz.in.gov
    - Indiana Courts: https://mycase.in.gov
    - Indiana Courts' Marriage License Public Lookup: https://publicaccess.courts.in.gov/mlpl/
    - Our own signed certification statements.
    - Our forms: Request for Earnings Statement, DWD Wage and UI Inquiry, Landlord Affidavit.
    - Public social media posts.
    - Previous applications (ask IHCDA if you need previous records from a different county).
    - Utility/fuel vendor's records.

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CONDUCTING INVESTIGATIONS

- Keep IHCDA apprised of the findings once the investigation is completed.

- If fraud is substantiated, inform the applicant in writing of the finding and any consequences/penalties.
    - At a minimum, for substantiated fraud, we have a responsibility to rescind any awarded benefit. If the utility/fuel provider cannot return this benefit, or if the applicant was awarded a direct benefit payment, the applicant will be required to pay back the benefit in full. The applicant shall be suspended from further participating in the program until the benefit has been repaid in full.
    - If it is determined that the applicant engaged in fraud, the subgrantee may choose to debar the applicant from participating in the program for a specified period of time as a penalty. It is strongly recommended that any such debarment not be indefinite, except for especially egregious cases. **In these cases, the subgrantee must discuss the case with IHCDA prior to issuing the written notification.**
    - The written notification must explain the applicant's appeal rights and appeal procedure.

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CONSIDERATIONS

- Before issuing a substantiated finding of fraud, consider the situation from the applicant's point of view and review the methods you used.
    - Were all LSP policies and procedures followed?
    - Did intake follow up with the applicant to educate them on the requirements and give them an opportunity to correct the information?
    - Was the applicant provided with copies of the appropriate forms as well as instructions on using those forms? I.e., were they set up to succeed?
    - Has this applicant presented issues or concerns before?
    - Could the noncompliance be explained without intent to defraud? Did the applicant know that by being noncompliant, they would receive additional benefit, and is it likely that motivated or influenced their decisions?
    - Does the objective documentation and evidence support the finding?
    - If you are imposing a penalty on the applicant, is it appropriate and proportional? Does the punishment fit the crime, so to speak?

PROGRAM INTEGRITY BEST PRACTICES

- Develop a strong training program for your intake staff. Ensure your training is covering the fundamentals and underlying concepts, and not just the procedures.

- Empower your staff to apply the fundamentals and concepts.

- Perform enhanced QA on new staff; consider QA rates of 50-100% in the first week or two, and reduce as appropriate.

- Track types of errors found in QA for specific intake staff members, and use that data for targeted retraining as needed.

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PROGRAM INTEGRITY BEST PRACTICES

- Develop a culture that encourages asking questions and sharing information.

- Train using real examples rather than hypotheticals.

- Review errors with staff and have them make their own corrections. Note that if the error effects the benefit, it becomes time-sensitive and you may need to hold a one-on-one session to review the error.

- Develop a culture of critical thinking and discourage complacency. Reinforce that an error notification in EAPConnect needs to be taken seriously!

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PROGRAM INTEGRITY BEST PRACTICES

- Review transmittals before sending them out. It is easy to note incorrect account number formats, missing account numbers, missing billing names, and inconsistent benefit amounts when visually scanning a transmittal before sending it. (Remember, regular benefits should always be in multiples of $25 only!)

- Have a system in place to ensure that any corrections/rejections from the vendor are made prior to submitting the transmittal to fiscal.

- QA early and often! If you begin the year by Qaing a high percentage of applications, it will be easier to maintain your percentage throughout the program year. If you start slowly, it will be harder and harder to catch up as the

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WRAP-UP

- We have a responsibility to be aware of and monitor the potential for fraud with these funds, but it is central to our mission that we make all applicants feel welcome and safe applying.

- The best way that we can protect against fraud, waste, and abuse is by approaching EAP with a Program Integrity mindset and adhering to our Internal Operations and Controls throughout the application process.

- Investigations are vital as a final line of defense, but ideally we will prevent issues from getting to that point.

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