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**State of Wisconsin
Governor Scott Walker**

**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: Sue Mathison, Section Chief
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Bureau of Child Care Administration
Division of Early Care and Education
Department of Children and Families**

BEPS/DFES/DECE OPERATIONS MEMO					
No: 13-29					
DATE: 09/06/2013					
FS	<input type="checkbox"/>	MA	<input type="checkbox"/>	BC+	<input type="checkbox"/>
SC	<input type="checkbox"/>	CTS	<input type="checkbox"/>	FSET	<input type="checkbox"/>
BC+ Basic	<input type="checkbox"/>	BC+ CORE	<input type="checkbox"/>		
CC	<input checked="" type="checkbox"/>	W-2	<input type="checkbox"/>	EA	<input type="checkbox"/>
CF	<input type="checkbox"/>	JAL	<input type="checkbox"/>	JC	<input type="checkbox"/>
RAP	<input type="checkbox"/>	WIA	<input type="checkbox"/>	Other	<input type="checkbox"/> *
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SUBJECT Qualified Employer Verification for Certain Child Care Cases

CROSS REFERENCE: Child Care Policy Manual, Section 1.5.3 and Section 1.5.3.1 and Child Care Policy Manual Appendix.

EFFECTIVE DATE: IMMEDIATELY

PURPOSE: Update and expand information about Qualified Employers and Qualified Employer verification. Eliminate obsolete process guidance provided in the Child Care Manual Appendix.

BACKGROUND: Section 1.5.3 of the Child Care Policy Manual requires that an approved activity of Unsubsidized Employment for Wisconsin Shares eligibility, must be either valid self-employment or employment with a qualified employer. Section 1.5.3.1 requires that the worker must verify that an employer is a qualified employer if the employer is a child care provider, a business owned or managed by the provider, or if the reported employment appears questionable. This operations memo updates criteria used in verifying whether or not an

employer is qualified. This verification is in addition to the requirement that all employers have a valid Federal Employer Identification Number (FEIN).

The purpose of “qualified employer” verification is to assure, through third party records, that the employment information is truthful and that the employer is documented to be in broad compliance with Wisconsin’s employment law. This is intended to guard against phantom employment, overstated employment, and other forms of fraud that have been known to occur when the parent and employer have a close relationship or both profit from child care eligibility and authorizations.

A qualified employer review is used to determine whether or not an applicant’s or participant’s unsubsidized employment meets the criteria for an approved activity. When a local agency worker undertakes “qualified employer” verification, he or she should document the reason for the qualified employer verification and the results in the Case Comments and in the Electronic Case File (ECF), if appropriate. Typical reasons include:

- the employer is a child care provider or business owned or managed by a child care provider
- there is conflicting or contradictory information about the employment
- the parent and/or employer has a history of questionable verification
- there is a presumption that the employer may not be paying minimum wage

If the employment fails the “qualified employer” test, child care cannot be authorized for time spent in the job. If the job is the parent’s only activity or if it is the employment time that qualifies the parent for school-related child care, the approved activity should be marked as “No” in CARES Worker Web CWW.

Change: With publication of this Operations Memo, the Child Care Policy Manual Appendix is eliminated. Local agency workers should use the following matrix to identify how to verify each of the four (4) elements required for a Qualified Employer verification.

Exception: If the job site is located outside of Wisconsin, the local agency worker should collect an Employer Verification Form for Earnings EVF-E from the employer and confirm the information provided through follow up contacts with the employer.

Requirement	Verification	Action if not verifiable
<p>The employer must have a worker's compensation insurance policy for its employees unless legally exempt</p>	<p>Worker queries the Worker's Compensation Division (WCD) web site listing employers with current policies at http://www.dwd.state.wi.us/wc/workers/select.asp . If the employer is not listed, follow directions at the website for follow up information. Employers not found in this query can be contacted to see if they can direct you to a listing with WCD, alternatively, if they can document an exemption in law that applies to them.</p>	<p>No authorization should be provided until compliance or exemption is documented.</p>
<p>The employer must comply with Wisconsin minimum wage law for all employees.</p>	<p>Minimum wage is \$7.25 per hour.* Observe whether or not the paystubs or EVF-E document hourly wages paid are at least \$7.25 per hour for general employees. For salaried employees, the calculation should be salary received divided by claimed hours per month.</p> <p>Tipped employees must receive employer wages of at least \$2.33 per hour, but must make at least \$7.25 per hour when tips are considered. For tipped employees, observe whether the paystub/EVF-E amounts plus reported tips equal at least \$7.25 per hour per pay period. This can be compared to amounts stated in Unemployment Insurance UI wage reporting, since, by law, tips must be reported for UI, payroll, and income tax purposes.</p> <p>Employees paid wholly or partly by commission must receive total wages plus commission each pay period that are at least \$7.25 per hour. For commissioned employees,</p>	<p>Do not find the parent eligible if the wage information presented does not appear to comply with Wisconsin minimum wage law. If the participant agrees, you may communicate with the employer asking if they can document an exemption in law for their business/operation.</p> <p>For questioned employment, it may also be appropriate to collect both paystub and EVF-E documents, and to pursue follow up questions with the employer. This is particularly advisable if the employer is exempt from UI reporting.</p> <p>Consult with your BRO Child Care Coordinator if you have questions about a case.</p> <p>For more information about Wisconsin Minimum Wage requirements, see the Department of Workforce Development website at http://dwd.wisconsin.gov/er/labor_standards_bureau/minimum_wage.htm</p> <p>Individuals who wish to file complaints regarding minimum wage can contact the Equal Right Division of DWD at ERINFO@dwd.wisconsin.gov.</p>

observe whether the commission pay is equal to at least \$7.25 per hour over the course of the pay period. Compare to amounts stated in UI.

