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**TO:** Income Maintenance Supervisors  
Income Maintenance Lead Workers  
Income Maintenance Staff  
W-2 Agencies  
Workforce Development Boards  
Job Center Leads and Managers  
Training Staff  
Child Care Coordinators

**FROM:** Janice Peters  
Bureau of Wisconsin Works  
Division of Family Supports

DFS OPERATIONS MEMO					
<b>No:</b>	07-46				
<b>DATE:</b>	8/08/2007				
<b>FS</b>	<input type="checkbox"/>	<b>MA</b>	<input type="checkbox"/>	<b>SC</b>	<input type="checkbox"/>
<b>CTS</b>	<input type="checkbox"/>	<b>CC</b>	<input checked="" type="checkbox"/>	<b>W-2</b>	<input checked="" type="checkbox"/>
<b>FSET</b>	<input type="checkbox"/>	<b>EA</b>	<input type="checkbox"/>	<b>CF</b>	<input type="checkbox"/>
<b>JAL</b>	<input type="checkbox"/>	<b>JC</b>	<input type="checkbox"/>	<b>RAP</b>	<input type="checkbox"/>
<b>WIA</b>	<input type="checkbox"/>	<b>Other</b>	<b>EP</b>	<input type="checkbox"/>	★
<b>PRIORITY: HIGH</b>					

**SUBJECT:** Levy Collections for Delinquent Overpayments of AFDC, Child Care and W-2

**CROSS REFERENCE:** Wis. Stats. 49.195; Wis. Admin. Code DWD 12.23; BV Self-Study Guide (OM 99-64); OM 07-37

**EFFECTIVE DATE:** Immediately

### **PURPOSE**

This memo announces and explains levy, a new collection functionality that will be utilized by the Public Assistance Collection Unit (PACU), to collect delinquent AFDC (Aid to Families with Dependent Children), Child Care (CC) and Wisconsin Works (W-2) overpayment claims. The PACU is the State's central collection section for the recovery of delinquent public assistance overpayments.

### **BACKGROUND**

Section 49.195, Wis. Stats., gives the Department authority to use levy to collect delinquent AFDC, CC and W-2 overpayments. Additional authority is found in Wis. Admin. Code DWD 12.23. The State PACU's tax intercept system, the Central Recoveries Enhanced System (CRES), has been enhanced to incorporate this new collection tool.

All collection procedures prior to delinquency will remain the same. Once a debt has reached delinquency and is referred to CRES, the debt may be subject to further collection actions including tax intercept and levy.

Prior to delinquency:

1. Claim(s) established in CARES by agency representative and an overpayment notice is sent to all liable individuals.
2. Repayment agreement (RPA) is sent by CARES. Liable individuals have the opportunity to enter into an acceptable voluntary repayment agreement.
3. If the agreed payment is not received in any given month, a dunning notice is sent by CARES (up to three times over the life of the debt).
4. After the fourth monthly payment is missed, the claim(s) becomes delinquent and is referred to the CRES system for further collection action.

### **POLICY CHANGE**

A levy is an involuntary collection from a 3<sup>rd</sup> party, such as an employer or financial institution, holding a client's earnings or property (similar to a garnishment action). PACU is allowed by Wisconsin statute to levy any amount over \$1000 from an account at a financial institution and/or up to 25% of a client's disposable wage earnings to repay a delinquent public assistance overpayment. *Disposable wage earnings* are defined as the earnings that remain after the deduction from those earnings of any amounts required by law to be withheld.

### **PROCEDURE**

Once an AFDC, CC or W-2 debt is delinquent and referred to CRES, the debt is eligible for levy action. The client is responsible for all costs associated with a levy action by statute (see Levy Fees). A levy action can be performed simultaneously with other collection efforts such as tax intercept. If a client is currently receiving W-2 cash payments, a levy will not be issued. Also, a client must have 2 consecutive quarters of employment to be eligible for a levy. A levy may include one or more programs (AFDC, W-2, CC) for collection. Each levy action is not separated by program but the total eligible debt amount may be included in one levy action.

#### **Example 1:**

A client owes a \$500 child care overpayment and a \$673 W-2 overpayment. One levy will be issued for a total of \$1173 plus applicable fees (see Levy Fees below).

1. **Notice Prior to Levy:** PACU sends a Notice Prior to Levy by certified mail to the client. This notice is a demand for payment in full within ten days and a notification that further legal action is intended to collect the debt.
2. **Employer Match:** If payment in full is not received or approved payment arrangements are not made, a levy may be issued. To issue a levy, PACU must locate the debtor's current employer. Employers are identified using an automated match with other State databases.
3. **Levy Issuance:** When a match is found, a levy notice is sent by PACU via certified mail to the client's employer. A copy of the levy is also sent by certified mail to the debtor's last-known address. The levy notice contains the clients administrative hearing rights (see *Role of W2/CC Agency in Levy Hearing* below).
4. **Compliance:** A 3<sup>rd</sup> party (employer or financial institution) is required to respond and comply with the Department's levy within 20 days.

