



LEGAL AID SOCIETY OF HAWAI'I



INTENTIONAL PROGRAM VIOLATIONS (DHS)

Use this brochure:

- a) If you received a notice from the Department of Human Services (DHS) saying that you are suspected of an intentional program violation (IPV), OR
- b) If you need to prepare for a possible IPV if you have received an overpayment notice for a household error.



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Revised April 20, 2016. W04 DHS IPV

What is an IPV?

IPV stands for Intentional Program Violation. This means that:

- a) You had an overpayment from DHS in the past. It could have been weeks, months, or even a few years ago. This overpayment can be for any DHS program including TANF, TAONF, GA, AABD, Food Stamps, QUEST, or Medicaid; **AND**
- b) DHS believes you purposely hid or lied about information concerning your situation; **AND**, you received more benefits than you were entitled to because of your action.
- c) For Food Stamps, an IPV can also include misusing, selling, or buying Food Stamps.

IPV Process:

STEP 1: Worker suspects IPV and refers case to the Investigations Office.

STEP 2: Investigation.

To find out whether or not you committed an IPV, investigators can:

- a) Talk to your neighbors and friends;
- b) Look through your work record and DHS files;
- c) Look through your trash; and
- d) ask to come into your home.

You do not have to talk to them or let them into your home. Anything you say or sign can be used against you.

STEP 3: You get written notice.

If the Investigations Office finds some evidence showing you may have committed an IPV, you will get a "Notification of Suspected Intentional Program Violation". The IPV notice will include a document called a **Waiver**. The **Waiver** gives you the option of giving up your right to a hearing and accepting the disqualification.

YOU DO NOT HAVE TO SIGN THE WAIVER! *For more information on the waiver, see the next page "On the waiver, you have a choice."* If you do not respond to the notice, DHS will automatically schedule an administration disqualification hearing.

STEP 4: Informal Meeting.

Once DHS feels it has a case against you, the investigator may ask you to come in to discuss the IPV. **YOU DO NOT HAVE TO GO TO THE MEETING.** Anything you say or sign can be used against you in a later hearing or trial. **If you do decide to go to the meeting, you have the right to remain silent.**

Step 5: Administrative Disqualification Hearing (IPV Hearing)

If a hearing is scheduled, you have 3 options:

1) Go and Testify. You can go and represent yourself or have someone represent you.

Remember that anything you say can be used against you at the hearing or in any criminal action.

2) Go and Not Testify.

3) Not Go. You do not have to go to the hearing. DHS will still need to present its case. The decision will be based only on the evidence that DHS submits. Remember that DHS can disqualify you from benefits **ONLY** if the decision is against you.

I just got an overpayment notice saying that I had a household error. Why should I be concerned?

A household error means that you received more benefits than you were supposed to get because you incorrectly reported information. You should be a little concerned because a household overpayment can sometimes turn into an IPV.

Not all household overpayments turn into IPV but some do.

When you receive the IPV notice, you will receive a packet of papers, including:

1. A notice of the IPV with a waiver on the bottom of the same page; AND
2. A fact sheet with evidence gathered by the investigation office.

On the waiver, you have a choice of 3 boxes to check:

Box #1: ADMIT to the IPV and TAKE the disqualification. This means that you admit to committing the IPV and you are waiving your right to the hearing. Your benefits will be stopped for a certain amount of time (see the next page for penal- ties). **IF YOU CHECK THIS BOX, THIS FORM CAN BE USED AGAINST YOU IN A CRIMINAL FRAUD CASE.**

Box #2: NOT admit to the IPV and TAKE the disqualification. This means that you do NOT admit to committing the IPV AND you do not want a hearing. You agree to take the automatic disqualification from benefits (see next page for penalties).

Box #3: Request a Hearing If you want to go to the hearing, then you should start preparing. See the text box on the right for directions. DHS must prove that you intended to lie or purposely hide information. To do this, DHS will use the evidence found in the investigation (informal meetings, interviews with people who know you, documents, etc.). If DHS wins the hearing, then you will be disqualified from benefits for a certain amount of time. If you win, you will continue receiving benefits, but you will still have to pay DHS back for any overpayments.

If you do NOT check a box, you will automatically be given a hearing.

How to Prepare for Your Disqualification Hearing

DHS has the burden of proof for IPV and must prove that you purposely lied or hid information about your situation. You may want to consult with a private attorney. This is important because you may face criminal prosecution later.

To prepare for the hearing, you should:

*Review your file at the DHS Investigations Office. Look for anything that proves your error was not intentional or that you did not fail to report. You are allowed to get free copies of anything in your file.

*Find witnesses who can back up your version of what happened. If they cannot come, then bring written statements from them.

*Read through the fact sheet that the Investigations Office sent you.

