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I. Intentional Program Violation (IPV)

A W-2 IPV means that an individual did any of the following for the purpose of establishing, using, maintaining, increasing, receiving, transferring or trafficking W-2 payments and services including a Job Access Loan (JAL) and Emergency Assistance (EA):

1. Intentionally made a false or misleading statement;
2. Intentionally misrepresented or withheld facts; or
3. Intentionally committed any act that constitutes a violation of state or federal law.

The following are examples of IPV's:

- Concealing or intentionally not reporting unearned income or assets when failure to do so would have affected the individual's eligibility;
- Failing to report employment;
- Failing to report household composition change (including minor children) when failure to do so would have affected the individual's eligibility;
- Failing to disclose/report non-Wisconsin residency;
- Submitting documentation that has been forged or tampered with; or
- Submitting false information.

Reminder: Prior to entering an IPV, the W-2 agency must enter all required fraud information on the Fraud Investigation Tracking Screens (FITS) in CARES, which includes screen BVIR.

II. IPV Determination and Notification of an IPV

Within seven (7) working days of receiving a fraud investigation report, the W-2 agency must:

1. Determine if an IPV has occurred;
2. Determine whether an IPV penalty can be applied based on the November 1, 2012 effective date of [ss. 49.151 \(2\) Stats](#); and
3. Notify the individual that he or she has been determined to have committed an IPV.

A. IPV Determination

If the outcome of a fraud investigation confirms that an individual has committed a fraudulent act, the W-2 agency must ensure that the fraudulent act meets the definition of an Intentional Program Violation (IPV). (See [L](#).) It is likely that if the

investigation concluded that an act was, in fact, fraudulent, then it will also be an IPV.

If the W-2 agency discovers that more than one act of fraud occurs at the same time, i.e., at application, at eligibility review, or during a change report, then the W-2 agency must impose only one IPV. If the agency discovers another fraudulent act that occurred at a different time the agency must impose another IPV penalty for that subsequently discovered fraudulent act. If the W-2 agency determines that it must impose another IPV penalty prior to the end of the previous IPV penalty, the agency must impose the penalty periods consecutively.

Example 1: Miranda applies for W-2 in January 2013 and is determined eligible that month. Miranda claims that she has one daughter living in her home. In March, Miranda submits a Medical Examination & Capacity form. In April, the agency learns that Miranda's daughter was living in Chicago and had been since Miranda applied for W-2. Because Miranda lied about her household composition, the agency imposed Miranda's first IPV penalty from May 1, 2013 through October 31, 2013. In June 2013, the agency discovers that Miranda falsified her Medical Examination & Capacity form. Now, the agency knows of two fraudulent acts that Miranda committed. The agency must impose a second IPV penalty based on discovery of the second fraudulent act. This second penalty period begins November 1, 2013.

Example 2: Louis applies for W-2 on February 2013. He is determined eligible based on the information on his application. In March 2013, the agency discovers that Louis did not report his part-time employment and a savings account with a balance of \$5000. The agency must impose only one IPV disqualification period even though Louis made two false statements on his W-2 application. These statements occurred at the same time (during application).

All IPV determinations must be reviewed and approved by a supervisor or a supervisor's designee to ensure uniform application of IPV policy within each W-2 agency.

B. Determining the Date of an IPV

Effective November 1, 2012 Wisconsin statutes allow W-2 agencies to determine if an IPV occurred. The law prohibits W-2 agencies from imposing IPV penalties for IPV's determined prior to November 1, 2012.

To determine whether to impose an IPV penalty for W-2 applicants, the IPV must have been committed on or after November 1, 2012. In these circumstances, the applicant never becomes eligible for W-2 because the IPV is discovered prior to eligibility determination. An applicant does not have to receive payments or services prior to the agency imposing an IPV penalty.

If the fraudulent act is committed prior to November 1, 2012, then the agency must not impose an IPV, however the W-2 agency must still process an overpayment if one exists.

Example 1: Marquita submits an altered Medical Examination & Capacity form in October 2012 claiming that she can only participate five hours per week. Based on this altered form, her FEP places her in a W-2 T with limited activities assigned. The following year, her FEP learns that Marquita altered the form she submitted in October 2012 by changing 15 hours to five hours. The fraudulent act (submitting falsified information) was committed prior to November 1, 2012, The W-2 agency must not apply an IPV penalty.

Example 2: When the W-2 agency determines Lisa's initial W-2 eligibility in December 2012, Lisa does not list Tony, her son's father, as part of her household. In February 2013, Lisa reports that Tony is living with her. The W-2 agency subsequently determines that Tony has been living with Lisa since August 2011 and that Tony works full-time making them financially ineligible for W-2. The W-2 agency will apply an IPV because the fraudulent act occurred after November 1, 2012.