5. **Partial Release:** Levies are initially issued for 25% of disposable earnings. A debtor may contact PACU to negotiate a partial release of the levy. With a partial release, the levy remains in effect but allows the PACU to negotiate a percentage or dollar amount less than 25% according to guidelines established by the Department. Only PACU may negotiate partial releases.
6. **Full Release:** Once all claims included in the levy are paid in full, PACU must issue a full release stating that the 3<sup>rd</sup> party is no longer obligated to assist in the collection of the debt. Full releases may also happen when:
  - The client is no longer employed by the 3<sup>rd</sup> party
  - The client files bankruptcy
  - The 3<sup>rd</sup> party no longer has any property or financial obligation to the client
  - The client is deceased

**NOTE ➤** Financial institution levies follow the same process as above except no automated employer match is made and the first \$1,000.00 in an account is exempt from levy action.

## **CARES CHANGES**

### LEVY FEES

Fees associated with a levy action:

- One-time State processing fee of \$5.00 (subject to change)
- Certified Mailing Costs of \$6.10 for each piece (subject to postal rates)
- A 3<sup>rd</sup> party may charge a one-time fee of \$5.00 to the client. This fee is not collected by the PACU.

Clients are responsible to pay all fees incurred for levy collection actions. Fees will be automatically entered in the Benefit Recovery (BV) subsystem of CARES and viewable on screen BVCI (see below). The category for these claims is CF (Collection Fee) and the error type is LV (fee associated with a levy). CF claims are required to be paid in full, prior to any principal AFDC, W-2 or CC debt amount included in the levy.

Benefit Recovery (BV) reports have been updated to include CF claims and levy payment collection data. The originating office for CF claims is 5099. Collections for CF claims will be reported under cash take-back line code 0983 in CORE.

BVCI

**BVC I CLAIMS FOR AN INDIVIDUAL** 06/26/07 07:22  
 PIN: 0100612059 XCT355 P RUBY  
 NAME: BOBBY B GROUNDLING SSN: 395464225

SEL	CLAIM	CASE	CAT/SEQ	S	T	O	NOTICE	ADJ CLAIM	OUTSTANDING
DET				S	P	F	DATE	AMOUNT	BALANCE
—	0100005780	0700296808	FS 01	C	CE	5040	07 10 05	100.00	0.00
—	1100005781	0700296808	MA R 01	0	CE	5040	07 10 05	100.00	100.00
—	1100005861	0700296808	CF 01	0	LV	5099	06 01 05	10.00	5.00
—	2100005782	0700296808	CC 01	C	IV	5040	07 10 05	0.00	0.00
—	4100005164	0700296808	FS 01	C	CE	5040	01 28 03	125.00	0.00
—	5100005165	0700296808	CC 01	C	CE	5040	01 28 03	0.00	0.00
—	6100005166	0700296808	WW C 01	0	CE	5605	01 28 03	50.00	50.00
—	7100005777	0700296808	WW C 01	C	CE	5605	07 10 05	0.00	0.00
—	8100005778	0700296808	FS 01	0	CE	5040	07 10 05	1600.00	1600.00
—	9100005779	0700296808	WW C 01	C	CE	5605	07 10 05	0.00	0.00

PFKEYS: 15=BVCD 19=BVPA 20=BVCP 22=BVCC  
 NEXT TRAN: \_\_\_\_\_ PARMS: 0100612059 \_\_\_\_\_

MA + a 08/003

LEVY PAYMENTS

All levy correspondence and payments are directed to the PACU. PACU is responsible for posting all levy payments to CARES using the payment source codes of LVE (Levy Employer) and LVF (Levy Financial) on payment posting screens BVCP (Post Claim Payment) and BVMP (Post Multiple Payments). In the event a W-2/CC agency receives a payment for a claim under levy action, they may post the payment (see posting changes below). The CF claims may be paid through any type of cash repayment, not only a levy payment (but not through W-2 recoupment payments). No incentives are paid to agencies for collection of CF claims.

Screens BVCP (see below) and BVMP have been updated to force payment of CF claims first before payments can be posted to AFDC, CC or W-2 claims. When completing BVCP, CF claims will display if there is an outstanding balance due.

BVCP

**BVCP** **POST CLAIM PAYMENT** **06/26/07 07:21**  
**XCT355 P RUBY**

**PIN: 0100612059** **NAME: BOBBY** **B GROUNDLING** **SSN: 395464225**  
**PAYMENT OFFICE:** \_\_\_\_\_  
**PAYMT TYPE: CA** **SOURCE:** \_\_\_\_\_ **AMT:** \_\_\_\_\_ **IN-KND HRS:** \_\_\_\_\_ **ADJT DT:** \_\_\_\_\_

SEL	CLAIM	CLM TYP	JAL TYP	REPAYMENT AMOUNT	REMAINING BALANCE	CASE	CAT	SEQ
—	1100005861	LV		0.00	5.00	0700296808	CF	01
—	6100005166	CE		0.00	50.00	0700296808	WW C	01

**NEXT TRAN:** \_\_\_\_\_ **PARMS: 0100612059/WW** \_\_\_\_\_  
**070 - HIGHLIGHTED FIELD MUST BE ENTERED**

MA + a 05/018

If an AFDC, W-2 or CC claim is selected to post payment when there is an outstanding CF claim, the following error will be received: COLLECTION FEE CLAIMS MUST BE PAID IN FULL PRIOR TO SELECTING CLAIM. If you receive this error message, enter the full payment amount in the AMT field and do not select any claims. The system will automatically post to the CF claim and any remaining amount to the principal.

