



Date: May 22, 2026

DMS Operations Memo 26-14

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

Affected Programs:

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

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Division of Medicaid Services

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Bureau of Eligibility and Enrollment Policy
Division of Medicaid Services

Common Law Marriage Clarification

CROSS-REFERENCE

- [FoodShare Wisconsin Handbook, spouse glossary](#)
- [Medicaid Eligibility Handbook, spouse glossary](#)
- [BadgerCare Plus Handbook, spouse glossary](#)

EFFECTIVE DATE

May 22, 2026

PURPOSE

This memo announces a change to the Wisconsin Medicaid, FoodShare, and BadgerCare Plus definition of a spouse to align policy across programs and with federal law.

BACKGROUND

Prior to the change announced in this memo, Wisconsin Medicaid and FoodShare policy defined a spouse as follows: “A person recognized by Wisconsin law as another person’s legal husband or wife. Wisconsin does not recognize common law marriage.”

A common law marriage is a legally recognized marriage between two people who live together and present themselves in public as spouses, but who did not get a marriage license or hold a formal

ceremony. Wisconsin does not allow for the establishment of common law marriages, but some states do.

The Full Faith and Credit Clause of the U.S. Constitution requires states to recognize valid marriages performed in other states. In addition, 1 U.S. Code § 7 states that, for purposes of any federal law, rule, or regulation in which marital status is a factor, a person is considered married if their marriage was valid in the state where it was entered into. For marriages contracted outside the United States, a person is considered married if their marriage was valid in the place where it was entered into and the marriage could have been entered into in the United States.

POLICY

Effective immediately, for Wisconsin Medicaid, BadgerCare Plus, and FoodShare, a spouse is defined as: “A person recognized under federal law as another person’s legal partner through marriage. This includes a marriage (including common law marriage) that was valid in the state where it was entered into. For marriages entered into outside the United States, this includes a marriage that was valid in the place where it was entered into and could have been entered into in the United States.”

Marital status does not need to be verified unless questionable.

CONTACTS

DHS CARES Problem Resolution Team

DHS/DMS/BEEP/EB/JT

DHS/DMS/BEOT/JN