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State of Wisconsin
Governor Scott Walker



TO: **W-2 Agencies
Training Staff**

FROM: Margaret McMahon, Director
Bureau of Working Families
Division of Family and Economic Security
Department of Children and Families

BWF OPERATIONS MEMO

No: 16-17

DATE: 11/04/2016

W-2	<input checked="" type="checkbox"/>	EA	<input type="checkbox"/>	CF	<input type="checkbox"/>
JAL	<input type="checkbox"/>	RAP	<input type="checkbox"/>	Other EP	<input type="checkbox"/> *

SUBJECT: *Wisconsin Works Income Policy Changes and Clarifications*

CROSS REFERENCE: [W-2 Manual, 3.2.3 Estimating Income](#)
[W-2 Manual, 3.2.6 Prorating Income](#)
[W-2 Manual, 3.2.7 Changing Estimated Income](#)
[W-2 Manual, 3.3.3 Changing Estimated Assets](#)
[W-2 Manual, 4.1.2 Information Requiring Eligibility Verification](#)
[W-2 Manual, 13.4.1 Intentional Program Violation](#)
[FoodShare Manual, 4.3.2.1 Counted Earned Income](#)
Operations Memo 99-64: *Self Study Guide: Benefit Recovery – Determining Overpayments* (Obsolete)

EFFECTIVE DATE: Immediately

PURPOSE

The purpose of this Operations Memo is to provide clarification and changes on Wisconsin Works (W-2) eligibility policies with regard to earned and unearned income.

BACKGROUND

Annually, the Department of Children and Families (DCF) requires all W-2 agencies to process overpayments for cases identified as having third party verified unearned income. To assist, DCF provided agencies with a guide titled "Instructions for Processing Third Party Verified Unearned Income". Although the guide was created based on current policy, agencies had several questions related to the policy on unearned income.

The issues related to income, both earned and unearned, included how to determine months of W-2 ineligibility, how to count contractual income and lump sum payments, and how to

determine when an overpayment of W-2 benefits occurred. This memo addresses these questions with both policy clarifications and changes related to earned and unearned income.

POLICY

COUNTING MONTHS OF INELIGIBILITY

Current Policy: A W-2 participant must be prospectively ineligible for two consecutive months before the case closes.

Policy Clarification: When counting consecutive months of income or assets, “months” is defined as calendar months (also known as “eligibility month” in CARES).

Policy Clarification: A W-2 participant remains eligible for W-2 until the W-2 Group’s assets exceed the asset limit for two consecutive calendar months or the W-2 Group’s income exceeds the income limit for two consecutive calendar months.

- **Note:** Applicants must be under both the income and asset limits, in addition to meeting nonfinancial criteria, at the time of application, before being determined eligible for W-2. The policy described above only applies to participants who have already been found eligible to receive W-2.

EXAMPLE 1: Judy receives \$5,000 as a lawsuit settlement on February 11, 2016, while participating in a CSJ. Judy reports this to her FEP on February 12. Judy’s FEP enters the initial settlement as income in February, and uses the bank statement Judy provides as verification. Although Judy is over the income limit, she remains eligible because this is only the first month that she is over the income limit. At Judy’s next appointment on March 15, Judy’s FEP asks if Judy has any settlement money remaining. Judy indicates that she spent \$2,200 of the settlement in February, and plans to spend the remainder this month. Judy’s FEP enters the remaining \$2,700 as an asset in March. Although Judy is over the asset limit, she remains eligible because this is the first month that she is over the asset limit. Judy’s FEP calls Judy on April 6 to see if Judy has any settlement money remaining. Judy confirms that she spent the remainder and provides another bank statement as verification that she is again under the income and assets limits for W-2. Even though Judy was over the income limit and over the asset limit in two consecutive months, she remained eligible because being over the income limit for one month and over the asset limit the next month cannot be combined to create two calendar months of ineligibility. Therefore, as Judy neither exceeded the income limit for two consecutive calendar months nor exceeded the asset limit for two consecutive calendar months, there is no impact on Judy’s eligibility for a CSJ placement.

EXAMPLE 2: Enrique receives \$5,000 as a Worker’s Compensation settlement on June 12, 2015, while participating in a W-2 T. Enrique calls to report this to his FEP on June 15. Although Enrique is over the income limit for June, he remains eligible because this is only the first month that he is over the income limit. Enrique’s FEP advises Enrique that if he keeps the settlement, he will no longer be eligible for W-2 after August 31. Enrique states that he plans to pay some medical bills. However, on July 14, Enrique receives a \$2,000 inheritance from his grandfather. This is Enrique’s second month of being over the income limit. When Enrique calls his FEP to report the new income on July 16, Enrique’s FEP informs him that his case will close on July 31 due to being over the income limit for two consecutive months. If Enrique uses the money to pay ahead on his bills and is under the income limit by July 31, Enrique’s case would remain open.

These policy clarifications align with the current practice Financial and Employment Planners (FEPs) use to determine eligibility, in addition to aligning with the functionality of CARES Worker Web (CWW).

See attached updated W-2 Manual Section 3.1

PRORATING INCOME

Current Policy: There is no policy on when or how to prorate contractual income or lump sum payments.

New Policy: Contractual income that is annual income (intended to provide support for the entire year), and is not paid on an hourly basis, must be prorated over 12 months. Contractual income that is not annual income (intended to provide support for the household for only a portion of the year), and is not paid on an hourly basis, must be prorated over the period that the income is intended to cover.

