

**Federal and State Government Agency Audits,
Interviews, Searches, and Other Contacts with the Organization**

Adopted & Effective: April 2003

Policy Statement:

It is the policy of Children's Aid and Family Services, Inc. (CAFS) to comply fully with the rules and regulations governing the health care industry, including DHHS, OSHA, and CAFS policy is to comply fully with all government authorities, while at the same time protecting the rights of the agency and all of its employees and clients.

Purpose:

The purpose of this policy is to provide a uniform method for CAFS employees to respond to any government employee (Federal or State) who contacts an employee either during office hours or at home for information regarding CAFS or any other agency-affiliated entity or individual which provides services to the organization. For example of affiliated entities include, a consulting service, supplier of goods, support, counseling/specialized services. The federal and state governments have made the investigation and prosecution of health care, including mental health fraud one of their highest priorities and have proposed many new initiatives for identifying fraudulent practices. A number of these initiatives include conducting audits of records and billing practices. Therefore, government investigations of mental health companies of similar organizations that provide Medicaid and Medicare services will become a more commonplace practice.

Children's Aid and Family Services acknowledges that government health care regulations and their enforcement are a very complex area of the law. The Organization strives to comply fully with these complicated rules and regulations. It is to that end that the organization has outlined the following procedures for addressing and inquiries by state and federal agencies.

Definitions:

I. Definition of "Federal and State Government Agency"

Employees should be aware that, for purposes of the policy, a federal or state government agency includes, but is not limited to, the following organizations:

Department of Health and Human
Service, including the Drug
Enforcement Agency
(DEA) and the Office for Civil

Federal agency overseeing
administration of controlled substances,
HIPAA, EOE, OSHA, etc.

Rights:

Federal Bureau of Investigation (FBI):	Investigative arms of federal government programs.
Health Care Financing Administration (HCFA):	Federal agency overseeing administration of the Medicare and Medicaid programs.
Medicaid Fraud Control Unit (MCFU):	Investigative arm of state Medicaid agency.
Medicaid Programs:	State health insurance programs for the medically indigent.
Medicare Intermediary:	Claims processors of the Medicare part A program (e.g. hospitals, skilled nursing facilities, and home health agencies).
Office of the Inspector General's Office:	Investigative arm of federal government programs.
State Attorney General's Office:	Arm of the state responsible for investigating/prosecuting violations of state laws.
State Government: County and Local Government	Any state agency of department Including police, etc.

If an employee is contacted by an organization that is not on this list and is uncertain whether the organization is a federal, state, county or city government agency:

- A. Contact your supervisor immediately.
- B. If your supervisor is unavailable, contact the Vice-President of Administration.

Be aware that, in initial inquiries regarding a matter to be investigated, the fact that an investigation is underway not be disclosed. For example, if an auditor or other government representative raises questions about matters unrelated to a client, an employee, issues related to closed case or business transactions, or suggestions of irregularities in business practices, accounting procedures or the like, an employees should not disregard the information, but should report the inquiry or contact the employee's supervisor or Vice-President of Administration immediately.

Procedures:

When a representative from any government agency contacts an employee anywhere, such as at home or at the office, for information regarding the agency, refer the matter to the employee's supervisor, who in turn, will inform the Vice-President of Administration. The President and Chief Executive Officer shall also be notified and will participate in the investigation, as appropriate. The Vice-President of Administration shall follow these guidelines:

1. If in person, ask to see the government representative's identification and business card. Otherwise, ask for the person's name and office, address and telephone number, identification number and call the government representative's office to confirm his or her authority.
2. If the government representative wants to speak with an employee personally, determine why without discussing details.
3. If the government representative wants to search the premises of the Organization, including equipment or obtain any documents from the Organization, ask to see a legal document requesting the search, such as a search warrant and any affidavit supporting the warrant. Make a copy of this legal documentation.
4. Look at the date and time on the legal documentation to make sure that the government representative has a valid document. A government representative may not search a business at a time other than within the time period specified in the legal document.
5. Contact the Vice-President of Administration, who will in turn contact CAFS outside legal counsel immediately after completing these task and relay all information and documentation from business cards/legal documents of the government agency official.
6. If the outside counsel is unavailable and cannot be contacted call any member of outside legal counsel's firm who is available. Do not give up until you have reached legal counsel.
7. The CAFS outside legal counsel will give you instructions on how to proceed.
8. If an employee receives a request in the mail from a government representative for documents or a subpoena, the employees shall give their supervisor a copy and immediately fax/give a copy to the Vice-President of Administration and the CAFS outside legal counsel through the Vice-President of Administration. Do not respond to the request until you receive instructions from legal counsel.
9. Maintain a complete and accurate listing of all visits by government representatives and all documentation supplied to government representatives.