## BVCP Error

willogoni - A - VTCC1Q10

File Edit View Communication Actions Help

Jump Same Save and Exit Send Recv Copy Paste PrtScrn Remap Color Play Macro... Record Macro... Stop Macro Pause Macro Run Applet... Information Center

BVCP POST CLAIM PAYMENT 06/26/07 07:21  
XCT355 P RUBY

PIN: 0100612059 NAME: BOBBY B GROUNDLING SSN: 395464225  
PAYMENT OFFICE: 5605  
PAYMT TYPE: CA SOURCE: rpa AMT: 25.00 IN-KND HRS: ADJT DT:

SEL	CLAIM	CLM TYP	JAL TYP	REPAYMENT AMOUNT	REMAINING BALANCE	CASE	CAT	SEQ
	1100005861	LV		0.00	5.00	0700296808	CF	01
<u>S</u>	6100005166	CE		0.00	50.00	0700296808	WW C	01

NEXT TRAN: PARS: 0100612059/WW  
BXI - COLLECTION FEE CLAIMS MUST BE PAID IN FULL PRIOR TO SELECTING A CLAIM

MA + a 11/003

198.150.235.253:1013

BVMP will post to CF claims before posting to AFDC, CC and W-2 claims without warning.

### ROLE OF W-2/CC AGENCY IN LEVY HEARING

The levy notice contains the clients hearing rights on the levy action along with instructions for how to request a hearing. The client has 21 days to request an administrative hearing on the levy action through the Division of Hearings and Appeals. If the client is granted a hearing, the levy action will continue throughout the hearing process.

W-2 and CC agency representatives are responsible to attend levy hearings related to the programs they implement. Although the collection method differs, the hearing process remains the same as for overpayment administrative hearings. All levy notices must be presented at each levy hearing by the agency representative (see list below). PACU will provide the agency with copies of these notices. If you have not received the documentation prior to the hearing, please contact PACU (see contact information below).

The Administrative Law Judge (ALJ) should limit the levy hearing to questions of procedure, prior payment and/or mistaken debtor identity; however, under certain circumstances the ALJ may decide to review the underlying merits of the overpayment. This can include inquiries such as how the overpayment was calculated and whether proper notice to the client(s) had been provided. Therefore, the agency must attend the hearing and be prepared to defend the original overpayment determination as well as the levy action.

Documentation that the agency should present at the hearing may include but is not limited to:

- The policy supporting the agency's action (i.e. why the overpayment occurred)
- Any relevant documentation supporting the overpayment, for example:
  - Original overpayment notices and worksheets, dunning notices, signed RPA's
  - Levy notices and certified mailing receipts (PACU will provide)
    - Notice Prior to Levy
    - 3<sup>rd</sup> Party Levy notice
    - Client Levy notice
    - Proof of mailing receipt
    - Signed certified mail receipt (if applicable)
  - CARES budget and issuance screens
  - Case comments
  - Employment verifications
  - Fraud investigations
  - Any related Fact Findings for W-2
  - Any related Administrative Hearings for Child Care

The PACU is notified of all overpayment related administrative hearing requests and monitors and complies with all DHA decisions and orders.

The DHA will notify W-2 and CC agencies of all requested administrative hearings. W-2 and CC agencies are required to prepare a statement explaining the disputed action which is being appealed to DHA within 10 days of receiving a hearing notification. A copy of this statement must be forwarded to the PACU at the address or fax number below. DHA will also send a subsequent notice with the date; time and location of the hearing via email.

The hearing will be held in the petitioner's current county of residence. If the case has been transferred to another W-2 or CC agency since the overpayment determination, both the current agency and the previous agency will be notified of requested appeals. The agency where the overpayment originated is the agency that must attend and provide supporting information for any requested hearing. An agency can request to attend the hearing by telephone in a transferred case situation or at any other time that a telephone appearance is warranted. The notice of scheduled hearing will list the ALJ and his/her telephone number to contact for requested telephone appearances.

## **CONTACTS**

Public Assistance Collection Unit  
PO Box 8938  
Madison, WI 53708-8938  
1-800-943-9499  
Fax: 608-266-8302

\*Program Categories – FS – FoodShare, MA – Medicaid, SC – Senior Care, CTS – Caretaker Supplement, CC – Child Care, W-2 – Wisconsin Works, FSET – FoodShare Employment and Training, CF – Children First, EA – Emergency Assistance, JAL – Job Access Loan, JC - Job Center Programs, RAP – Refugee Assistance Program, WIA – Workforce Investment Act, Other EP – Other Employment Programs.

DWD/DFS/BPSS/PACU/jlb