Strategies to prove that you did not commit an IPV:

* It was an honest mistake.

* You misunderstood the rules OR you did not know that you had to report. Know that DHS will use part of your application to prove that you knew your reporting obligations. Discuss whether or not the worker explained your reporting duties.

* You cannot understand English well. Ask for an interpreter to be at your hearing. Discuss whether or not the reporting requirements were translated into your language when you filled out the application. Explain that you did not understand your reporting duties.

*You cannot read well. Explain that you were not able to read the rules about reporting duties. Gather proof and documentation that shows you cannot read. Bring vocational rehabilitation evaluations or special education assessments from school.

* You have good reason for failing to report or reporting late. Good reason includes being ill, in the hospital, having a death or illness in the family. Bring documents (doctor's notes, hospital bills, etc.) that support your explanation.

How the Investigations Office Handles IPVs

After the Investigations Office looks into your case, it has 3 ways in which it can handle the IPV case. It can do any or all of the following:

1. Decide that you did not commit an IPV. Even if DHS decides there is NO IPV, they will continue collecting the overpayment amount.

2. Have a hearing to disqualify you from benefits.

(See box on previous page: “How to Prepare for Your Disqualification Hearing”)

This is the hearing you request on the IPV waiver form. If you do not return the form, you will automatically be given a hearing. The purpose of this hearing is find out if you committed an IPV. If the Hearing Officer decides that you committed an IPV, DHS will disqualify you from benefits for a period of time.

3. Refer the case to for a possible criminal prosecution.

If the State decides to prosecute you, you will receive court papers. You will need assistance from an attorney because this is a serious matter and can lead to a jail sentence. There may be a trial. Consult with the Office of the Public Defender on your island or a private defense attorney.

The Penalties for Committing IPVs

If you are found to have committed an IPV, you will not be able to receive benefits for a certain amount of time depending upon the number of IPVs committed in the past.

For the **first** offense, you will be disqualified from benefits for one (1) year.

For the **second** offense, you will be disqualified from benefits for two (2) years.

For the **third** offense, you will be permanently disqualified from benefits.

In addition to a disqualification from benefits, IPVs can lead to criminal prosecution, which can result in fines and/or a jail term.

DHS does not punish the entire household.

The IPV suspension applies only to the person who is found to have committed the IPV or who has signed a waiver admitting the IPV.

The remaining household members will not be disqualified, but will need to repay the overpaid benefit amount. DHS may try to have the remaining members repay the entire amount within ten (10) days, BUT, the household does not need to pay immediately. The household's benefit will be reduced a small amount each month until the overpayment is paid off.

Legal Terms

DHS: Department of Human Services, the agency that administers TANF, TAONF, GA, AABD, Food Stamps, QUEST, and Medicaid.

Disqualification: getting cut off from your benefits for a period of time or permanently, depending on the number of IPV offenses you have.

Financial assistance: cash assistance you receive from DHS, for example, TANF, TAONF, GA, and AABD.

Household error: DHS believes that you made an error and received more benefits that you were supposed to get.

IPV: intentional program violation, purposely trying to get more benefits from DHS than you are supposed to get.

Offense: as in first or second offense; this is the number of times that you have been dis-qualified for an IPV.

Waiver: the form DHS sends to ask if you want to give up your right to a hearing and take the disqualification.

Legal Aid Society of Hawai'i

Oahu: 536-4302 Kauai: 245-7580
Maui: 242-0724 Lanai: 565-6089
Hilo: 934-0678 Kona: 329-8331
Molokai: 553-3251
<http://www.legalaidhawaii.org>

Department of Human Services (DHS)

Please call the DHS office near you.

Oahu

Honolulu586-8047
Leeward.....697-7147
Waipahu.....692-7171
Windward.....233-3621

Maui

East Maui.....984-8300
West Maui.....243-5110

Kauai

Lihue Unit.....274-3371
Kapaa Unit.....822-3475
Hanapepe Unit.....335-5015

Big Island

Hilo Unit.....933-0332
Kona North Unit.....327-4980
Kona South Unit.....323-7573
Kamuela-Hamakua Unit.....887-8120
Kau Unit.....939-2421
Kohala Unit.....889-7141

Legal Aid Society of Hawai'i

924 Bethel Street
Honolulu, HI 96813

www.legalaidhawaii.org

Legal Aid's Hotline:

O'ahu: 808.536.4302

Neighbor Islands: 1.800.499.4302

REMEMBER:

This brochure is meant to provide general information, and does not provide specific legal advice about your individual case. The law often changes. Each case is different.

Hawai'i Immigrant Justice Center *at the*
Legal Aid Society of Hawai'i

www.hijcenter.org
www.legalaidhawaii.org

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