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Date: December 21, 2015

DHCAA, DECE, and DFES Operations Memo 15-J9

To: Income Maintenance Supervisors
Income Maintenance Lead Workers
Income Maintenance Staff
Training Staff
Child Care Coordinators

Affected Programs:

- | | |
|--|--|
| <input checked="" type="checkbox"/> BadgerCare Plus | <input checked="" type="checkbox"/> Caretaker Supplement |
| <input checked="" type="checkbox"/> Child Care | <input type="checkbox"/> Children First |
| <input type="checkbox"/> Emergency Assistance | <input checked="" type="checkbox"/> FoodShare |
| <input type="checkbox"/> FoodShare Employment and Training | <input type="checkbox"/> Job Access Loan |
| <input type="checkbox"/> Job Center Programs | <input checked="" type="checkbox"/> Medicaid |
| <input type="checkbox"/> Other Employment Programs | <input type="checkbox"/> Refugee Assistance Program |
| <input checked="" type="checkbox"/> SeniorCare | <input checked="" type="checkbox"/> Wisconsin Works |
| <input type="checkbox"/> Workforce Investment Act | |

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Policy and System Changes as a Result of Same-Sex Marriage Rulings

CROSS REFERENCE

- BadgerCare Plus Eligibility Handbook, multiple sections
- FoodShare Wisconsin Handbook, [Section 3.3.1 Food Unit/Food Group/Relationships](#)
- SSI Caretaker Supplement (CTS) Handbook, multiple sections
- Medicaid Eligibility Handbook, multiple sections
- ACCESS Handbook, [Section 3.1 Regular Application](#), [Section 3.2 Apply for Additional Programs](#), [Section 5.1 Report My Changes](#), and [Section 6.4 Renew My Benefits Pages](#)
- Wisconsin Works (W-2) Manual, [Section 2.2.1 List of Criteria](#) and [Section 4.1.2 Information Requiring Eligibility Verification](#)

- Wisconsin Shares Child Care Policy Manual, [Section 1.2 Definitions](#)

EFFECTIVE DATE

- Policy Changes:
 - June 6, 2014, through June 13, 2014
 - October 6, 2014, and ongoing
- Systems Changes: January 9, 2016

PURPOSE

This Operations Memo describes changes to eligibility-related procedures and policies for Wisconsin's public assistance programs as a result of recent changes regarding same-sex marriages. System changes to replace the use of workarounds will be implemented on January 9, 2016.

BACKGROUND

On June 26, 2015, the U.S. Supreme Court ruled that same-sex couples can marry nationwide. Recognition of same-sex marriages requires changes to eligibility-related procedures and policies for Wisconsin's public assistance programs. Legally married spouses of the same sex are to be treated the same as opposite-sex spouses for all purposes in the administration of the Child Care, Wisconsin Works (W-2), Medicaid, BadgerCare Plus, SeniorCare, FoodShare, and Caretaker Supplement (CTS) programs.

POLICY

HOUSEHOLD RELATIONSHIPS

Individuals who were married during the period of June 6 through June 13, 2014, or on or after October 6, 2014, are treated as spouses for the purposes of eligibility for the Child Care, W-2, Medicaid, BadgerCare Plus, SeniorCare, FoodShare, and CTS programs, regardless of the sex of the individuals.

Same-sex marriages performed in Wisconsin during the period of June 6 through June 13, 2014, or on or after October 6, 2014, are recognized legal marriages. A same-sex marriage that took place in another state or country and was legally recognized within that jurisdiction is also recognized in Wisconsin as legal. For the dates other states recognized legal same-sex marriages, see the chart available on the Social Security Administrations website at secure.ssa.gov/poms.nsf/lnx/0200210003.

Note: Individuals in domestic partnerships are not treated as married.

An agency may only verify an individual's marital status if the information provided to the agency is questionable. The same criteria for determining if the information is questionable apply to both same-sex and opposite-sex marriages.

The same titles that are used to describe opposite-sex spouses' relationships with other members in the household are used to describe these relationships for same-sex spouses. The following are examples of some of the types of household relationships

Note: A legal parent is a person who is listed as a parent on a child's birth certificate and/or who has been determined to be a child's legal parent through a court order (such as an adoption order).

Example 1: June is married to Sandra. June has children from a prior relationship. Sandra has not legally adopted June's children. Sandra is the stepmother of June's children.

