

Chapter 13 Fraud Program Integrity

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13.1 Program Integrity Overview

13.1.1 W-2 Agency Program Integrity Responsibilities

In accordance with Chapter 49 of the Wisconsin state statutes, the W-2 and Related Programs Contract, and applicable sections of the W-2 Manual, Each W-2 agencies agency are is required to establish a W-2 fraud program integrity program and plan. This requirement includes: the development and submission of standard operating procedures for fraud prevention and fraud investigative activities, follow up on case findings, CARES case tracking and benefit recovery, and administrative tracking and reporting.

- The submission of standard operating procedures for agency program integrity management;
- Follow-up on case findings;
- BRITS case tracking and benefit recovery; and
- Administrative tracking and reporting.

13.1.2 Structure Program Integrity Plan

As part of their program integrity responsibilities for ensuring the integrity of the programs they administer, both the W-2 and IM agencies agency must operate fraud, waste, and abuse prevention programs to identify and prevent, detect, and investigate fraud or error from occurring.

The agency determining that determines eligibility for a particular program is responsible for fraud, prevention and fraud investigation activities program integrity management in that program.

W-2 agencies and should coordinate their its fraud prevention and investigation activities processes with the agency that administers IM programs when necessary.

The W-2 agencies agency may establish employ personnel responsible for performing fraud, prevention, and investigation activities processes, or contract out these functions.

13.1.3 Fraud Program Integrity Standard Operating Procedures

As a contract requirement, eEach W-2 agency is required to submit standard operating procedures outlining the internal steps the agency must follow to implement a fraud Program Integrity pPlan. Milwaukee W-2 agencies are required to submit standard operating procedures to their its DFES/BWF Regional Administrators or Regional Coordinator. BOS W-2 agencies are required to submit standard operating procedures to their W-2 Regional Coordinators.

Standard operating procedures must:

1. Describe the agency's plan to identify and address fraud program integrity efforts;
2. Identify a Fraud Program Integrity Representative for the agency;
3. Describe the agency's plan to implement a Fraud Prevention Program Integrity Plan;
4. Establish procedures for FEV, fraud referrals, and investigations; and
5. Establish procedures to determine when overpayments are the result of an IPV and establish procedures for applying IPV's.

W-2 agencies must review their standard operating procedures periodically to ensure that they are current and submit their templates on an annual basis to DCF for review.

13.1.4 Fraud Program Integrity Management Activities

Program integrity responsibilities can be divided into five general categories:

Prevention: Ensure that fraud, waste, and abuse can be prevented up front through front-end verification, error-prone profiles, case comment review, and clear communication to applicants about program rules and responsibilities.

Detection: Use data exchanges and other sources to detect red flags and conflicting information that can indicate fraud, waste, or abuse.

Investigation: Investigate any fraud referrals or questionable information to determine if fraud, waste, or abuse has taken place.

Sanctions: Assess and establish appropriate penalties for any violation of program rules, including an Intentional Program Violation or a referral for prosecution.

Collections: Establish and collect overpayments if W-2 payments were issued in error either intentionally or inadvertently. This also includes collections via lien, levy, or tax intercept for delinquent cases.

The W-2 agencies agency must differentiate between the following types of program integrity activities duties:

1. Routine verification for eligibility determination conducted on all applications and reviews detailed in W-2 Manual Chapters 1, 2, 3, and 17;
2. Selection of cases that exhibit error-prone case characteristics for referral to FEV;
3. Selection of potential fraud cases for referral to fraud investigation;
4. Establishment of IPVs;
5. Initiation of fraud overpayment claims and collections; and
6. Referral of cases to the local District Attorney's office for criminal prosecution.

Separation of these activities is necessary for proper reporting in the Benefit Recovery and Investigation Tracking System (BRITS).

13.1.5 Benefit Recovery and Investigation Tracking System (BRITS)

Front-end verification, overpayment processing, and fraud investigation activities, costs, comments, and investigative results are recorded in the BRITS. BRITS replaced the CARES Benefit Recovery Subsystem screens BVIR, BVIT, and BVPI that were exclusively used for fraud program reporting. In addition, BRITS is used to record comments for all front-end verification and fraud investigation activities.

