

Enforcement is understood as the approach taken by the Brazilian government towards fraudulent appropriation of Bolsa Família Program cash benefits (i.e. 'benefit fraud'). Cases of beneficiaries who falsely declare lower incomes than they actually have - in order to obtain, or increase, BFP benefits - are the classic example of the type of enforcement activity related to the BFP that the government seeks to identify, contain and punish. The provision of false information to benefit BFP clients or the manager (s) responsible for the BFP program at the municipal level is of ongoing concern, regardless of whether the program's local procedures contain no errors or inefficiencies.

The Ministry of Social Development (MDS) is responsible for coordinating enforcement actions aimed at detecting irregularities practised by BFP beneficiaries or public employees. Information on such situations reaches the National Citizenship Income Secretariat (SENARC) either via 'whistleblowers' (alleging cases of fraud) or as a result of evidence of fraud detected by regular monitoring procedures. Enforcement activities are regulated in accordance with the rules of the Bolsa Família Program.<sup>1</sup>

The main enforcement tasks involve data collection and the analysis of allegations as part of an initial effort to understand and clarify the issues at stake. This task is followed by scrutiny of the various data to discover whether there is any basis for the alleged irregularities and, in the event of proven irregularities, to notify the public agents or beneficiaries involved, as well as to claim the recovery of monies fraudulently obtained from public funds. In certain situations, investigations are needed to prove malicious intent by the individual concerned, and to activate the Federal Police if appropriate.

## STEPS PRIOR TO ASCERTAINING IRREGULARITIES

The MDS only takes action to clarify fraud allegations after potentially irregular situations have been identified by representatives of government agencies, non-governmental organizations, the police and civil society itself<sup>2</sup>. Identification of benefit fraud involves joint work (partnerships) between the MDS and internal and external surveillance bodies<sup>3</sup>, in an effort to identify inconsistencies of data registered in the Unified Registry of Social Programs (CadÚnico).

A key element in the search for inconsistencies involves a cadastral survey or inquiry (to check the authenticity of registered data) by examining and cross-referencing Unified Registry data with those contained in other public databases. These procedures focus especially on any income recorded in employment databases (for registered workers), on beneficiaries still in the Registry who may have recently died, and on individuals who have been elected to political office. Such situations may suggest incompatibility with the eligibility requirements of the BFP. This stage is followed by the preparation of lists of families and individuals with possible inconsistencies. These lists are made available to the municipal BFP managers for them to carry out further investigations (i.e. Cadastral Inquiry)<sup>4</sup>.

1 Articles 14:14-A of Law 10,836 and articles 33-35 of Decree 5209 (2004) provide for these functions.

2 Further information on the institutional arrangements required for enforcement and surveillance activities in the Bolsa Família Program activities are described under article No 1 of the series on oversight and control.

3 Technical cooperation agreements covering the partnerships retain the autonomy and independence of each body belonging to the BFP Public Monitoring Network. The network comprises the Federal Audit Office (TCU), the Federal Public Prosecutor's Office (MPF), the States' Public Prosecutor's Offices (MPEs) and the Ministry of Transparency, Supervision and Control (MTSC).

4 This procedure is described in more detail in Item 2 of the series on Oversight and Control of the Bolsa Família Program.

## ALLEGATIONS OF IRREGULARITIES: STEPS 1-4

In the event of suspected BFP benefit fraud, the administrative procedure for ascertaining the allegations is divided into four steps. The first three steps are the responsibility of the municipalities, and the final step that of the MDS:

**Step 1:** Obtain information to identify the family alleged to have committed benefit fraud, and to take care to avoid confusing people with identical surnames. After the beneficiary has been identified (by his or her ID number), and if the individual is suspected of benefit fraud, the investigation can proceed. These initial procedures are known as “checks on the materiality of the facts”.

**Step 2:** The local management of the Bolsa Família Program is responsible for making the necessary enquiries and for drawing up a formal report (‘parecer’) on the family’s socio-economic status. If the data recorded with the local BFP management differs in any respect from the information in the Unified Registry, the data needs to be updated forthwith. The BFP manager’s report must indicate whether the family fitted or not the BFP profile at the time it enrolled in the program. If the family does not currently fit the profile of a BFP beneficiary, the date on which the family ceased to meet BFP criteria (or the date when this situation was detected) must be recorded in the aforementioned report. Furthermore, the report must contain the following:

1. All the facts that may indicate malfeasance by the person responsible for the family (i.e. head of household) at the time of BFP enrolment or of the cadastral update, either caused by omission of data or by the provision of false information about family membership, income, or the utilization of any other illegal means for gaining or retaining beneficiary status;
2. The monthly family income at the time it failed to meet BFP criteria;
3. Whether the family includes an individual who holds elective (i.e. political) office; and
4. Any other information deemed important for demonstrating malfeasance by the beneficiary;
5. If the family refuses to provide the required data, this must be recorded in the social report and the family will be excluded from the Unified Registry, which will lead to cancellation of benefit.

**Step 3:** Once the irregularity is proven, the municipal BFP management must proceed to block the family’s benefit in the Citizenship Benefits System Citizen (SIBEC).

After completing Steps 1, 2 and 3, the Municipal Manager must forward the documentation to SENARC to proceed with Step 4.

**Step 4:** After receiving the official notification from the municipal manager containing the information described above, SENARC proceeds to analyze the data and documentation. If benefit fraud is apparent, SENARC will proceed to notify the beneficiary to present a defense. In the event of failure to present a defense, SENARC will notify the family of its decision to seek reimbursement, within 60 days, of the improperly received monies. On receipt of this notification families can still appeal to the Ministry of Social Development within a 30-day deadline.

## PENALTIES FOLLOWING INVESTIGATION OF ALLEGATIONS

The penalties applied to public or private agents (operating the Unified Registry in the municipalities under covenant or contract) who commit benefit fraud are obliged to return the full amount involved, as well as to pay a fine that can vary between 2 to 4 times the value of the amount improperly received by individuals not entitled to the benefit. Furthermore, these individuals may be prosecuted civilly, criminally and administratively by the competent bodies.

Beneficiaries who have intentionally committed benefit fraud will be required to reimburse all the monies that have been improperly paid to them, and will face the possibility of criminal prosecution by the competent organs.

## INFORMATION ON BFP ENFORCEMENT PROCESSES

Over the 16 years of the Bolsa Familia Program, the MDS has received an annual average of 2,498 requests for enforcement action to be taken. These have reached the MDS through a wide variety of channels<sup>5</sup>. For example, 2272 cases of families with individuals enjoying elective office were detected<sup>6</sup>, which generated 1,760 processes for reimbursement of the improperly received benefits. Of these, 1,245 (71%) resulted in the recovery of public funds<sup>7</sup>. By end-2016, the MDS was processing a total of 11,100 enforcement requests. Enforcement activities have already led to the recovery of R\$ 1.1 million<sup>8</sup>, especially since 2012 (87% of the funds recovered).

5 CGU Ombudsman and others

6 In 401 cases, families were not required to reimburse funds due to 'elected' family members not living in the households receiving benefits or because they had not yet assumed political office. There were also identification issues.

7 In most other cases, problems were encountered with notifying the beneficiaries. Recovery procedures are ongoing.

8 Approximately US\$340,260.00 at the FOREX rate for 9 June 2017