Example 2: David is married to Patrick. David has children from a prior relationship. Patrick has legally adopted David's children. Patrick and David are the legal fathers of the children.

Example 3: Pablo is married to William. Pablo and William legally adopted a child together. Pablo and William are the legal fathers of the child.

REPORTING REQUIREMENTS AND OVERPAYMENTS

Individuals who are married to a spouse of the same sex must report their marital status when they apply for, renew, or review their benefits. ACCESS will be updated to state this reporting requirement. Paper application, renewal, and review forms will be updated at a future date. As is currently the process, IM workers will ask about marital status when conducting interviews for FoodShare and Child Care.

If an agency becomes aware of an individual's marital status, the agency must act on this information. Until system changes are implemented on January 9, 2016, same-sex couples will not be able to report in ACCESS that they are married to each other. Because of this, agencies cannot hold same-sex couples accountable for eligibility errors that occur as a result of not being able to report a change in their marital status. Individuals may be held accountable for reporting errors only after they have newly applied or completed a renewal or review.

MODIFIED ADJUSTED GROSS INCOME BUDGETING RULES

The treatment of income under Modified Adjusted Gross Income (MAGI) budgeting rules for health care programs apply equally to same-sex married couples as they do to opposite-sex married couples.

RETROACTIVE ELIGIBILITY

If an individual reports a same-sex marriage in accordance with the reporting requirements detailed in the Reporting Requirements and Overpayments section of this Memo, workers may not go back retroactively to deny or reduce benefits (i.e., determine there is an overpayment) based on the marriage status. This applies to all programs.

Example 4: Cheryl and Brenda are Wisconsin residents who were married in Iowa in 2013. They tried to report their marriage in 2013 but were told at the time that Wisconsin did not recognize same-sex marriages so they could not be listed as spouses on Cheryl's case. In October 2015, Cheryl is due for a renewal. She reports that she and Brenda are married. The worker cannot retroactively deny or reduce Cheryl's benefits for past months because of her marriage to Brenda.

Health care programs allow a worker to redetermine eligibility for past months in certain situations if the result is that the individual would have received a higher benefit or would have been found eligible for

other benefits. FoodShare, CTS, Child Care and W-2 do not allow for benefits to be reconsidered for past months.

HEALTH CARE RETROACTIVE ELIGIBILITY

If an individual requests that health care benefits be reconsidered for past months during which marriage was recognized in Wisconsin, the worker can redetermine eligibility for those past months. If the result is that the individual would have received a higher health care benefit or would have been found eligible for other benefits, the worker must correct the health care benefits that the individual originally received.

Example 5: When Cheryl, whose situation was explained in Example 5, reports her marriage to Brenda at her October 2015 renewal, she asks for their health care eligibility to be redetermined back to when Wisconsin first recognized same-sex marriages in 2014. She states that she would have reported her marriage to Brenda at that time, but she did not know she could since she was told in 2013 that her marriage was not recognized in Wisconsin. If the result of the redetermination is that Cheryl and Brenda would have received a higher benefit or would have been found eligible for other benefits in those months, the worker must correct the benefits that they originally received.

CARES

On January 9, 2016, CARES Worker Web will be updated to allow workers to record same-sex spousal relationships and same-sex parent relationships.

BASIC INFORMATION PAGE

The Basic Information page within the Client Registration process will be enhanced to allow the worker to indicate that the primary person is married to a person of the same sex.

HOUSEHOLD RELATIONSHIPS PAGE

The Household Relationships page will continue to allow workers to indicate that an individual is married to a person of the same-sex. Workers will also be able to indicate that a person can have two parents of the same-sex.

ABSENT PARENT PAGE

The Absent Parent page will be enhanced to accommodate situations in which a child has parents of the same sex.

If the gender of a parent who does not live in the child's home is not provided, the Absent Parent page will not prepopulate the gender of this parent in the "Information For The Following Absent Parent(s) is Required" section. Instead, the section will show the gender of the parent who lives in the home or indicate that neither parent lives in the home. The worker will need to select the gender of the parent living outside the child's home when processing this page.

Note: If the gender of the parent living outside the home was not provided on the ACCESS application, then during Automated Case Processing, the gender of the parent living outside the child's home will still be assumed to be the opposite gender of the parent who is living in the home (and indicated as such in the "Absent Parent Information" section).

In the “Children of this Absent Parent/If Child is Unborn, Enter Child’s Mother” section, the title of the Paternity Indicator field will be changed to “Legal Parentage Status.” The description of the drop-down menu option “Y” will be changed from “Paternity Established for this Child” to “Legal Parentage Established for this Child.”