The W-2 agencies agency are is responsible for tracking all referrals for front-end verification and fraud investigation. There are a number of Webl reports available to assist W-2 agencies in tracking BRITS referrals.

13.1.6 W-2 Service Provider Fraud

13.1.6.1 Prohibited Conduct

13.1.6.2 Reporting W-2 Service Provider Fraud

The W-2 agency and the State DCF have the ability to pursue a civil or criminal action against any entity that receives funds to which it was not entitled. The W-2 agency contracts are specific regarding the responsibility of each W-2 agency to monitor its

subcontractors and recover any overpaid amount that resulted for any reason. (See 2013 W-2 Contract, Section XI. D. **current contract**)

13.1.6.1 Prohibited Conduct

The following conduct by W-2 service providers **are is** prohibited:

1. Knowingly and willfully making or causing to be made any false statement or representation of a material fact in any application for any benefit or payment;
2. Having knowledge of the occurrence of any event affecting the initial or continued eligibility for a benefit or payment under the W-2 program and concealing or failing to disclose that event with fraudulent intent to secure a benefit or payment under W-2 either in a greater amount or quantity than is due or when no such benefit or payment is authorized;
3. Soliciting or receiving kickbacks, cash, or other forms of compensation, for referring an individual or individuals arranging or furnishing an item or service for which payment is received under the W-2 program; and

Note: This provision does not include an amount paid by an employer to an employee who has a bona fide employment relationship with the employer for employment in the provision of covered items or services.

4. Knowingly charging a W-2 recipient for services provided under W-2 or charging a W-2 recipient for non-W-2 services without first notifying the recipient of potential charges.

13.1.6.2 Reporting W-2 Service Provider Fraud

Report W-2 service provider fraud to:

Department of Children and Families
W-2 Fraud Unit
201 West Washington Ave
PO Box 8916
Madison, WI 53708**3**-8916
Or e-mail: w2fraud@wisconsin.gov

13.2. Front-End Verification Prevention

Program integrity prevention involves a review of specific characteristics of individual cases that exhibit markers of potential program violation(s). Enhanced or additional verification through Front-End Verification (FEV) and the development of an error-prone profile can:

- Ensure correct case information prior to the first payment being received; and
- Minimize incorrect payments and possible overpayments.

13.2.1 Front-End Verification

13.2.1.1 Application of Front-End Verification

13.2.1.2 Payment Delay Prohibited

13.2.1.1 Referrals for Front-End Verification

13.2.1.2 Conducting Front-End Verification

Front-End Verification (FEV) is a method of prevention. The primary goal of FEV is to prevent fraud, waste, and abuse in the W-2 program by identifying false reporting and by verifying ineligibility during the application process, reviews, or changes in circumstances. FEV mainly that involves intensive additional verification and review of cases that display characteristics of potential program violations or errors. This includes: of error-prone case characteristics or questionable eligibility information provided by individuals for W-2 payments and services including employment position payments and JALs.

1. Error-prone case characteristics (see 13.2.2); or
2. Questionable eligibility information provided by individuals:
 - a. When applying for the W-2 program or a JAL;
 - b. At eligibility review; or
 - c. When reporting a change.

13.2.1.1 Referrals for Front-End Verification

13.2.3.1 Timeliness of Front-End Verification

13.2.3.2 Sources for Front-End Verification

13.2.3.2.1 Field Investigation

13.2.3.2.2 Information by Collateral Contacts

13.2.3.2.3 Surveillance

13.2.3.2.4 Vehicles & Assets Information

13.2.3.2.5 Income Information

A referral for FEV is completed when it is determined that an investigation is needed to verify specific error-prone characteristics relating to program: applications, reviews, or changes in circumstances.

- Applications;
- Reviews; or
- Changes in circumstances.

When the W-2 agency suspects fraudulent reporting, the case must be referred for fraud investigation, not FEV.

The steps the W-2 agency must take the following steps to initiate and process an FEV referral are as follows:

1. Compare the case characteristics to the agency's error-prone profile;
2. Create a referral for FEV in *BRITS* and specify the error-prone reason(s) of concern; and
3. Provide specific information regarding the referral in *BRITS*.;
4. Upload any supporting documentation;
5. Perform a more in-depth verification than the routine verification for eligibility determination;
6. Record the results of the investigation in *BRITS* and proceed with eligibility determination; and
7. Establish an overpayment, if applicable.