C. IPV Notification

1. W-2 IPV Notification

The W-2 agency must notify a W-2 applicant or participant in writing that he or she committed an IPV and allow the individual seven (7) working days to rectify the IPV. (See [W-2 Manual 11.4.2.2](#)) The notification must inform the individual:

1. She or he has been determined to have committed an IPV;
2. The date(s) of the fraudulent act;
3. The fraudulent act that resulted in the IPV penalty; and
4. She or he has seven (7) working days to provide any additional information regarding the IPV (See [W-2 Manual 11.4.2.2](#)).

The W-2 agency must generate the appropriate written notification from CARES. See [VII. IPV Automation Workaround](#) for CARES instructions.

If the individual submits additional information related to the IPV within the seven (7) working day timeframe, then the W-2 agency must review the additional information and decide if the IPV determination should be overturned. If the IPV is overturned, the agency must not enter the IPV in CARES and must notify the individual that he or she will not receive an IPV penalty. If the IPV is not overturned, the W-2 agency must enter the IPV in CARES. The period of

ineligibility begins the first day of the month after the month in which the W-2 agency determined that an IPV occurred.

If the IPV is not overturned, CARES will generate a Notice of Eligibility to the ineligible individual.

See [VII. IPV Automation Workaround](#) for CARES instructions.

Example 1: On May 28, 2013, the W-2 agency received a fraud investigation report on Mary's case. The Fraud Coordinator reviewed the report on June 6, 2013 and determined that the fraudulent act was intentional. On that day, the W-2 agency generated an IPV notification letter (NWI1) to Mary, giving her until June 17th to provide any additional information regarding the IPV. On June 18, 2013, the agency enters the IPV because Mary has not submitted new information. This is Mary's first IPV. Mary will be ineligible for W-2 for 6-months starting July 1, 2013 and ending December 31, 2013.

Example 2: The W-2 agency received a fraud investigation report on Jose's case June 17, 2013. The Fraud Coordinator reviewed the report and determined that the fraudulent act committed by Jose was intentional. The W-2 agency generated an IPV notification letter (NWI2) to Jose, giving him until June 26th to provide additional information regarding the IPV. Jose had not contacted the agency regarding the IPV by June 26th. On June 30, the W-2 agency entered Jose's second IPV. Jose will be ineligible for W-2 starting July 1, 2013 and ending June 30, 2014.

2. EA IPV Notification

If the W-2 agency determines that an EA applicant or recipient has committed an IPV, the W-2 agency must notify the individual using the [Negative Notice \(16001\)](#) form. In the "Additional Comments" section of the form, the W-2 agency must include the following:

1. The fraudulent act that resulted in the IPV penalty;
2. Whether this is the individual's first, second or third IPV;
3. The penalty period; (See [III](#) and [IV](#)) and
4. The W-2 agency contact information.

NOTE: Unlike W-2 IPVs, W-2 agencies are not required to notify a EA applicant or recipient in writing that he or she committed an IPV and allow the individual seven (7) working days to rectify the IPV as described above in [W-2 IPV Notification](#).

III. IPV Penalties

If the W-2 agency determines that an individual has committed an IPV, the W-2 agency must impose an IPV penalty for the appropriate time period. When an IPV is determined, the agency must deny payments and services to the individual for the following time periods:

1. Six months for the first IPV;
2. One year for the second IPV; and
3. Permanently for the third IPV.

Once a W-2 agency imposes an IPV penalty, the penalty continues uninterrupted for the duration of the ineligibility period unless reversed under the W-2 dispute resolution process (See [W-2 Manual Chapter 12](#) - Dispute Resolution). The duration of the ineligibility period is never subject to review.

IV. Imposing an IPV Penalty

IPV determinations for W-2 (including JALs), Wisconsin Shares (child care) and Emergency Assistance are independent of each other. If an individual is determined to have committed a W-2 or JAL IPV, the penalty applies to both W-2 and JAL payments. If an individual commits a child care IPV, the penalty applies only to child care. If an individual commits an EA IPV, the penalty applies only to future EA eligibility.

More than one adult in the W-2 Assistance Group (AG) or EA Group may be determined to have committed an IPV and can be subject to the penalty.