Information For The Following Absent Parent(s) is Required

Absent Parent (1 of 2) of [REDACTED] 2M GRS (Neither parent in the home)

Absent Parent (2 of 2) who is not living in home of [REDACTED] 2M GRS (Neither parent in the home)

Absent Father for the Unborn Child of [REDACTED] 55F PP

Absent Parent Information

Effective Period

Last Updated:

Delete Month: MM / YYYY Delete Reason: [REDACTED]

Absent Parent Information

Check if Absent Parent Known Sequence: [REDACTED] Search

*First Name MI *Last Name Suffix *Gender SSN Birth Date

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] MM / DD / YYYY

Absent Parent Address

Number Unit Direction St / Rural Rt / Box Number Suffix Quadrant Apt

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Additional Address Info

[REDACTED]

City State ZIP Phone

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

Absent Parent Additional Information

Absent Parent KIDS PIN: [REDACTED]

* Absence Begin Date: MM / DD / YYYY * Absence Reason: [REDACTED]

* Refer to IV-D? [REDACTED] Reason for Not Referring: [REDACTED]

Maiden Name: [REDACTED] Marriage Date: MM / DD / YYYY

Children of this Absent Parent / If Child is Unborn, Enter Child's Mother.

Individual	Legal Parentage Status	Delete	Delete Reason
[REDACTED]	[REDACTED]	<input type="checkbox"/>	[REDACTED]

Reset Add

Individual Legal Parentage Status Delete Reason

[REDACTED] 2M GRS

Comments

Comments: [REDACTED]

Figure 1 Absent Parent Page

AUTOMATED CASE PROCESSING

The pre-screening criteria for the CWW Automated Case Processing functionality will be enhanced so applications that include a child who has two parents of the same sex who do not live in the child’s home will be considered ineligible for Automated Case Processing. Applications with this information will not receive an immediate eligibility determination and will be sent to the IM agency for processing.

ACCESS

On January 9, 2016, ACCESS will be updated to allow individuals to report same-sex spousal relationships and same-sex parent relationships. ACCESS will also be updated to better accommodate gathering of information about parents not living in the home with a child, regardless of the parent's sex, and fathers whose paternity has not yet been established.

HOW YOU ARE RELATED PAGE

The changes outlined below will apply to the following ACCESS modules:

- Apply for Benefits
- Renew My Benefits
- Report My Changes
- Add a Program
- Six Month Report Forms

The introductory text on the How You Are Related page will be enhanced to explain that individuals should only choose “is the father of” or “is the mother of” as the relationship if the person is the child's legal parent. If the person is not the child's legal parent, individuals should select the appropriate relationship from the drop-down menu.

In addition, the drop-down menus on this page will be updated to allow individuals to choose “is the wife of” for the relationship between two women and “is the husband of” for the relationship between two men. ACCESS will also allow individuals to indicate that a child has two fathers or two mothers.

Figure 2 How Are You Related Page

ACTING IN PLACE OF A PARENT PAGE

The changes outlined below will apply to the following ACCESS modules:

- Apply for Benefits
- Renew My Benefits
- Report My Changes
- Add a Program
- Six Month Report Forms

Similar to how it works for Child Care applications, the Acting in Place of a Parent page will be scheduled for FoodShare applications when a child (younger than 19 years old) does not have any of the following on the application:

- Parent
- Stepparent
- Child
- Stepchild

ACCESS
Your Connection to Programs for Health, Nutrition and Child Care

10% Complete

Start

People

Other Benefits

Liquid Assets

Other Assets

Job Income

Other Income

Housing Bills

Other Bills

Health Insurance

Submit

*** Acting in place of a Parent**

Please check the box for anyone who is a Foster Care parent, Kinship Care relative, or subsidized guardian or is acting as a parent for [redacted]

No one

[redacted] [redacted]

Please choose the word that describe [redacted]'s relationship with [redacted]

< click here to choose >
is the Foster Care parent
is the Kinship Care relative
is the Subsidized Guardian
is acting as a parent

Back Save & Exit Next

Figure 3 Acting in Place of a Parent Page

MORE ABOUT PARENTS PAGE

APPLY FOR BENEFITS

As is currently the process, the More About Parents page in the Apply for Benefits module of ACCESS will be scheduled as long as health care and/or Child Care is requested and the household includes a child without two legal parents in the home. This page will also be scheduled when health care is requested and the household includes a pregnant woman who does not have a husband in the home.

