



Date: October 2, 2015

DHCAA Operations Memo 15-35

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

**Affected Programs:**

- |                                               |                                                            |
|-----------------------------------------------|------------------------------------------------------------|
| <input type="checkbox"/> BadgerCare Plus      | <input type="checkbox"/> Caretaker Supplement              |
| <input checked="" type="checkbox"/> FoodShare | <input type="checkbox"/> FoodShare Employment and Training |
| <input type="checkbox"/> Medicaid             |                                                            |
| <input type="checkbox"/> SeniorCare           |                                                            |

From: Shawn Tessmann, Bureau Director  
Bureau of Enrollment Policy and Systems  
Division of Health Care Access and Accountability

**Drug Testing Policy for FoodShare Program**

**CROSS REFERENCE**

FoodShare Wisconsin Handbook, [Section 3.20 Drug Felons](#), 7 C.F.R. 273.11(m) §49.79(5)

**EFFECTIVE DATE**

October 2, 2015

**PURPOSE**

The purpose of this Operations Memo is to clarify the existing drug felon policy for FoodShare eligibility and the processes to be followed when pending FoodShare eligibility for drug test results and applying a sanction to an individual's FoodShare benefits.

Wisconsin Act 55, the 2015-17 biennial budget bill, included a provision to drug test FoodShare Employment and Training (FSET) participants. This policy is unrelated to that budget provision.

**BACKGROUND**

A FoodShare applicant who has been convicted of a drug felony within the last five years must report the conviction during the FoodShare application process, and submit to and pass a drug test in order to be determined eligible for FoodShare benefits. Any convicted drug felon will be found ineligible for FoodShare if they fail to submit to and pass a drug test. FoodShare applicants who complete a drug test that comes back with a positive (failed) result receive a 12-month sanction, during which time they are ineligible for FoodShare.

## **POLICY**

A FoodShare applicant or member who meets the definition of a convicted drug felon is required to take and pass a drug test as a condition of FoodShare eligibility in the following situations:

- At the time of FoodShare application when a drug felony conviction within the last five years is reported.
- At the time of person-add if the individual being added to the FoodShare case had a drug felony conviction within the last five years.
- At the time of reapplication for FoodShare after completing a 12-month sanction period.
- At the time of renewal, if there is a new drug felony conviction that was not reported at the time of application.

The drug test must be completed and results returned to IM agency within 30 days from filing date, or, for ongoing cases, from the date the worker notifies the individual of the drug testing requirement for continued eligibility.

The worker must ask about drug felony convictions at application, renewal, person add (for the person being added to the case), and at the end of a 12-month sanction period when there is a new request for benefits.

**Note:** Members that are part of open ongoing simplified reporting cases are not required to report a drug felony as part of the change reporting process.

During the FoodShare interview, the worker must notify members of the drug testing policy, the consequences of a positive (failed) drug test or refusal to submit to a drug test, and their right to decline aid. This is important in order to ensure that the applicant is able to make an informed decision about taking the drug test.

A drug felon will be determined ineligible for FoodShare if he or she submits to a drug test and the test comes back with a positive (failed) result. In these cases, a 12-month sanction period applies, during which time the individual is ineligible for FoodShare.

A drug felon will also be determined ineligible for FoodShare if he or she:

- Declines to submit to a drug test, or
- Fails to complete drug testing requirements within the allowed 30 day timeframe.

A 12-month sanction period should not be applied in either of the above two scenarios. Instead, the worker should enter a refusal into CWW in response to the question, "Has the individual agreed to take a drug test?" In these scenarios, the individual may re-request FoodShare at any time and complete the drug test. Once the test is completed, enter the results and re-determine the individual's eligibility.