Interviews:

1. Occasionally, agents/investigators will try to suggest that any employee must speak with them. It is common for agents/investigators to arrive unannounced and then make you feel guilty if you do not consent to the interview. No one is required to speak to an agent/investigator on the spot. Rather, you may make an appointment to speak with the agent/investigator at a later date. The agent/investigator may try to talk you out of delaying the interview by suggesting that if you have nothing to hide, conducting the interview right away should not be a problem. A good response is that an honorable agent/investigator has nothing to fear from a simple delay of an otherwise unscheduled interview.
2. Employees are entitled to have someone with them during any interview with an agent/investigator. The Organization will arrange to have its outside legal counsel present. An employee may consult with attorney of their own choosing at their expense, if they wish. Beware of any agent/investigator who suggest that you have nothing to worry about or suggest that by talking to him/her, things will easier for you. Agents/investigators do not have the authority to promise such things to a witness. Only a government attorney working with your attorney can make promises that bind the government.
3. Employees may also have someone, like a co-worker or supervisor, present during the interview with the government representative to help the employee feel more comfortable. Employees are encouraged to take notes during the interview.
4. During the interview with the government representative, the employee should follow these simple tips:
 - a. Always tell the truth. If you do not recall something or have any knowledge about the topic that the government representative is asking about, say so. Do not guess or speculate.
 - b. In talking with the government representative, be very careful to answer questions completely, accurately and concisely so that there will be no misunderstanding as to what you are saying. It is important to make clear to the government representative whether the information that you are providing is first-hand knowledge or something you have heard. It is good practice to avoid speculation but if you do speculate, it is important to make sure you let the government representative know that you are speculating.
 - c. Please contact the outside legal counsel as soon as possible after the interview.

Searches:

If the government representative wants to obtain documents or search CAFS premises and equipment on the spot, the following guidelines shall be followed:

1. A “search” occurs any time a government representative enters CAFS premises and begins to look for any documents or ask questions. A search may not be conducted without a legally valid search warrant.
2. If the warrant is valid, the search may not be stopped. However, it is appropriate to request the government representative to allow you to contact the Organization’s outside legal counsel to have the validity of the warrant determined. You should follow these steps after having legal counsel instruct you on how to proceed.
3. Remember, it is a crime to obstruct an agent in the lawful exercise of his/her duties, including the exercise of a valid search warrant. Some other examples of unlawful behavior are: altering or destroying documents sought in an investigation; falsely denying knowledge of information; corruptly influencing another person to exercise the privilege against self-incrimination; or intimidating a witness for testifying in an official proceeding. However, asking questions and demanding a copy of the warrant are not obstruction. Remain calm, polite and observant. If you notice any other employees engaging in any prohibited conduct, call the Vice-President of Administration.
4. Do not let the government representative use the copying machine or remove documents from the premises. Instead, you should make two copies at the copying machine of all documents requested by the government representative. You should segregate the original and the second copies of the documents so that after the government representative leaves, you retain one full set of copies and there is a clear record identifying what documents were copies for the government. The originals and the second set of copies should be clearly marked: “Documents Provided To The Government”. Outside legal counsel will then direct you regarding what to do with this segregated set of original documents.
5. Get a detailed receipt from the government representative of all documents/items for which the government has obtained a copy, including the number of pages copies for reimbursement purposes.
6. You are required to answer questions concerning the location of documents.

7. You are not required to answer other questions and you can tell the government representative that you prefer to wait until legal counsel is present. As described above, CAFS will supply you with the Organization's outside legal counsel at no cost to you.
8. If you are asked to sign an affidavit of any kind, do not comment as to the validity of its contents and explain that you are not authorized to sign any documentation prior to review by legal counsel.

Communications Regarding an Investigation:

Rumors have a way of spreading out of hand. Do not contribute to rumors by discussing the matter with other employees or with people outside of the organization. If you receive any inquiries from the media or any person or organization where you are unsure of how to respond, you should refer the inquiries to a member of the management staff. You should not attempt to provide any explanation other than to state that questions regarding the investigation will be answered by the Vice-President of Administration. Obtain the identity and telephone number of the inquiring party and furnish that information to the management staff member.

Administrative Issues:

Once a government contact is initiated, the Vice-President of Administration shall establish a specific file for communication. Caption the file and all of your memos to the outside legal counsel with the word "Confidential Attorney –Client Privileged Communication." Do not make copies other than a file copy, or any further distribution of confidential communications with the outside legal counsel's office or other attorneys. Distribution of these materials may destroy the privilege of confidentiality.

If, at any time, you are unsure of what to do, contact the Vice-President of Administration immediately. This policy contains general guidelines; at all times, follow instructions from your supervisor or the Vice-President of Administration.

Finally, note that all communications with the Organization's outside legal counsel regarding an investigation will be made through the Vice-President of Administration.