

### 11.3.1 Rectifying 20% Payment Reductions

*W-2* policy requires *FEPs* to conduct ongoing informal assessments, which includes the need to discuss with the participant any underlying causes of nonparticipation to identify any barriers that might exist and take steps to address those barriers. (See 11.1.1 and Chapter 5) In addition to working with participants to identify potential barriers, if a participant's payment is going to be reduced by 20% or more, the *W-2* agency must:

1. Provide written notice to the *W-2* participant of the proposed 20% or more payment reduction and of the reasons for the proposed payment reduction (See 11.3.1.1); and
2. Allow the participant reasonable time to rectify the deficiency, failure or other behavior to avoid the proposed *W-2* payment reduction. To rectify means that the participant is given one last opportunity to present good cause for nonparticipation or to present late documentation of completed assigned activities.

~~The FEP must issue the CARES automatically generates the *W-2 Payment Reduction Notification Letter Notice of Potential W-2 Payment Reduction (CARES CWW letter NWSN)* either at the beginning (*W-2 delayed payment*) or the end of the month (*W-2 pulldown*) when final *W-2* monthly payment amounts are determined and give the participant one last opportunity to provide good cause.~~

~~The FEP must generate CARES letter NWSN no later than the 5 working days following the appearance on the 20% payment reduction report (see 11.3.1.1). The FEP must enter on NWSN CARES populates the letter with information that the FEP enters on CARES screen WPNP: the missed activities, the hours missed and the dates the activities were missed. The letter informs the participant to contact the worker as soon as he or she receives the letter to explain why the activities were missed. If the participant is claiming good cause, the FEP determines whether the reason for the missed hours meets any of the good cause reasons and whether to require written verification of good cause (called "proof of good cause" in the letter).~~

If the participant is submitting late documentation of completed assigned activities, the documentation must be for the dates that the activity was assigned on the Employability Plan.

~~Because the participant may have to provide written verification, the FEP must also enter on NWSN letter includes the date by which the verification must be provided, if required by the FEP. The participant is given 7 working days to provide written verification of good cause. To calculate the date, the FEP must count the~~ The next working day after the mailing date of the letter as is day 1. For example, if the mailing date of the letter is Monday, March 21st Tuesday, September 18, 2018, the date by which the individual needs to provide written verification is Wednesday, March 30th Wednesday, September 27, 2018. The verification due date cannot be extended from 7 working days to 30 days. (See 11.2.4) The date provided on NWSN is the final date any verification can be received.

### 11.4.1 Noncooperation with W-2 Program Requirements

A **FEP** must close a case when a participant fails to cooperate with specific W-2 program requirements without good cause. The specific cooperation requirements are:

1. A W-2 participant may be required to search for unsubsidized employment throughout his or her participation in a W-2 employment position. (See [2.9.1](#))
2. A W-2 participant may be required, as determined by the FEP, to apply for and accept other public assistance programs or resources that may be available, prior to being determined eligible for W-2 services or during W-2 participation. (See [2.6.1](#))
- ~~3. A W-2 participant may be required to verify certain eligibility information. Participants have 7 working days from the date of the verification request to provide the needed verification. (See [4.1.3](#))~~
- ~~4. 3.~~ If an **EP** review does not occur before the date the EP is set to expire because the participant fails to keep an EP review appointment without good cause.
- ~~5. W-2 participants are required to report changes in circumstances that may affect eligibility within 10 calendar days after the change occurs, except for temporary absence of a child which must be reported within 5 working days. (See [2.8.1](#))~~
- ~~6. 4.~~ The FEP and the participant have not had any contact for at least 30 consecutive calendar days and the FEP has made repeated and varied attempts to contact the participant at the participant's home, assigned worksite or the location of any other assigned activities. "Repeated" attempts means the FEP or another W-2 agency representative must make weekly attempts, at least. "Varied" attempts means a combination of attempts to contact, such as worksite visits, home visits, phone calls, letters, etc.

For policies regarding noncooperation with paternity establishment and child support enforcement services, see [15.3.2](#).

#### 11.4.1.1 Determining the Date of Noncooperation (New section)

The date of noncooperation is the date that the participant was provided to cooperate with W-2 program requirements (see 11.4.1).

**Example 1:** A participant's EP review is scheduled for March 17 and the participant failed to show for the appointment. The date of noncooperation is March 17.

**Example 2:** The last date of contact that a FEP had with a participant was July 1. The FEP is unable to make contact with the participant after 30 calendar days of repeated and varied attempts to contact the participant. The date of noncooperation is July 31.

### 11.4.2.2 Rectifying Noncooperation Prior to Case Closure

In addition to exploring potential barriers, if a participant's case is going to close for noncooperation, the W-2 agency must:

1. Provide written notice to the W-2 participant of the proposed case closure and the reason for the case closure; and
2. Allow the participant reasonable time to rectify the deficiency, failure or other behavior to avoid the proposed W-2 payment reduction. Rectifying means that the participant is given one last opportunity to present good cause for failing to cooperate or to present late documentation of completed assigned activities.

The FEP must issue the *Notice of Noncooperation with ~~Program~~ W-2 Requirements (CARES CWW letter NWNC)* and must give the participant one last opportunity to present good cause for failing to cooperate.

The FEP must manually issue NWNC via ~~CARES CWW~~ prior to generating a Notice of Eligibility. The FEP must mark the correct noncooperation reason on NWNC and enter the date of noncooperation (see 11.4.2.1). The letter informs the participant to contact the worker as soon as he or she receives it to explain why the noncooperation occurred. If the participant is claiming good cause, the FEP determines whether the reason for the noncooperation meets any of the good cause reasons and whether to require written verification of good cause (called "proof of good cause" in the letter). (See 11.2.2)

Because the participant may have to provide written verification, the ~~FEP must also enter on NWNC letter includes~~ the date by which the verification would need to be provided, if necessary. The participant is given 7 working days to provide written verification of good cause. ~~To calculate the date, the FEP must count the~~ The next working day after the mailing date as is day 1. For example, if the mailing date of the letter is Friday, ~~January 6th, October 12, 2018,~~ the date by which the individual needs to provide written verification is Tuesday, ~~January 17th~~ October 23, 2018. The verification due date cannot be extended from 7 working days to 30 days. (See 11.2.4.2) The date provided on NWNC is the final date any verification can be received.

No changes to the remainder of 11.4.2.2

### 13.4.1.1.2 Determining the Date of an Intentional Program Violation

The date of intentional program violation is the date that the individual committed the fraudulent act.

If the fraudulent act is committed prior to November 1, 2012, the agency must not impose an IPV. However, if the fraudulent act resulted in an overpayment, the W-2 agency must still process the overpayment.

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

**EXAMPLE 1:** Marquita submits an altered Medical Examination & Capacity form ~~in~~ on October 3, 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 placement with limited activities assigned. The following year, her FEP learns that Marquita altered the form she submitted ~~in~~ on October 3, 2012 by changing 15 hours to 5 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~~ on December 17, 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 24, 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. The date of the fraudulent act is December 17, 2012. The agency must apply an IPV penalty.

No changes to the remainder of 13.4.1.1.2