Individuals who have agreed to take a drug test must be informed that the use of prescription medication, some nonprescription medications (e.g., cold medicine) and some foods (e.g., poppy seeds) may cause a positive test result. Workers should inform individuals that they should bring all prescription medications and a list of any nonprescription medications they have recently used to their drug test appointment. This information will allow for the drug testing facility to identify indicators of a possible false positive result. If an individual receives a positive test result for any legally prescribed drug, allow the individual 10 days to provide proof of a valid prescription. Failure to provide the

requested proof will result in a positive test result and the individual will be sanctioned. A new drug test is required if test results are inconclusive. If the results are inconclusive the results will show a possible negative result but may also indicate any of the following values but not limited to:

- Diluted
- Hyper-diluted
- Substituted specimen

Allow the remainder of the 30 days to take the retest. If the original 30 days has elapsed, “NV” the results, case comment and document both the inconclusive result and that the member will need to take and pass a retest to regain eligibility. If the retest is taken and passed in the month following closure, apply break in service policy for single person households and person add policy for open ongoing.

If an individual who has completed a 12-month sanction period re-applies for FoodShare, he or she must submit to a drug test and receive a negative result in order to gain eligibility, unless the five-year look-back period has expired at the time of reapplication. A sanction does not apply unless a positive drug test is received.

### ***Ongoing Cases***

Workers must ask about drug felony convictions and review the drug felony screen as part of the following:

- FoodShare renewals
- Person adds

It is a best practice to review the drug felon screens for completeness when going through the driver flow. On the Drug Felon page, check to make sure all the following information is complete for any individual with a drug felony in the past five years:

- The individual has agreed to take a drug test.
- The individual has completed the drug test and the result is listed as passed or failed.
- The date fields are complete.

If as part of reviewing the drug felon screens it is identified that there are no test results indicated on the Drug Felon page, a new drug test is required as a condition of continued FoodShare eligibility.

A new form ([Notification of Required Drug Testing; F-01542](#)), has been developed to assist workers in notifying open and ongoing FoodShare members of the drug test requirement. This form is only to be used when an incomplete Drug Felon page is identified and a drug test is required in order to determine ongoing FoodShare eligibility.

If incomplete test results are discovered on the Drug Felon page, agencies should complete the form and mail it to the FoodShare member who is subject to a drug test as a condition of FoodShare eligibility. IM agencies must either:

1. Request that the member call the IM agency to schedule their drug test, or
2. Schedule an appointment for a drug test and notify the member of the appointment date, time and location. When the form is used, a completed copy will need to be scanned into member's ECF file using the document code: MAS. The agency may use the results of a drug test conducted by another State-certified entity if the test was taken within the last 30 days. Examples of other State-certified entities include, but are not limited to, probation officers, employers, FEPs, etc.

**Example:** In August, Mark requests to be added to Cindy’s FoodShare case. Mark has declared he is not a convicted drug felon. However, when the worker gets to the “Individual Nonfinancial” gatepost page there is an indication that that someone in the household is a convicted drug felon. Cindy is listed as a convicted drug felon, who agreed to complete a drug test. There is no drug test date and no drug test results recorded in CWW for Cindy. The IM worker will need to notify Cindy by using form F-01542 that she must submit to and pass a drug test in order to maintain ongoing FoodShare eligibility.

### Drug Test Scheduling, Payments, and Time Frames

Agencies remain responsible for scheduling drug tests and the cost of administering the tests. Drug test results must be received within 30 days of the date the drug felony conviction is discovered or reported to the IM agency. Workers need to schedule the drug test early enough in the 30-day time period to allow the test results to be received by the 30<sup>th</sup> day. Workers have the ability to extend the due date beyond 30 days if there is a delay in completing the drug test or receiving the results that is beyond the member’s control. If an extension is provided, case comments should be made that explain why the extension was granted.

### CARES

CWW currently asks if the individual has agreed to take a drug test, but does not pend FoodShare eligibility for completion of the required drug test. Until CWW can be enhanced to pend eligibility for completion of a new drug test, the following workaround has been developed to properly pend the case. Remember to case comment all actions and decisions made when applying the drug felon policy.

