

**441—170.7(237A) Provider fraud.**

**170.7(1) *Fraud.*** The department shall consider a child care provider to have committed fraud when:

*a.* The department of inspections and appeals, in an administrative or judicial proceeding, has found the provider to have obtained by fraudulent means child care assistance payment in an amount in excess of \$1,000; or

*b.* The provider has agreed to entry of a civil judgment or judgment by confession that includes a conclusion of law that the provider has obtained by fraudulent means child care assistance payment in an amount in excess of \$1,000.

**170.7(2) *Potential sanctions.*** Providers found to have committed fraud shall be subject to one or more of the following sanctions, as determined by the department:

*a.* Special review of the provider's claims for child care assistance.

*b.* Suspension from receipt of child care assistance payment for six months.

*c.* Ineligibility to receive payment under child care assistance.

**170.7(3) *Factors considered in determining level of sanction.*** The department shall evaluate the following factors in determining the sanction to be imposed:

*a. History of prior violations.*

(1) If the provider has no prior violations, the sanction imposed shall be a special review of provider claims.

(2) If the provider has one prior violation, the sanction imposed shall be a suspension from receipt of child care assistance payment for six months as well as a special review of provider claims.

(3) If the provider has more than one prior violation, the sanction imposed shall be ineligibility to receive payment under child care assistance.

*b. Prior imposition of sanctions.*

(1) If the provider has not been sanctioned before, the sanction imposed shall be a special review of the provider's claims for child care assistance.

(2) If the provider has been sanctioned once before, the sanction imposed shall be a suspension from receipt of child care assistance payment for six months as well as a special review of provider claims.

(3) If the provider has been sanctioned more than once before, the sanction imposed shall be ineligibility to receive payment under child care assistance.

*c. Seriousness of the violation.*

(1) If the amount fraudulently received is less than \$5,000, the sanction level shall be determined according to paragraphs "a" and "b."

(2) If the amount fraudulently received is \$5,000 or more, and the sanction determined according to paragraphs "a" and "b" is review of provider claims, the sanction imposed shall be suspension from receipt of child care assistance payment.

(3) If the amount fraudulently received is \$5,000 or more, and the sanction determined according to paragraphs "a" and "b" is suspension from receipt of child care assistance payment, the sanction imposed shall be ineligibility to receive payment under child care assistance.

*d. Extent of the violation.*

(1) If the fraudulent claims involve five invoices or less or five months or less, the sanction level shall be determined according to paragraphs "a" and "b."

(2) If the fraudulent claims involve at least six invoices or six months, and the sanction determined according to paragraphs "a" and "b" is review of provider claims, the sanction imposed shall be suspension from receipt of child care assistance payment.

(3) If the fraudulent claims involve at least six invoices or six months, and the sanction determined according to paragraphs "a" and "b" is suspension from receipt of child care assistance payment, the sanction imposed shall be ineligibility to receive payment under child care assistance.

**170.7(4) *Mitigating factors.***

*a.* If the sanction determined according to subrule 170.7(3) is suspension from or ineligibility for receipt of child care assistance payment, the department shall determine whether it is appropriate to reduce the level of a sanction for the particular case, considering:

- (1) Prior provision of provider education.
- (2) Provider willingness to obey program rules.

*b.* If the sanction determined according to subrule 170.7(3) is ineligibility for receipt of child care assistance payment, but consideration of the two factors in paragraph “*a*” indicates that a lesser sanction will resolve the violation, the sanction imposed shall be:

- (1) Suspension from receipt of child care assistance payment for six months; and
- (2) A special review of provider claims.

*c.* If the sanction determined according to subrule 170.7(3) is suspension from receipt of child care assistance payment, but consideration of the two factors in paragraph “*a*” indicates that a lesser sanction will resolve the violation, the sanction imposed shall be a special review of provider claims.