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**State of Wisconsin
Governor Jim Doyle**

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, Director
Bureau of Working Families
Division of Family and Economic Security

DFES OPERATIONS MEMO					
No: 09-68					
DATE: NOVEMBER 11, 2009					
FS	<input type="checkbox"/>	MA	<input type="checkbox"/>	BC+	<input type="checkbox"/>
SC	<input type="checkbox"/>	CTS	<input type="checkbox"/>	CC	<input checked="" type="checkbox"/>
W-2	<input checked="" type="checkbox"/>	FSET	<input type="checkbox"/>	EA	<input checked="" type="checkbox"/>
CF	<input type="checkbox"/>	JAL	<input checked="" type="checkbox"/>	JC	<input type="checkbox"/>
RAP	<input type="checkbox"/>	WIA	<input type="checkbox"/>	Other	<input type="checkbox"/> *
				EP	
PRIORITY: HIGH					

SUBJECT: W-2 Related and Child Care Confidential Documents in ECF

CROSS REFERENCE: [Operations Memo 07-58](#)
[Operations Memo 00-25](#)
[Wisconsin Works Manual, Chapter 4, 4.7](#)

EFFECTIVE DATE: Immediately

PURPOSE

The purpose of this memo is to provide policy and procedure updates to the Wisconsin Works (W-2) agencies and Child Care Agencies on scanning and storing personal health information and other sensitive information of W-2 and Child Care participants.

BACKGROUND

Operations Memo 07-58 was issued by DWD setting specific guidance on W-2 related documents in the Electronic Case File (ECF). The memo was a result of work accomplished by a group including local W-2 agency staff representatives. The ECF Workgroup identified a need for a folder in ECF to store confidential information specifically related to the W-2 Program and not available to other programs using ECF. Operations Memo 07-35 directed private W-2 agencies to store this sensitive documentation in a paper file and directed combined W-2 and Income Maintenance (IM) agencies to scan this documentation into ECF.

Recent legal interpretation by the Department of Children and Families Chief Legal Counsel concluded that highly confidential W-2 and Child Care information can not be stored in the current ECF system, regardless of whether the W-2 and IM agencies are combined. The current Restricted Document Sub-folder does not meet the laws governing protection of confidentiality of personal health information and restricting the disclosure of the information to other parties.

DCF has investigated the cost of enhancing ECF to provide for a W-2 restricted sub-folder allowing access only to the W-2 and Child Care case worker/agency and selected other users such as state staff performing case or program reviews. The cost of such an enhancement has proven to be cost-prohibitive at this time.

CONFIDENTIALITY LAW

Operations Memo 00-25 provides the following information regard confidentiality:

The laws governing protection of confidentiality of personal health information such as that related to mental health, developmental disabilities, and drug and alcohol treatment are stricter than most other confidentiality rules. In general, they narrowly restrict the disclosure and use of "patient identifying" information to a "bona fide need to know." Patient identifying information is information that reveals that a person is receiving, has received, or has applied for treatment.

These regulations apply to holders, recipients, and seekers of patient identifying information. An individual or program in possession of such information (for example, a federally assisted substance abuse program) may not release it except as authorized by the patient. Anyone who receives such information from a substance abuse program (for example, a W-2 agency) may not again disclose it without patient consent and cannot retain this information in a location where absolute patient confidence cannot be maintained.

However, the restrictions on disclosure do not apply to communications of information between or among personnel having a need for the information in connection with their duties if the communications are:

1. Within a program; or,
2. Between a program and an entity that has direct administrative control over the program.

PROCEDURE

In order to abide by these confidentiality laws, DCF is now instructing all W-2 and Child Care Agencies to secure legally confidential information in a sealed envelope within a paper case file.

W-2 and IM combined agencies which followed the previous directive and scanned confidential information into ECF should now take the following steps:

1. Review the ECF Restricted sub-folders and General Folder for documents related to the W-2 and Child Care program. These documents should be identified as:
 - "Medical Assessments" (MAS),
 - "Non-Medical Assessments" (WVAS),
 - "Medical Exam and Capacity Form" (WME), and/or
 - "SSI/SSDI Referral/Advocacy" (SSIA).

*Not all items listed with these document codes have been obtained for the W-2 program.

2. Review the W-2/FSET sub-folder in ECF for confidential information that may have been stored as “W-2 Barrier Screening Tool Documents” (WBST).
3. Print the documents if the agency no longer has a hard copy in the paper W-2 or Child Care file.
4. Delete the W-2 and Child Care related documents from ECF. This procedure can be found in the ECF Handbook 1.3.1.
5. Store the sensitive confidential information in a sealed envelope in the paper file.

Legally confidential information includes but is not limited to:

- Medical Diagnosis
- Medical Test results
- AODA Assessment and Treatment
- Mental Health Diagnosis and Treatment
- Domestic Violence Counseling
- HIV/AIDS
- Treatment Notes
- Details of Assessments

All sensitive and confidential information obtained regarding W-2 and Child Care participants will be maintained in a sealed envelope in a secure confidential manner. If the W-2 or Child Care case closes but another program remains open, the paper file may be passed on to other program staff but the sealed envelope must remain in the W-2 or Child Care agency file. However, if the W-2 or Child Care participant applies in a new W-2 or Child Care agency, the participant has the right to sign a release of information allowing the prior agency to forward copies of all confidential information to the new agency.

W-2 and Child Care agencies are NOT required to remove the documents stored in ECF for closed W-2 and Child Care cases. However, if the W-2 or Child Care case opens at a future time, the confidential information should be removed from ECF at that time following the above procedures.

Confidential documents for open W-2 and Child Care cases should be removed from ECF within six months of the release date of this memo. Please work with your Regional Administrator if your agency is having difficulty meeting this deadline.

For Policy Related Questions: BWF Regional Office Staff

For CARES Processing Questions: W-2/CC Help Desk

*Program Categories – FS – FoodShare, MA – Medicaid, BC+ – BadgerCare Plus, 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.

DCF/DFES/BWF/BB/JK