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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					
<b>No:</b> 10-63					
<b>DATE:</b> SEPTEMBER 13, 2010					
<b>FS</b>	<input type="checkbox"/>	<b>MA</b>	<input type="checkbox"/>	<b>BC+</b>	<input type="checkbox"/>
<b>SC</b>	<input type="checkbox"/>	<b>CTS</b>	<input type="checkbox"/>	<b>CC</b>	<input 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>	<input type="checkbox"/> *
				<b>EP</b>	
<b>PRIORITY: HIGH</b>					

**SUBJECT: Policy Changes Regarding the Transfer of Formal Assessments, Approving or Denying Good Cause, and 20% Payment Reduction Notification**

**CROSS REFERENCE:** [DFES ADMINISTRATOR'S MEMO 10-05](#)  
Operations Memo 10-62  
Operations Memo 10-64

For policy regarding the transfer of formal assessments:

[Operations Memo 09-68](#)  
[Operations Memo 00-25](#)

For policy regarding approving good cause:

[W-2 Policy Manual Chapter 11](#)

**EFFECTIVE DATE:** October 1, 2010

**PURPOSE**

This memo describes several policy changes related to the Department's compliance with the Voluntary Compliance Agreement (VCA) between the Department of Children and Families and the U.S. Department of Health and Human Services, Office for Civil Rights (OCR):

1. The formal assessment transfer policy;
2. The [Authorization for Disclosure of Confidential Information](#) form;
3. The good cause policy; and

4. The 20% payment reduction and case closure notification policy.

## **BACKGROUND**

As described in [DFES ADMINISTRATOR'S MEMO 10-05](#), the Department is moving forward with a number of changes to the W-2 program that are required as part of the Voluntary Compliance Agreement. The policy and procedural changes covered in this memo will fulfill a number of requirements laid out in the VCA.

These changes are intended to ensure that participants with disabilities and other barriers to employment receive the services and accommodations they need in order to reach their employment goals. Additionally, continuity of W-2 service provision is expected to improve with the implementation of the formal assessment transfer policy changes described in this memo.

## **POLICY CHANGES**

### **1) Transfer of Formal Assessments**

As part of the OCR agreement, DCF is making changes to W-2 policy regarding when and how W-2 agencies transfer information on formal assessments when a W-2 applicant applies for W-2 services at a W-2 agency (referred to here as the "applicant" W-2 agency).

Beginning October 1, 2010, when an individual applies for W-2, the applicant W-2 agency should check in CARES to see if the individual received W-2 in the past. If the individual received W-2 in the past, the applicant W-2 agency must check in CARES (WPBD) to see if any formal assessments were completed at a prior W-2 agenc(ies). If so, the applicant W-2 agency must request the following information from the prior W-2 agency(ies):

- all copies of formal assessments and treatment notes from the past 12 calendar months; and
- any copies of additional information and assessments greater than 1 year that were used to determine how the participant was last served by the prior W-2 agenc(ies).

The applicant W-2 agency must contact the prior W-2 agency(ies) and request formal assessments and treatment notes from the prior W-2 Agency's Default Case Manager that is listed on table TWCM in CARES.

The prior W-2 agency is required to send all copies of requested documentation to the applicant W-2 agency so that it is received within 7 business days. All confidential information must be sent by US mail or other delivery services with tracking or through a courier. Do not scan, fax or email copied confidential documents.

<p><b>AGENCY ACTION:</b> Review CARES table TWCM and ensure that the contact information for the agency identified Default Case Manager is correct. If the information needs to be updated, contact the W-2 Security Desk or W-2 Help Desk.</p>
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Reminder: Formal Assessments and Treatment notes should not be stored in the Electronic Case File (ECF).

### **2) Authorization for Disclosure of Confidential Information Form**

As part of the OCR agreement, DCF is making changes to the [Authorization for Disclosure of Confidential Information](#) form.