The page text will differ depending on the program(s) requested and whether the page is asking about a child's first parent who lives outside the home, a child's second parent who lives outside the home, or an expected baby's parent who lives outside the home.

For Child Care requests only, this page will also ask for the name and gender of the parent living outside the home or the father who is not yet a legal father. As is currently the process, these questions are not required to be answered in ACCESS.

THIS WEBSITE SHOULD ONLY BE USED FOR TESTING AND TRAINING

YOU ARE ON SYSTEMS

ACCESS Hello, Ethan | [Español](#)

Your Connection to Programs for Health, Nutrition and Child Care **Print** **Help**

Your tracking number: **7701497277**

11% Complete

Start

People

Other Benefits

Liquid Assets

Other Assets

Job Income

Other Income

Housing Bills

Other Bills

Health Insurance

Submit

More About Parents

It looks like Bob has a mother or father who is not living in your home or Bob has a father who is not yet a legal father. Please tell us more about this parent.

First Name : Middle Initial : Last Name :

Gender Male Female

Cooperation With Child Support

In many cases, parents must cooperate with the Child Support Agency to get benefits. If there are safety concerns or other special situations, parents may have good cause for not cooperating with the Child Support Agency. Would you like to claim good cause before the worker contacts the Child Support Agency about this parent? To read more about claiming good cause, [Click Here](#).

Yes No I Don't Know

Back **Save & Exit** **Next**

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Figure 4 Apply for Benefits Version of the More About Parents Page

RENEW MY BENEFITS, REPORT MY CHANGES, AND SIX MONTH REPORT FORM

The More About Parents page in the Renew My Benefits, Report My Changes, and Six Month Report Forms modules of ACCESS will be scheduled for health care and Child Care change reports and renewals, and for Child Care Six Month Report Forms, when reporting that a new individual, who is a child, moved into the household and does not have two legal parents in the home.

This page will also be scheduled for health care change reports or renewals when the new household member is a pregnant woman who does not have a husband in the home. The page text will differ depending on whether the page is asking about a child's first parent who lives outside the home, a child's second parent who lives outside the home, or an expected baby's parent who lives outside the home.

THIS WEBSITE SHOULD ONLY BE USED FOR TESTING AND TRAINING

ACCESS Hello, Dee | [Español](#)

Your Connection to Programs for Health, Nutrition and Child Care

[Start](#) [People](#) [Submit](#)

More About Parents

It looks like sandy has a mother or father who is not living in your home or sandy has a father who is not yet a legal father. Please tell us more about this parent.

First Name : Middle Initial : Last Name :

Gender Male Female

Is this parent a legal parent? Yes No

Note: A legal parent is a person who is listed as a parent on a child's birth certificate and/or who has been determined to be a child's legal parent through a court order (such as an adoption order).

Left the Home

Why is this parent not living in your home? If this parent is living in your home but is not yet the legal father, select Paternity not established.

When did this happen? If the parent never lived in your home, you should use the date the child was born. Please leave this date blank if this parent is living in your home but is not yet the legal father. Ex: mm/dd/yyyy

Cooperation With Child Support

In many cases, parents must cooperate with the Child Support Agency to get benefits. If there are safety concerns or other special situations, parents may have good cause for not cooperating with the Child Support Agency. Would you like to claim good cause before the worker contacts the Child Support Agency about this parent? To read more about claiming good cause, [Click Here](#).

Yes No I Don't Know

Parent of Other Child in Household

Please check the box for any other child in your home who also has the same parent as sandy.

Dan

[Go to MyACCESS](#) Back Next

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Figure 5 Renew My Benefits and Report My Changes Version of the More About Parents Page

ADD A PROGRAM

The More About Parents page in the Add a Program module of ACCESS will be scheduled for health care requests, or health care requests in combination with another program request, when the following is reported:

- A new individual, who is a child, moved into the household and does not have two legal parents in the home.
- A pregnant woman who does not have a husband moved into the household.

The page text will differ depending on the programs already open for the case and whether the page is asking about a child's first parent who lives outside the home, a child's second parent who lives outside the home, or an expected baby's parent who lives outside the home.

CONTACTS

BEPS CARES Information and Problem Resolution Center

DHS/DHCAA/BEPS/RW

DCF/DFES/BWF/LW