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

**FROM:** Erik Hayko, Section Chief  
Bureau of Child Care Administration  
Division of Early Care and Education

DECE/BCCA OPERATIONS MEMO					
<b>No:</b>	13-12				
<b>DATE:</b>	4/18/2013				
<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 checked="" type="checkbox"/>
<b>W-2</b>	<input 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: Administrative Disqualification Hearing (ADH) forms for Child Care**

**CROSS REFERENCE:** Wisconsin Statutes s.49.001 (3m); s.49.151 (2) (a) and (b); Child Care Manual Chapter 2A- Client Policy Manual- section 2.1.5.1 Classifications of Client Overpayments; and Operations Memo [12-56](#) Enforcing Child Care Intentional Program Violations (IPV) for Clients.

**EFFECTIVE DATE:** Immediately

**PURPOSE**

The purpose of this Operations Memo is to inform local agencies of updates made to the Administrative Disqualification Hearing Notice (F-16038) and Waiver of Administrative Disqualification Hearing (ADH) form (F-16039) used by local agencies to determine an intentional program violation (IPV) for a client. This Operations Memo provides information *in addition* to the information provided in Operations Memo 12-56 Enforcing Child Care Intentional Program Violations (IPV) for Clients which was issued on 10/30/2012.

**BACKGROUND**

Prior to the 2011 Wisconsin Act 202 becoming effective November 1, 2012, the determination of an IPV was made through an administrative hearing; a conviction by a court of law; when a client signed a Waiver of Administrative Disqualification Hearing (ADH) form; or, when a client signed a Disqualification Consent Agreement form.

### **DETERMINATION OF AN IPV**

Under the new law, the Department of Children and Families (Department); a Wisconsin Works (W-2) agency; or, an entity administering Shares under contract with the Department may make the determination whether an individual applying for or receiving emergency assistance, W-2, or Shares subsidy benefits has committed an IPV.

An individual denied Shares benefits as a result of an IPV determination may contest the determination and request a contested case hearing within 30 days after the date of the notice (Wis. Stat. 49.151 (2) (b)). Pursuant to Administrative Code § HA 1.04 a request for a hearing shall be made in writing. Requests for hearing may be served personally, by mail or by fax to the Division of Hearings and Appeals (DHA). Under the terms of the child care contract, counties and tribes are required to provide legal representation to agencies or entities administering Shares at contested case hearings.

While a contested case hearing may be part of the process to determine an IPV for the child care program, it is not necessary. The IPV for child care can also be determined by the non-appeal of an IPV by the client. Therefore, the Administrative Disqualification Hearing Notice (F-16038) and Waiver of Administrative Disqualification Hearing (ADH) form (F-16039) should not be used to determine an IPV. All reference to child care has been removed from these forms. Effective immediately, these two forms, F-16038 and F-16039, **should not** be used to determine an IPV for a client in the child care program.

However, the Disqualification Consent Agreement form that a client can sign to receive an IPV in order to avoid criminal prosecution should still be used, and has been updated to reflect the penalty periods for committing an IPV in the child care program as follows:

- 6 months for a first intentional violation;
- 12 months for a second intentional violation; and,
- Permanently for the third intentional violation.

### **AFFECTED NOTICES**

Administrative Disqualification Hearing Notice

<http://www.dhs.wisconsin.gov/forms/F1/F16038.pdf>

Waiver of Administrative Disqualification Hearing

<http://www.dhs.wisconsin.gov/forms/F1/F16039.pdf>

Disqualification Consent Agreement form

<http://www.dhs.wisconsin.gov/forms/F1/F16025.pdf>

### **CONTACT**

For questions regarding this Operations Memo, please contact Marcie Stebbeds at [marcie.stebbeds@wisconsin.gov](mailto:marcie.stebbeds@wisconsin.gov) or (608) 261-5850.

\*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/DECE/BCCA/MS