Effective immediately, when requesting confidential information, the FEP must use the updated *Authorization for Disclosure of Confidential Information* form DES-10779 (R. 08/2010). This updated form clarifies that all information is released to the W-2 program, which includes providers that DCF contracts with to provide direct W-2 case management services. Additionally, this form meets federal and state requirements for the confidential release of information from treatment providers, including alcohol and other drug abuse (AODA) and mental health information.

Effective April 14, 2003, the Health Insurance Portability and Accountability Act (HIPAA) went into effect which imposes national rules for the protection and dissemination of an individual's health records. HIPAA holds the health-care provider accountable for the protection of the privacy of the individual's personal health records. It was determined by DCF legal counsel that the W-2 Program is not subject to HIPAA rules. If any agency has concerns with this determination, you may contact Connie Chesnik, DCF Legal Counsel, at [connie.chesnik@wisconsin.gov](mailto:connie.chesnik@wisconsin.gov)

### **3) Approving Good Cause**

As part of the OCR agreement, DCF is making changes to W-2 policy regarding when and how W-2 agencies document the basis for granting or denying good cause. As a result, **Chapter 11.2.4** of the W-2 Manual will be updated with underlined language added.

#### **11.2.4 Approving or Denying Good Cause**

*A participant must notify the FEP of good cause within seven working days after an absence from a W-2 assigned activity in order to prevent a payment reduction. If the FEP determines that the participant's explanation for the absence or the written verification of the absence meets the allowable good cause reasons, the FEP must enter the hours of nonparticipation, the appropriate number of good cause hours, and the good cause CARES code on CARES screen WPNH and document the reason for approving the good cause in case comments. If the FEP determines that the participant's explanation for the absence or the written verification of the absence does not meet any of the allowable good cause reasons, the FEP must enter the hours of nonparticipation on CARES screen WPNH and document the reason for denying good cause as well as referencing the number of hours, dates and activities missed in case comments.*

*When documenting in CMCC the reasons for approving or denying good cause, the FEP should begin the comment with "GCD:". By starting case comments with "GCD:", monitoring staff will be able to easily identify comments related to good cause decisions. The Department of Children and Families plans to update the CARES system in the future to make documenting this type of information easier for W-2 agencies. In the meantime, this procedure should be followed.*

### **4) 20% Payment Reduction Notification**

As part of the OCR agreement, DCF is required to establish guidelines on when agencies must conduct additional informal and formal assessments and intensive case management before taking action that would result in a reduction of 20 percent or more in a W-2 payment or a case closure.

### 20 Percent or More Payment Reduction

As part of the OCR agreement, changes were made to establish guidelines on when agencies must conduct additional informal and formal assessments and intensive case management before taking action that would result in a reduction of 20 percent or more in a W-2 payment. As a result, **Chapter 11.3.4** of the W-2 Manual will be updated as follows (underlined language will be added and language with strikeout will be removed):

#### **11.3.4 Oral Notification for Payment Reduction**

*The W-2 agency must, within five working days after the mailing date of the W-2 ~~manual letter~~ 20% Reduction Letter (NWSN), notify, or have made multiple, meaningful attempts to notify, the participant of the 20 percent or greater payment reduction and the reason(s) for the proposed reduction. Suggested methods of contact include, but are not limited to:*

- *Phone calls with the participant at the participant's home, childcare provider; message phone identified on CARES screen WPWI; or worksite; or*
- *Face-to-face visits to the participant's home, childcare provider, worksite or at the W-2 agency.*

*Upon contact, the FEP must discuss with the participant:*

- *The specific dates the participant was absent from the assigned activities. On the WEBI reports, the missed activity codes are identified under the activity code (Act Cd) column and the Nonparticipation hours (NP Hrs) column shows how many hours were missed.*
- *Any issues that the participant might be experiencing that are preventing participation. This must include informing the participant of the availability of the Barrier Screening Tool (BST) as well as informal and formal assessments (if appropriate). The FEP must explain that these tools will give the W-2 agency more information about the participant's needs. The FEP must let the participant know that any information the agency gets can help the participant and the FEP make informed decisions about W-2 placements, employment goals and the assigned activities that will help reach those goals, the participant's ability to engage in training and education prior to employment and any necessary special services or work site accommodations.*
- *~~Potential changes to assigned activities that may assist the participant in successfully completing activities.~~*
- *The opportunity to present within seven days good cause for failing to participate. It is not necessary for FEPs to have written documentation verifying all good cause. (See [11.2.2](#))*
- *The participant's ability to request a Fact Finding review, if necessary.*