Only the individual(s) determined to have committed an IPV must receive the penalty. For W-2, an individual ineligible for W-2 due to an IPV penalty is included in the W-2 AG for the purpose of financial eligibility, but is not eligible for a W-2 placement or services. (See W-2 Manual definition of “included adult”)

For EA, the ineligible individual must not be included in the EA Group and the income and assets of the ineligible individual must not be included when calculating financial eligibility for EA (see EA Manual Sections [3.2](#) and [3.3](#)). Therefore, for a household with two parents, only the eligible parent and the dependent children may be included in an EA Group and may receive an EA payment based on that group size.

In the case of a two-parent household, when one parent is ineligible, if the second parent has been determined not to have been involved in the IPV activity, he or she may apply for and may be eligible for W-2 and/or EA.

If the W-2 case is closed, or the applicant already received a JAL or EA payment, an IPV may still be determined and a penalty applied.

For W-2, the penalty period begins the first day of the month following the month of the IPV determination.

For EA, prior to the implementation of EATS automation in 2013, the W-2 agency must calculate the IPV penalty period as follows:

1. If the IPV was the result of a Denied EA Application, the penalty period begins the first day of the month following the IPV determination.
2. Individuals who receive an EA payment are not eligible to receive EA for 12 months following the EA Application date. For this reason, if the EA IPV was the result of an Approved EA Application, the penalty period begins the day following the end of this 12 month timeframe.

When EATS automation is complete, EATS will calculate and record the period of ineligibility.

Example: Cathy applies for W-2 and child care. During the W-2 application process, Cathy states that she and her 2 children reside in her home. She states that her husband James moved out 2 months ago and she does not know where he is. The FEP completed the W-2 intake and confirmed eligibility. The FEP reviewed all W-2 forms with Cathy before she signed them. After the appointment, the FEP's co-worker approached her and stated that Cathy is her neighbor and that James resides in the home. The FEP calls Cathy and she admits that James is in the home and that she did provide false information. The FEP discusses the situation with the Fraud Coordinator who decides that Cathy committed a W-2 IPV. The Fraud Coordinator notifies child care of the finding and child care makes the IPV determination for that program. The following month, Cathy is not able to pay her rent. She applies for EA and lists herself, her husband and 2 children on the EA Application. The W-2 IPV does not prevent Cathy from being determined eligible for EA. She may be eligible for EA if she meets all of the nonfinancial and financial eligibility.

V. Overpayment Recoupment for IPVs

A. *Recoupment for W-2 IPVs*

The W-2 agency must recoup all overpayments, including those relating to IPV. Because an individual's W-2 case will close for an IPV, it is not possible for the W-2 agency to recoup an overpayment. The agency must enter the claim for the IPV-related overpayment into the Benefit Recovery system and must process a repayment request.

If a W-2 participant who has an IPV-related overpayment claim returns to the W-2 program in a paid placement, the W-2 agency must recoup the overpayments from the participant's payments until the overpayment is recovered. The amount the agency must deduct each month must not exceed the following:

1. For IPV's resulting in an overpayment that is less than \$300, the deducted amount must not exceed 10% of the monthly benefit payment.
2. For IPV's resulting in an overpayment that is at least \$300 but less than \$1000, the deducted amount must not exceed \$75.
3. For IPV's resulting in an overpayment that is at least \$1000 but less than \$2500, the deducted amount must not exceed \$100.
4. For IPV's resulting in an overpayment that is \$2500 or more, the deducted amount may not exceed \$200.

(See [W-2 Manual 10.3](#) for additional information on recouping for IPV's.)

B. Recoupment for EA IPV's

State law does not authorize the recoupment of EA overpayments from other program payments, i.e., W-2 payments. The W-2 agency may elect to recover EA overpayments on a manual and voluntary basis. See [EA Manual 8.1](#) for additional information.

VI. Additional IPV Enforcement Actions

After the W-2 agency determines that an IPV has occurred, the agency may decide to take additional enforcement action(s). The additional enforcement action(s) include:

- A. **Refer for possible criminal prosecution.** The W-2 agency must communicate with its Corporation Counsel to discuss and establish thresholds and criteria regarding when to refer individuals to local law enforcement or the district attorney for consideration of possible criminal prosecution.
- B. **Obtain a Disqualification Consent Agreement.** If the W-2 agency decides to refer an individual to the District Attorney for prosecution for civil or criminal misrepresentation or fraud, the agency may offer the individual the option to sign a consent agreement with the agency to defer the referral for prosecution. Individuals who choose to sign this waiver still receive an IPV penalty.

VII. IPV Automation Workarounds

A. W-2 IPV CARES Workaround

Automation for imposing IPV penalties will be completed in early 2013. Until then, the W-2 agency must take the following steps when imposing an IPV penalty:

1. Issue written notification of an IPV using the appropriate CARES manual letter:
 - NWI1 (first IPV)
 - NWI2 (second IPV)
 - NWI3 (third IPV)

See W-2 IPV Notification above.

