POLICIES AND PROCEDURES **State of Tennessee Department of Intellectual and Developmental Disabilities**	**Policy #: 011-A**	
POLICY TYPE: Administrative, Community/Waiver, DIDD ICF/ID	**Effective Date: November 30, 2011**	
Approved by: **Commissioner**	**Supersedes: Policy #: 011** **Last Review or Revision: February 2008**	
Subject: REPORTING FRAUD, WASTE, AND ABUSE OF GOVERNMENT FUNDS AND PROPERTY		

I. **AUTHORITY:** The Deficit Reduction Act of 2005, Tennessee Code Annotated 4-18-101 through 4-18-106, Tennessee Code Annotated 71-5-181 through 71-5-184.

II. **PURPOSE:** The purpose of the policy is to provide guidelines for compliance with those sections of the Deficit Reduction Act (DRA) of 2005 specific to the establishment of resources to address Medicaid fraud, waste and abuse.

III. **APPLICATION:** This policy applies to all Department of Intellectual and Developmental Disabilities (DIDD) staff including Central Office staff, Regional Office staff, DIDD ICF/MR staff, and Resource Centers as well service providers, volunteers, and individuals who provide services and supports.

IV. **DEFINITIONS:**

A. **Abuse** shall mean incidents or practices of providers that are inconsistent with sound fiscal, business, or medical practices, and result in unnecessary cost to the Medicaid program, or in reimbursement of services that are not medically necessary or that fail to meet professionally recognized standards for health care.

B. **Fraud** shall mean the intentional deception or misrepresentation made by a person with the knowledge that the deception could result in an unauthorized benefit to himself or another person. Examples of fraud include:

- Billing for items or services not provided
- "Upcoding" claims - billing at a higher rate than is appropriate for the item or service provided
- "Unbundling" claims - separately billing procedures instead of using a more appropriate global billing procedure
- Billing twice for the same items or services provided

C. **Waste** shall mean the extravagant, careless, or needless expenditure of government funds, or the consumption of government property, that results from deficient practices, systems, controls, or decisions. The term also includes improper practices not involving prosecutable fraud.

V. **POLICY:** Tennessee has passed state laws in support of the Deficit Reduction Act of 2005. Tennessee Code Annotated 4-18-101 through 4-18-106 is a state law designed to help state

government and political subdivisions combat fraud and recover losses resulting from fraud in programs, purchases, or contracts. Tennessee Code Annotated 71-5-181 though 71-5-184 applies solely to false claims under the Medicaid program.

The Deficit Reduction Act of 2005 included two sections related to false claims:

A. Section 6031 of the Act provides a financial incentive for states to establish acts relating to false or fraudulent claims to the state's Medicaid program. If a state implements its own false claims act which is determined to meet the federal requirements in subsection (b) of Section 6031, the Federal medical assistance percentage with respect to any amounts recovered under a State action brought under such law shall be decreased by 10 percentage points.

B. Section 6032 of the Act requires any entity that receives or makes annual payments of five million dollars or more under the State plan to inform employees about certain fraud and abuse laws and about the whistleblower provisions in those laws.

VI. PROCEDURES:

A. **Prevention and Detection**: DIDD shall:

1. Provide staff, volunteers, and contractors with information about the responsibility for reporting wasteful, inefficient, or fraudulent activity associated with the misuse of government funds and property.

2. Prominently display signs in the DIDD central and regional offices and developmental centers which inform staff, volunteers, and contractors how to report wasteful, inefficient, or fraudulent activity involving government funds and property through the toll-free hotline **(1-800-232-5454)** established by the Tennessee Comptroller of the Treasury, Department of Audit, or through the DIDD Director of Risk Management;

3. Make copies of federal and state laws available in the DIDD central and regional offices for staff, volunteers, and contractors to review upon request; and

4. Routinely include information on how to report fraud, waste or abuse of government funds and property in DIDD newsletters.

B. **Cooperation with investigations**: DIDD shall:

1. Ensure that staff, volunteers, and contractors fully participate and cooperate with any investigation into suspected misconduct or questionable practices involving fraud, waste, or abuse of government funds or property and shall make records available for inspection and duplication in accordance with state and federal laws and DIDD policy and procedures; and

2. Support the full prosecution of involved individuals when there is an indication of false claims being made to any agency or if misconduct is uncovered involving fraud, waste, or abuse of government funds or property.

C. **Prohibition of retaliation**: In accordance with the federal False Claims Act and the state False Claims Act TCA 4-18-105 and the Tennessee Medicaid False Claims Act, TCA 71-5-183, DIDD shall prohibit retaliation against staff, volunteers, and contractor staff who report information about suspected misconduct or questionable practices involving fraud, waste, or abuse of government funds or property.

D. **Notification**: DIDD shall ensure that all contractors receiving $5,000,000 or more in annual Medicaid reimbursement are notified of the requirement:

1. To adopt written policies about the False Claims Act and Tennessee's comparable anti-fraud statues, including whistleblower provisions;

2. To inform staff about the fraud and abuse laws and about the whistleblower provisions in those laws, including such information in the provider's employee handbook where applicable; and

3. To submit their written policies about the fraud and abuse laws and about the whistleblower provisions in those laws to DIDD for review.

VII. **ATTACHMENTS**: None.