*The FEP must document in case comments the method used for the oral notification or, if oral notification was not made, document that two attempts were made to contact the participant using one or both of the methods described above, e.g., a phone call to the worksite and a phone call home; two phone calls home, etc.*

### Case Closures

As part of the OCR agreement, DCF is required to have guidelines on when agencies must conduct additional informal and formal assessments and intensive case management before taking action that would result in a case closure. These guidelines are contained in [Operations Memo 09-18](#). The remainder of this memo contains relevant excerpts from [Operations Memo 09-18](#) and should be reviewed to ensure adherence to correct case closure policy.

*As is true with nonparticipation, in the event of noncooperation with specific program requirements, the FEP must explore potential barriers that may be interfering with a participant's*

ability to cooperate. This must be done prior to finding a participant ineligible for noncooperation. At a minimum, the agency has a responsibility to:

**a) Initiate action to uncover why the participant has not completed the required activity in the event that unidentified barriers exist. FEPs must document thoroughly in case comments and on the appropriate CARES screens actions taken to uncover barriers that may be contributing to the noncooperation.**

Examples:

- Questioning the participant as to why she has not been cooperating and then fully exploring the responses. Meaning, if the participant says, "I have been busy," the FEP should follow up with "doing what or how so?" The FEP should continue to question until there is reasonable certainty that the participant has offered all possible reasons for not cooperating.
- Providing the participant with information on how to cooperate with program requirements and the penalty for ongoing noncooperation.
- Conducting home visits.
- Reviewing the history of the case, including the Barrier Screening Tool (BST) results and any formal assessments, to determine if any issues were identified early on in the participant's connection with W-2 that may still be a factor affecting cooperation.
- Offering the BST again.
- Reviewing the Employability Plan to ensure that activities assigned were appropriate. Appropriate activities should include, but not be limited to, education, training, work, treatment, counseling, etc. These activities must be individually designed and based on the participant's strengths, needs, abilities, family circumstances and identified barriers and disabilities. Activities must be designed to assist the participant to overcome barriers to employment and provide the skills needed to secure and maintain full-time employment.
- Talking with worksite supervisors and other individuals the participant may be working with such as the child welfare worker or other social workers.

**b) Take steps to address the barriers that may have caused the noncooperation.**

Examples:

- Referring participant to supportive services that may be appropriate for assisting with overcoming barrier(s) to finding and maintaining employment.
- Referring participants for formal assessments in order to identify necessary accommodations and specific appropriate activities.
- Identifying and assigning appropriate activities.

**c) Apply payment reductions as appropriate prior to determining ineligibility.**

Although a case may be closed for any of the noncooperation reasons identified in this memo, it may be appropriate to first apply a payment reduction prior to closing the case. W-2 agencies must develop internal procedures regarding the steps that need to be taken prior to closing a case. These procedures must be in writing and available at the W-2 agency upon request. Internal monitoring by the W-2 agency will help ensure that FEPs are applying the case closure policies consistently.

## **ACTION REQUIRED**

Training on Ops Memo 10-63 is required of all W-2 agency staff and subcontractors. Training will be delivered via Coach's Corner and is available in the Learning Center. This training must

be completed by Thursday, September 30, 2010. To access the Learning Center go to <https://wss.ccdet.uwosh.edu/stc/dcf/>

Contact Beki Lockery ([blockery@kaisergrp.com](mailto:blockery@kaisergrp.com)) with questions about this training.

## **CONTACTS**

For Policy Related Questions: Operations Staff

\*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/GS