**Drug Felon** [Cancel] [Reset]

**Effective Period**

Begin Month: 02 / 2015 Last Updated:

Delete Reason: [Dropdown]

**Additional Information**

Individual: [Dropdown]

Program: FS - FoodShare [Dropdown]

Date Felony Conviction Occurred: 01 / 01 / 2015 [Calendar]

Has the individual agreed to take a drug test? Yes [Dropdown] ←

Drug Test Date: MM / DD / YYYY [Calendar] Verification: [Dropdown]

Passed Drug Test? [Dropdown] Verification: [Dropdown]

Drug Test Result Date: MM / DD / YYYY [Calendar]

Sanction Begin Date: MM / DD / YYYY [Calendar] Sanction End: [Calendar]

Is the individual re-requesting FS? [Dropdown] Re-Request Date: MM / DD / YYYY [Calendar]

W-2 Penalty Percentage: [Dropdown]

**Obsolete Information**

Verification (Drug Test Result Date): [Dropdown]

Enter New Begin Month: MM / YYYY [Go]

**Text in Red Box:** A drug felon can be tentatively approved for FS if she or he agrees to a drug test. At application, if no other verifications needed, complete the Drug Felon page up to the "Has the individual agreed to take a drug test?" answering yes, and tentatively approving FS. To pend the request for on-going eligibility, the worker must go back and update the Drug Test Date verification and pend FS for the drug test results. The worker can extend the due date on the verification checklist to either 10 days from the current date or 30 days from the filing date (whichever is later).

Figure 1 Drug Felon Page (pend for results)

When pending for the drug test results, CARES will send a verification checklist. The worker should case comment all actions taken.

When the due date is approaching, alert 076 is set: VERIFICATION DUE DATE APPROACH. On the verification due date, the worker must update the “Passed Drug Test” question with a Y or N, or update the Drug Test Result Date and verification fields if no test results provided on day 30.

\* Has the individual agreed to take a drug test? Yes

Drug Test Date: 02 / 01 / 2015 Verification: OW - OTHER ACCEPTABLE WRITTEN S1

Passed Drug Test? No Verification: OW - OTHER ACCEPTABLE WRITTEN S1

Drug Test Result Date: 02 / 01 / 2015

Sanction Begin Date: 02 / 01 / 2015 Sanction End Date: 01 / 31 / 2016 Calculate

Is the individual re-requesting FS? Re-Request Date: MM / DD / YYYY

W-2 Penalty Percentage:

Obsolete Information

Verification (Drug Test Result Date): **If the drug test is failed, the worker must enter N, the drug test result date and the "calculate" button to determine the sanction period.**

Month: MM YYYY Go

Figure 2 Drug Felon Page (sanction for failed results)

\* Program: FS - FoodShare

\* Date Felony Conviction Occurred: 01 / 01 / 2015

\* Has the individual agreed to take a drug test? Yes

Drug Test Date: 02 / 01 / 2015 Verification: NV - NOT VERIFIED

Passed Drug Test? Verification:

Drug Test Result Date: MM / DD / YYYY

Sanction Begin Date: MM / DD / YYYY

Is the individual re-requesting FS?

W-2 Penalty Percentage:

Obsolete Information

Verification (Drug Test Result Date):

**If no drug test results are provided, update the Drug Test Date to the date the verification is due and the verification code to NV to fail FS for not verifying information.**

Enter New Begin Month: MM YYYY Go

Figure 3 Drug Felon Page (close for lack of results)

Following the above outlined process will generate a VCL that will inform the member that FoodShare eligibility is being pended for proof of completion date of drug test date and results. Remember to use the “Verification Due Dates” page to extend the due date of the test results to allow for 30 days from the date of mailing. By using the “Correspondence Preview Summary” page the worker will add a note which must include the date, time, testing facility name and location of the scheduled drug test. If the drug test has not been scheduled instruct the member to call the agency on the notice to schedule the drug test appointment. See Process Help 50.2 Verification Checklist Page and Notice for more information.



## Proof Needed

This section lists items that we need proof of by the due date listed below. Contact us right away if you have questions or problems getting the proof and we will help you.

What?	Who?	Examples*	Program(s)	Due Date
Date and result of your drug test	JACOB	Medical Note with drug test date and results.	FoodShare	Mar. 06, 2015

*\*If you do not have any of the examples of proof listed, there are other things you can use. For a complete list of examples, go online to [dhs.wi.gov/em/customerhelp](http://dhs.wi.gov/em/customerhelp) or contact us.*

Figure 4 Verification Request

## CONTACTS

BEPS CARES Information & Problem Resolution Center

DHS/DHCAA/BEPS/JZ