Military reserve duty is not covered by Wisconsin Minimum Wage provisions. Treat military duty as exempt from Wisconsin Minimum Wage requirements.

In-kind income is not income for purposes of eligibility determination. However, Wisconsin minimum wage law does allow board and lodging and other in-kind income to count toward the minimum wage. There are limits to how much these in-kind commodities can be counted toward the minimum wage:

For meals provided to an employee - \$87 per week or \$4.15 per meal.

For lodging provided to an employee - \$58 per week or \$8.30 per day. These amounts can only be counted if the employee actually uses the room and/or board provided. Ideally, there is written agreement regarding the value of this room and board credit.

If lodging is provided to the employee's family as well – e.g., an apartment as partial pay for managing an apartment complex - the fair market value of the rent can be considered in deciding whether or not the employer is complying with minimum wage law.

Add the sums claimed or the amounts stated above – whichever is lower – to the wages paid and divide by the hours worked. The result should be at least \$7.25 per hour.

* There are a few, very limited exceptions to the statement that minimum wage is \$7.25 per hour:

	<p>Opportunity Employees – Employees less than 20 years old in their first 90 days with the employer. These individuals have a minimum of \$5.90 per hour. If they are tipped, at least \$2.13 must be from employer-paid wages. Caddies - \$5.90 for 9 holes and \$10.50 for 18.</p>	
<p>The employer must submit a New Hire report to the Department of Workforce Development on the employee within thirty days of the hiring date-</p>	<p>All employers must report all new hires within 20 days of an employee’s start date. To allow time for entry into the on-line system, agencies might allow 30 days before finding the approved activity not verified.</p> <p>For child care applicants and participants, the report can be viewed at the “DXNH” screen in CARES mainframe for about two months. After that period, the local agency worker must query by accessing archive information: TRAN is DXRS, PARMS is the client PIN. A “Restore Exchange Data” screen is returned. The Exchange Type code and Tran are both “DXDN”. Select a reasonable range of dates based on the start date that the parent has provided.</p> <p>If the information is not locatable by these queries, the employer may be reporting New Hires to another state. This is allowed if the employer operates in multiple states. Ask the parent to talk to the employer about reporting the new hire. The worker can accept the lack of a Wisconsin New Hire Report if it is reasonable to assume that the employer does operate in multiple states.</p>	<p>If this individual does not have an SSN, the worker will not be able to identify a match in DXNH or DXDN. If a qualified employer verification is required, this step fails.</p> <p>If an employee is currently reported in UI data bases for the same employer, a failure on this step can be overlooked.</p> <p>Employers can comply with this requirement through the Department of Workforce Development website at https://wi-newhire.com/.</p>
<p>The employer must report wages to Unemployment</p>	<p>UI wages are available as a CARES on-line query at screen DXQB.</p>	<p>The following are broad classes of employers or employees that are exempt from UI reporting. Since UI reporting will not be available, in exempt circumstances, workers should pay special attention to the other</p>

<p>Insurance (UI) unless exempt</p>	<p>If this individual is a new employee, workers will not be able to find wages in UI since wage information is not available until 30 to 45 days after the close of the reporting quarter. In these instances, it is appropriate to rely on compliance with the New Hire reporting requirement for the initial qualified employer verification.</p> <p>If the worker or employer claims to be exempt from reporting requirements, check their situation against the list to the partial right. If the local agency worker cannot identify their employment from the list, the local agency worker can ask that they provide more information about the legal grounding for the exemption. Typically, this will have to come from the employer. Alternately, the local agency worker can check the DWD Employer Handbook at https://dwd.wisconsin.gov/ui201/t2201.htm, which describes covered and excluded employment for UI Wage Reporting. The BRO Child Care Coordinator can also help you make this distinction.</p>	<p>qualified employer verifications in these instances. The exempt employers/employees include:</p> <ul style="list-style-type: none"> ▪ Employers paying less than \$1500 in total wages in any calendar quarter of any calendar year. ▪ Agricultural employers who paying less than \$20,000 in any quarter of any calendar year. ▪ Students employed through their schools, work/study students. ▪ Student nurses, medical interns, and patients employed by a hospital. ▪ Certain non-profit employment if the pay is less than \$50 per calendar quarter. ▪ Certain AmeriCorps employment. ▪ Insurance or real estate agents working solely on a commission basis. ▪ Personal care provided by a family member. ▪ Employment by a church or association of churches. ▪ Employment by an organization operated by a church. ▪ Employment of a minister. <p>For more information on UI wage reporting, see the Department of Workforce Development website at http://dwd.wisconsin.gov/uitax/.</p> <p>If this individual does not have a SSN, the worker will not be able to check the UI data exchange or New Hire registry. As a result, an individual without an SSN, or who is using an incorrect SSN, will fail this verification method.</p>
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CONTACTS:

For Child Care policy questions outside of Milwaukee County: Bureau of Regional Operations (BRO), Child Care Coordinators at

http://dcf.wisconsin.gov/regional_operations/pdf/contact_list.pdf

For Child Care CARES/CWW, CSAW and CCPI IT systems processing questions statewide and policy questions in Milwaukee County: Child Care Help Desk at childcare@wisconsin.gov or (608) 264-1657.

*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, BC+ Core – BadgerCare Plus Core, 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.

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