



Date: July 16, 2025

DMS Operations Memo 25-12

To: Income Maintenance Supervisors  
Income Maintenance Lead Workers  
Income Maintenance Staff  
FSET Agencies

**Affected Programs:**

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

From: Autumn Arnold, Bureau Director  
Bureau of Enrollment & Eligibility Policy  
Division of Medicaid Services

Jonelle Brom, Bureau Director  
Bureau of Eligibility Operations & Training  
Division of Medicaid Services

**New FoodShare Employment and Training (FSET) Provider Determination Policy**

**CROSS REFERENCE**

- FoodShare Wisconsin Handbook, [Sections 3.17.1.6 Three Countable Months of Time-Limited FoodShare Benefits \(TLBs\)](#), Section 6.5 TBD Provider Determinations
- FSET Handbook Sections [Section 6.8 Decision to Deny Participant Access and/or Services](#), and [Section 10.6 Appendix F: FSET Worker Time Frames](#)
- 7 C.F.R. §§ [273.7\(c\)\(18\)](#), [273.24\(b\)\(1\)\(v\)](#)
- [86 FR 358](#)

**EFFECTIVE DATE**

August 1, 2025

**PURPOSE**

This operations memo announces FoodShare Employment and Training (FSET) policy updates which implement new federal regulations for responding to instances when a participant can no longer be served by the FSET program.

**BACKGROUND**

Current FSET policy addresses instances when an FSET agency must deny a participant access to the FSET office and/or no longer provide employment and training services to a participant whose behavior

is determined to be detrimental to FSET operations and/or puts the safety and progress of other participants and staff at risk. The FSET agency management staff must follow an established internal process for determining if the participant's behavior warrants a denial of FSET services, including providing written documentation that includes a description of the detrimental behavior and the timeframe that the participant will be denied access to the FSET office and/or services.

New federal regulations define a "provider determination" as an instance when an FSET participant is determined by the FSET agency to be "ill-suited" to participate in their assigned activity. If a new activity cannot be assigned, the IM agency is required to act to ensure the individual is connected to an alternate program or service which better fits their needs, or to reassess whether the member is fit for employment. This action includes a new 10-day timeframe for the FSET agency to notify the IM agency of the provider determination and a new 10-day timeframe for the IM agency to communicate information about the provider determination to the individual. This new provider determination policy replaces the established internal process for FSET agencies only in instances where an individual is denied access to all FSET services due to detrimental behavior.

## **POLICY**

### ***PROVIDER DETERMINATION DECISION***

Effective August 1, 2025, an FSET participant will receive a provider determination decision when the FSET agency decides to deny a participant access to FSET services due to behavior determined to be detrimental to FSET operations and/or behavior which puts the safety and progress of other participants and staff at risk. The FSET agency must provide notification of the provider determination decision to the participant, including the reason for the provider determination and an explanation that the IM agency will provide written notification of the provider determination and contact the participant the month they receive written notification to initiate action on their case. The FSET agency may use the notification method that best fits the participant's situation, including in-person, telephone, written explanation, email, or text.

Provider determinations should only be made if absolutely necessary. It should be extremely rare that an FSET agency determines that they cannot serve a participant. The FSET agency will continue to follow current policy in instances where the FSET agency determines that they will deny the participant access to the FSET office but will continue to provide services through alternate arrangements.

### ***REQUIRED IM AGENCY NOTIFICATION***

Within 10 calendar days of making a provider determination, the FSET agency manager must notify the IM agency manager of the provider determination and inform the IM agency of the reason for the provider determination. The FSET agency manager may also provide a recommendation for the most suitable action for the IM agency to take in response to the provider determination, if applicable.

The FSET worker must also document the provider determination, including the reason for the provider determination and if applicable, recommendations for the most suitable action by the IM agency.

### ***REQUIRED NOTIFICATION TO THE MEMBER***

If the FSET agency determines it must deny a participant access to FSET services and initiates a provider determination, the IM worker is required to act on the case. Within 10 calendar days of being informed of the provider determination, the IM worker must provide the individual with written

notification to explain what a provider determination is, outline next steps the IM agency will take as a result of the provider determination, and provide contact information for the IM worker.

The IM worker must document in case comments when the required notification occurs.

### ***RECEIPT OF COUNTABLE MONTHS***

Able-bodied adults without dependents (ABAWD) members may not accrue a time-limited benefit month during the month they receive notification of the provider determination from the IM agency. In the case of an ABAWD subject to the FoodShare work requirement who has received a provider determination, the required written notification must specify that the ABAWD member will accrue time-limited benefit months toward their three-month participation time limit during the next full benefit month after the month the IM worker notifies the ABAWD member of the provider determination, unless the ABAWD member fulfills the work requirements, or the ABAWD member has good cause, lives in a waived area, or is otherwise exempt.

### ***REQUIRED IM AGENCY ACTION***

To act on the provider determination, the IM worker must take one of the following actions:

- 1) Reassess the member to determine if they are fit for employment. A member considered unfit for employment includes a member who is one of the following:
  - a. Receiving temporary or permanent disability benefits from the government or a private source.
  - b. Mentally or physically unable to work, as determined by the income maintenance (IM) or FSET agency.
  - c. Verified as unable to work by a statement from a health care professional or social worker.
- 2) To the best of the IM worker's ability, collaborate with an alternate federal, state, local work or assistance program to identify an opportunity or service that may be a better fit for the individual. Alternate opportunities may include a WIOA employment or training program through the local job center, Wisconsin Works (W-2) for custodial or non-custodial parents, Transitional Jobs, Transform Milwaukee Jobs, local reentry programming, or local volunteer programs.

If the IM agency opted to reassess the member's fitness for employment and has determined that the member is fit for employment and is not otherwise exempt from the FoodShare work requirements, the IM agency must then consider if the second action is appropriate for the member and take action accordingly.

In the month the member is notified of the provider determination, the IM agency must make two attempts to contact the member to take the most suitable of the two steps specified above. If the IM agency is unable to reach the member to take action during the notification month, the IM agency must document that they were unable to contact the member during the month of notification and take the most suitable action no later than the date of the member's next renewal. If an individual with a provider determination requests (prior to the next renewal) that the IM agency take action, the IM agency must take the most suitable action as soon as possible. The IM worker must document their action on the provider determination and reasoning for their selected action in case comments.

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## **CONTACTS**

DHS CARES Problem Resolution Team

DHS/DMS/BEEP/LW

DHS/DMS/BEOT/XX