2. Enter the appropriate closure reason code on WPFR for the corresponding IPV.

Reason Code 687: There has been one instance of an Intentional Program Violation (IPV). IPV means you have not followed the rules of the program on purpose. You are denied benefits for 6 months.

Reason Code 688: There have been 2 different instances of Intentional Program Violations (IPV). IPV means you have not followed the rules of the program on purpose. You are denied benefits for 12 months.

Reason Code 248: There have been 3 different instances of Intentional Program Violations (IPV). IPV means you have not followed the rules of the program on purpose. You are permanently denied benefits.

3. Run eligibility. If running eligibility after adverse action, the FEP must run eligibility with dates for the following month.

Example: A FEP enters an IPV for Leroy on January 23, 2013. This is Leroy's first IPV and the FEP runs eligibility with dates for February 1, 2013 to February 28, 2013 to correctly deny W-2 eligibility beginning the first date of the following month. The FEP would then run eligibility without dates to deny W-2 for March 2, 2013 and the remainder of the six (6) month penalty period.

4. Enter case comments in both CARES and CWW and include the following:
 - Begin IPV case comments with "IPV";
 - First, second or third IPV;
 - Fraudulent act committed by the individual; and

- IPV penalty period dates.

Example of appropriate case comments:

ACCC	CASE COMMENTS	11/15/12 12:14
COUNTY: 40 MILWAUKEE		XCTU41 A MILLER
PIN/CASE: 3700544731	NAME: MINNIE SMITH	
DATE ENTERED	ENTERED BY	COMMENTS
11 15 12	XCTU41	IPV: IPV determination made on this case due to fraud_____ investigation report received on November 15 confirming that____ participant's husband is residing in her home, IPV penalty period December 1, 2012 to May 31, 2013, as this is participant's
11 15 12	XCTU41	1st IPV_____

5. Develop and maintain an agency record (electronic or paper) of W-2 IPV penalties issued since November 1, 2012. The record must contain:
 - a. Name of the individual receiving an IPV determination;
 - b. The fraudulent act that resulted in the IPV penalty;
 - c. Whether it is a first, second or third IPV for that individual; and
 - d. The begin and end dates for the IPV penalty period.

The W-2 agency must send this information by the last day of each month to the DCF BWF Fraud Coordinator at adrienne.miller@wisconsin.gov.

These manual tracking processes will be in place until full IPV automation in early 2013.

NOTE: If the individual reapplies for W-2 during the penalty period and a FEP runs eligibility again, the IPV closure code will not remain on CARES screen WPFR. This will result in CARES determining that the applicant is eligible for W-2 despite the IPV penalty. Until automation is complete in early 2013, the W-2 agency must always check case comments to determine if the individual is currently ineligible due to an IPV penalty. If the W-2 agency finds that an individual should be ineligible for W-2 due to an IPV penalty period, the agency must deny eligibility by processing an override.

Automation instructions will be issued in an Operations Memo in early 2013.

B. EA IPV EATS Workaround

EATS automation for recording EA IPV is being developed and will be implemented in early 2013.

Until EATS automation is in place, each W-2 agency must manually track EA IPVs. The W-2 agency must develop and maintain an agency record (electronic or paper) of each EA IPV. The W-2 agency must refer to this record prior to making an EA eligibility decision for EA applications submitted after November 1, 2012. If an individual applies for EA during an EA IPV penalty period, the W-2 agency must deny the EA application. The record must contain:

- a. Name of the individual receiving an IPV determination;
- b. The fraudulent act that resulted in the IPV penalty;
- c. Whether it is a first, second or third IPV for that individual; and
- d. The begin and end dates for the EA IPV penalty period.

The W-2 agency must send this information by the last day of each month to the DCF BWF Fraud Coordinator at adrienne.miller@wisconsin.gov.

In addition, when the W-2 agency makes an IPV determination about an individual based on an EA Application, the W-2 agency must enter this information into EATS comments. Prior to making an EA eligibility decision, the W-2 agency must search for prior EA applications for the EA applicant and other adult household members to determine if an EA IPV has been entered for those individuals. If the individual has an EA IPV period of ineligibility, the W-2 agency must exclude the ineligible adult from the EA group or deny the EA Application.

VIII. Dispute Resolution Process

Individuals may appeal an IPV determination by requesting a Fact Finding Review. (See [W-2 Manual Chapter 12](#))

An IPV determination and the establishment of an IPV-related overpayment are considered two separate actions. The individual must appeal each action separately.