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TO: **W-2 Agencies**  
**Income Maintenance Supervisors**  
**Income Maintenance Lead Workers**  
**Income Maintenance Staff**  
**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:	11- 45				
DATE:	08/12/2011				
FS	<input type="checkbox"/>	MA	<input type="checkbox"/>	BC+	<input type="checkbox"/>
SC	<input type="checkbox"/>	CTS	<input type="checkbox"/>	FSET	<input type="checkbox"/>
CC	<input type="checkbox"/>	W-2	<input checked="" type="checkbox"/>	EA	<input checked="" type="checkbox"/>
CF	<input type="checkbox"/>	JAL	<input checked="" type="checkbox"/>	JC	<input type="checkbox"/>
RCA	<input type="checkbox"/>	RMA	<input type="checkbox"/>	Other	<input type="checkbox"/> *
				EP	
PRIORITY: HIGH					

**SUBJECT: Updates to W-2 Manual Chapter 19 Dispute Resolution**

**CROSS REFERENCE:** [Operations Memo 11-31](#)

**EFFECTIVE DATE:** September 1, 2011

### **PURPOSE**

This Operations Memo announces several policy changes and/or clarifications related to Manual Chapter 19 Dispute Resolution.

### **BACKGROUND**

The updates were made in collaboration with the Wisconsin Works Contracts and Implementation Committee's Policy and Program Operations Workgroup.

### **CHAPTER 19 UPDATES**

Below is a summary of the policy updates that will be made. The information is laid out by Manual Section. Attached is a copy of Chapter 19 which tracks the changes made to the Chapter using strikeouts and underlines. Also attached is a clean copy with all changes saved. The following updates will be in Manual Release 11-04:

#### **Section 19.1**

- Edited for clarity – no policy changes.

**Section 19.2.1**

- Language added specifying the 4 allowable reasons for Fact Finding:
  1. The denial of an application for W-2 services was incorrect;
  2. The application was not acted upon with reasonable promptness;
  3. The employment position placement was inappropriate; and/or
  4. The W-2 payment was incorrectly ended, reduced or subject to an overpayment.
- Language added regarding an applicant or participant who requests a Fact Finding for a complaint not related to any of the 4 allowed reasons. The agency must provide written notification explaining the denial of a Fact Finding Review. The notification must refer the petitioner to one or more of the following complaint resolution resources:
  - Internal agency complaint procedures;
  - W-2 customer service phone numbers: for Milwaukee 414-227-4633, for Balance of State agencies 855-757-4539 (toll-free); or
  - DCF complaint website.

**Section 19.2.2**

- Language added clarifying that Fact Finding Reviews are not available if the agency action being contested occurred more than 45 days prior to the Review request.
- Requirement added that agencies provide written notification that untimely Fact Findings will not be scheduled for Reviews.
- Clarified that agencies must accept oral requests for Fact Finding Reviews.
- Added language stating that with the exception of a timely Learnfare penalty Fact Finding Review request, the agency decision stands until it is overturned by a Fact Finding Review or a Departmental Review.

**Section 19.2.2.1**

- Edited for clarity – no policy changes.

**Section 19.2.3**

- Edited for clarity - no policy changes.

**Section 19.3.4**

- Edited for clarity - no policy changes.

**Section 19.2.5**

- Policy changed removing the requirement that agencies must hold the Review within 5 working days after the date the appointment notice is mailed.
- New language added clarifying that the agency must hold the Review within 8 working days from the date of the petitioner's request.
- New language added clarifying that agencies must give petitioners reasonable notice of the schedule review.
- New language added stating that if any party requests that the Fact Finding review be rescheduled and has a reasonable reason for the request, the agency must reschedule the Fact Finding review. The Fact Finder is responsible for determining the reasonableness of the request to reschedule.

**Section 19.2.5.1**

- New language added clarifying that for pre-resolution withdrawals, if either party fails to take the agreed upon action by the due date indicated on form 11155, then the form is void and a Fact Finding Review must be scheduled within 8 working days to address the petitioner's complaint.

**Section 19.2.6**

- Language removed regarding the requirement that good cause must be provided if the petitioner's representative is present without the petitioner.

**Section 19.2.7**

- Edited for clarity – no policy changes.

**Section 19.2.8**

- New language added explaining new form *Documents Submitted at Fact Finding Review* (370).

**Section 19.2.9**

- Language added clarifying that the petitioner has 7 working days from the date of the scheduled Fact Finding Review appointment to provide good cause.

**Section 19.2.10**

- Language added clarifying that in addition to the Regional Office staff, the petitioner must be notified if the agency is unable to comply with a Fact Finding decision.

**Section 19.2.10.1**

- The following policy change was made:
  - If the Fact Finding decision indicates a payment was terminated incorrectly (case closure), the W-2 agency must restore the payment that was incorrectly terminated.

**Section 19.2.10.2**

- New policy was added regarding ARP placements. If the Fact Finding decision overturns the agency's denial of an ARP placement, the W-2 agency must place the individual in the ARP placement effective the date of the application or the date all the ARP financial and non-financial requirements have been met, whichever was later, and a retroactive payment must be issued.

**Section 19.2.10.3**

- No changes were made to this section.

**Section 19.2.10.4**

- Edited for clarity – no policy changes.

**Section 19.2.11**

- Language updated to reflect changes to forms and addition of new form *Documents Submitted at Fact Finding* (370).

- Policy clarifying that agencies must provide the petitioner or the petitioner's representative requests a copy of any part of the Fact Finding file, including the audio recording, was added.
- Policy added requiring that agencies scan all relevant Fact Finding document in to the ECF.

**Section 19.2.12**

- Edited for clarity – no policy changes.

**Section 19.2.13**

- Updated and edited for clarity. Added language from Section 19.2.5 regarding rescheduling.

**Section 19.3.1**

- Edited for clarity – no policy changes.

**Section 19.3.2**

- Language added clarifying that the agency has 10 calendar days to act on departmental decisions favoring the petitioner.

**Section 19.3.3**

- Edited for clarity – no policy changes.

**Section 19.3.4**

- Updated and edited for clarity – no policy changes.

**Section 19.4.1**

- Edited for clarity – no policy changes.

**Section 19.4.2**

- Language added clarifying that tax intercept hearings can also be requested for Job Access Loans.
- Language added clarifying the process for tax intercept hearings.

***ACTION REQUIRED***

Agencies must discuss the policy changes with staff and update relevant local agency procedures.

***CONTACTS***

For Policy Questions in the Balance of State: Bureau of Regional Operations, W-2 Regional Coordinators

For Policy Questions in Milwaukee: Milwaukee Operations Section Regional Administrators

For CARES Processing Questions: W-2 Help Desk

**ATTACHMENTS**

W-2 Manual Chapter 19 with Track Changes

W-2 Manual Chapter 19 (final)

\*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, RCA – Refugee Cash Assistance Program, RMA - Refugee Medical Assistance Program, \*Other EP – Other Employment Programs.

DCF/DFES/BWF/GS