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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: Shawn Smith, Bureau Director  
Bureau of Enrollment Policy & Systems  
Division of Health Care Access and Accountability**

<b>BEPS/DFS OPERATIONS MEMO</b>					
<b>No: 13-33</b>					
<b>DATE: 10/14/2013</b>					
<b>FS</b>	<input checked="" 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>FSET</b>	<input type="checkbox"/>
<b>BC+ Basic</b>	<input type="checkbox"/>	<b>BC+ CORE</b>	<input type="checkbox"/>		
<b>CC</b>	<input type="checkbox"/>	<b>W-2</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>					

**SUBJECT: Child Support Expense Deduction Change**

**CROSS REFERENCE:** FoodShare Handbook (FSH) [4.6.5.1](#); [7 CFR 273.9\(d\)\(5\)](#)

**EFFECTIVE DATE:** Immediately

**PURPOSE:**

The purpose of this memo is to announce a FoodShare (FS) policy change regarding child support expense deductions. The change described in this memo is a further clarification of the July 2013 policy guidance on the child support expense deduction described in Ops Memo [13-23](#).

**BACKGROUND:**

Federal regulations allow FoodShare households to receive a deduction for legally obligated child support payments. Previous policy in FSHB 4.6.1 allowed "The amount an individual is obligated to pay is allowed as a deduction, without consideration for actual payments made." It also allowed for non-court ordered amounts that were actually being paid. FNS has instructed Wisconsin to allow a deduction only for legally obligated child support that a member actually pays, or in certain cases, reasonably anticipates paying.

**OLD POLICY:**

Court-ordered child support obligation amount(s) are allowed as a FoodShare (FS) deduction.

Ops Memo [13-23](#) announced a policy change to only allow court ordered child support obligations as an allowable expense deduction for FoodShare. The policy outlined in that memo allowed workers to use the obligated amount of the court ordered child support as the expense deduction.

**NEW POLICY:**

The FS child support expense deduction may include only legally obligated or court-ordered child support payments actually made. Information on child support payment history is obtainable through official court documents and/or the KIDS system. The average amount an individual is paying on a current obligation is allowed as the expense.

In order to determine an average to use when the payment amounts fluctuate, workers should follow the same process used to prospectively determine income. The average should be the best estimate of amounts paid, but also amounts expected to be paid in the future. The number of months used to calculate the average may vary depending on the amount of fluctuation in the payments. Workers should document in case comments the number of months used to calculate the deduction and the reason those months were used.

In situations where there is no history of payments but the member *reasonably anticipates* he or she will pay his or her child support order, the obligated amount may be budgeted as an expense. To determine “reasonable anticipation”, workers should ask questions about the member’s ability to make actual payments in the future. Does the member have a current or new source of income? Does the member state intent to pay child support? If so, it may be reasonable to anticipate that he or she will make court ordered child support payments. When budgeting for this expense, document in case comments the reasons why the member can reasonably anticipate paying his or her support obligation.

Arrearage payments are allowed if they are included in the court ordered obligation.

**Example 1:** Mike has a court ordered child support obligation with Terri for their child in common to pay \$250 a month in child support. Mike has been paying \$250 per month for the past 3 months. Since this payment amount does not fluctuate, the \$250 per month is budgeted as the child support expense.

**Example 2:** Ben has a new court-ordered child support obligation with Carrie for their child in common to pay \$265 a month in child support. Because this is a new order and there is no history of payments, determine whether Ben can reasonably anticipate making payments in the future by considering his income and intent to pay. Ben currently receives unemployment compensation that could cover his child support obligation and has stated his intent to pay child support. In this case, the court obligated amount should be budgeted.

**Example 3:** Alex is a non-custodial parent with a court ordered child support obligation of \$178 per month. For some time, Alex had been unable to pay child support, but he just started a new job. In this case, there are no payments to average, but since Alex is now working and there is a court order to make deductions from his check to the custodial parent, the court-obligated amount is allowed as a deduction. The worker should review the payment amounts at the next renewal.

**Example 4:** Jane has a court ordered child support obligation of \$400 per month. Jane is self-employed. She did not make a payment in the previous month. Looking back for the last six months, payments have been sporadic and the amounts vary from month to month. To determine the best estimate for the deduction, the worker should average payments from the past six months as long as there is reasonable expectation that Jane will continue to make payments, even though the amount and payment dates may continue to fluctuate.

**NOTE:** Use the KIDS system to verify court-ordered obligations and payment history. If the information is not available in KIDS, ask the applicant or member to provide a legal document, such as a divorce decree or other type of court-issued document, which specifies the amount of legally-obligated child support. Out-of-state child support orders and payments must be verified through the out-of-state child support agency or through other official court documentation in order for the deduction to be allowed.

If a child support obligation is reported but not verified or is found to be non-court ordered, the FS eligibility should be determined without the expense in the budget.

Update ongoing cases at renewal or reported change. At the time of SMRF, due to simplified reporting requirements, members are required to report if there has been a change in his or her legal obligation to pay support. Changes in the court-ordered obligation or the intent to pay must be re-verified if the member reports such a change.

**BEST PRACTICE:** Create a sequence whenever a member has a current child support obligation, even if there is no payment history or payments are not currently being made. If there are no payments being made and/or no expense to budget, enter \$0.00. Creating a sequence for current legal obligations will remind any worker updating the case to check for payment history or changes to the obligation at SMRF or renewal.

### **CARES:**

No CARES changes. To determine the KIDS court ordered amount continue to refer to [PH Chapter 62.3 CS Court Ordered](#).

### **CONTACTS:**

BEPS CARES Information & Problem Resolution Center

\*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.

DHS/DHCAA/BEPS/JZ