EXAMPLE 1: Shanice works full-time as a public school as a Teacher's Aide. She has worked in this position for the last 3 years and receives a 12 month contract every August. She earns \$15,480 annually and has elected to receive her income over 12 months, even though she is only working September through June. She does not supplement her income during the summer. Shanice's FEP should average her income over 12 months: $\$15,480/12 = \$1,290$.

New Policy: If the lump sum payment is not intended to cover a specific period, the income may only be counted as income for the month in which it is received and then as an asset for any month remaining (see 3.2.4, 3.2.5). If the lump sum payment is intended to cover a period, the income must be prorated over the period of time the income is intended to cover.

EXAMPLE 1: Ariana inherits \$5,000 from her grandmother on February 16, 2016. Ariana receives a one-time check for the inheritance. Ariana's FEP should count this as income for February, and as an asset for any month thereafter that Ariana keeps the inheritance balance in her account greater than \$2,500.

EXAMPLE 2: While participating in a W-2 T placement, John wins a lawsuit settlement of \$6,000 on November 18, 2016. The settlement states that the payment is intended to support John's medical costs over the next six months in order to help him recover from an injury incurred while shopping at a local store. John's FEP should average the \$6,000 over six months, starting when John receives the payment in November.

See attached updated W-2 Manual Section 3.2.6.

OVERPAYMENTS

Current Policy: When calculating W-2 overpayment amounts for individuals that failed to report income timely, W-2 agencies have discretion in determining the period of time for which the overpayment occurred.

Policy Clarification: There is no change to policy for participants who report income timely. If, after being over income or over assets for two months, the participant retains an initial lump

sum payment or continues to receive income that makes them financially ineligible for W-2, the FEP must close the case timely. No overpayment would be incurred.

Policy Clarification: If the FEP feels that the participant intentionally concealed or failed to report unearned income or assets with the intent to defraud the W-2 program, the participant should be referred for fraud investigation. (See [W-2 Manual Section 13.4.1](#))

Policy Change: If it is discovered through a data exchange or other third-party verified source that a participant received and retained income while receiving W-2 that would have made them financially ineligible and did not report it, the period of time for determining the overpayment must start the day the income was received.

EXAMPLE: Judy was found eligible for a W-2 T placement in February 2014. Through a third party data exchange, Judy's FEP finds out that Judy received \$10,000 as an inheritance on June 12, 2014. When Judy's FEP contacts Judy, Judy states that she spent the money by September 1, 2014. Judy would have been over the asset limit for the calendar months of July and August. Since Judy did not report the change in income timely, her overpayment period starts the day she received the inheritance, June 12, and ends the day before she was again eligible, August 31. Judy's FEP refers Judy for fraud investigation for not reporting the inheritance and enters overpayments on CARES screen BVWW for July and August. If Judy had reported the income timely, there would not have been an overpayment.

EXAMPLE: Suki was found eligible for a CSJ placement in April 2016. On May 15, 2016, Suki receives a \$5,000 legal settlement. Suki calls her FEP to report the change on May 16, 2016. Suki's FEP advises her to pay ahead on her rent, electric bill, and other utilities to help stabilize her living situation. At a follow-up appointment in July 2016, Suki's FEP asks if she still has any settlement money remaining. Suki says she still has \$2,600, and plans on keeping it. Suki's FEP advises Suki that her case will close at the end of July since it will be her second month of being over assets. Suki agrees, and Suki's FEP closes her case on July 31, 2016. There is no overpayment as Suki reported the income timely, and Suki's FEP closed her case timely. If Suki had not reported the income, Suki's overpayment would have started on May 15 and ended when her case closed.

The following statement has been added to the [Wisconsin Works \(W-2\) Participation Agreement \(DCF-F-DWSP10755\)](#):

"I will report a change in earned or unearned income or assets within ten (10) calendar days. I understand that if I do not report the change, I may owe money for W-2 payments I should not have received."

See attached updated W-2 Manual Section 13.4.1.1.2.

CARES

There are no system changes associated with these policy updates.

ACTION REQUIRED

W-2 agencies must ensure that FEPs are aware of these policy updates. Training has been evaluated and determined to be current with these updates. To view current trainings available on any of these topics, including identifying and processing overpayments, FEPs should visit the [PTS Learning Center](#).

W-2 agencies must also familiarize staff with the change to the W-2 Participation Agreement so that they are prepared when reviewing and completing the form with W-2 applicants and participants. W-2 agencies and workers shall use the revised [Wisconsin Works \(W-2\) Participation Agreement \(DCF-F-DWSP10755\)](#) beginning immediately.

ATTACHMENTS

[Revised W-2 Manual Section 3.1 General Financial Eligibility](#)

[Revised W-2 Manual Section 3.2.6 Prorating Income](#)

[Revised W-2 Manual Section 13.4.1.1.2 Determining the Date of an Intentional Program Violation](#)

CONTACTS

For W-2 Policy Questions in the Balance of State: Bureau of Regional Operations, W-2 Regional Coordinators

For W-2 Policy Questions in Milwaukee: Milwaukee Operations Section Regional Administrators

For W-2 CARES Processing Questions: W-2 Help Desk

DCF/DFES/BWF/ERR