13.2.1.2 Application of Conducting Front-End Verification

The W-2 agencies agency are is responsible for ensuring that enhanced verification is conducted when information supplied by individuals is questionable or error-prone characteristics are present. conducting FEV only when:

1. The case exhibits error-prone characteristics; or
2. Information supplied by individuals at application, review, or when reporting changes is questionable.

The FEV process is appropriate at application, review, or when individuals report a change. However, FEV should not be routinely required on all new case applications, reviews, or changes. Cases referred for FEV must exhibit characteristics of a potential program error-prone profile. FEV must not be routinely applied to all cases. W-2 agencies must establish an error-prone profile for use to determine if a case meets the criteria for an FEV referral. (See 13.2.2)

EXAMPLE 1: Maya applies for W-2. During her intake appointment, she states she has no income. Maya does not receive other assistance but has no problems making rent. Based on this information, the FEP decides to refer Maya's application for FEV as her reported income amount is questionable.

EXAMPLE 2: Kendra applies for W-2. During her intake appointment, she provides all requested information and there is nothing questionable about her responses. Kendra's case would not be appropriate to refer for FEV as there are no indicators of fraud.

13.2.1.2.1 Timeliness of Front-End Verification

The *W-2* agency must conduct front-end investigations within 30 calendar days from the date the referral was created in BRITS. If a front-end investigation is expected to exceed 30 days, the *W-2* agency's fraud representative must record an extension due date in BRITS comments and provide an explanation.

13.2.1.2 Payment Delay Prohibited

The *W-2* agency must observe application and payment processing deadlines and When a case is referred for *FEV*, the *W-2* agency must not delay eligibility determination and payment due to *FEV*. The *W-2* agency must observe application and payment processing deadlines even if the *FEV* results have not been received. Benefit recovery can be completed at a later date, if an overpayment is established. If the *FEV* results indicate the need for a fraud referral, and a payment has already been issued, the *W-2* agency can establish an overpayment after completing a fraud investigation.

13.2.3.2 13.2.1.3 Sources for Front-End Verification

To verify information that prompted an *FEV* referral, the *W-2* agency must determine the appropriate source(s).

13.2.3.2.1 Field Investigation

When documentary evidence is insufficient to determine eligibility or when a case fits the error-prone profile, a visit to the individual's residence may be appropriate. The *W-2* agency must provide the individual advance notice of the date of the visit and document issuance of the notice in BRITS. Field investigations should take place during normal business hours unless there are special circumstances.

W-2 agencies must follow these steps when conducting field investigations:

1. At the residence, identify yourself to the individual and explain the reason for your visit;
2. Request identification (Social Security card, driver's license, state ID, etc.) from the individual;
3. Treat the individual(s) and all other persons in the household with respect. Do not coerce the individual(s);
4. Ask permission to enter the residence. Do not attempt to enter if the individual refuses to give consent. Do not tell the individual that there will be automatic denial of the case;

5. Inform the individual who gave consent for you to enter the residence that the consent may be withdrawn at any time; and
6. Ask to see areas of the residence. Do not demand access to or inspect areas or items without the individual's consent.

13.2.3.2.2 13.2.1.3.1 Information by Collateral Contacts

A collateral contact is an oral or written confirmation of a household's circumstances by a person outside the household.

Examples of acceptable collateral contacts may include, but are not limited to:

- Employers;
- Landlords;
- Social service agencies;
- Migrant service agencies; and
- Neighbors of the household who can be expected to provide accurate third-party verification.

13.2.3.2.3 Surveillance

W-2 agencies may use legal surveillance in completing an investigation of residence or household composition.

13.2.3.2.4 13.2.1.3.2 Vehicles & Assets Information Suggested Sources of Verification

Examples of sources to verify vehicles and assets include:

- Department of Transportation;
- Register of Deeds for mortgage or debt information;
- Credit bureaus;
- Banking and other financial institutions, including prepaid debit card accounts; and
- Auto appraisers for collector vehicles.

See Chapter 4 for additional sources to verify assets.

13.2.3.2.5 Income Information

Examples of sources to verify income include:

- State wage matches;
- Contact with employer;
- State and federal tax information;
- Child support records;
- SSA; and
- Financial institutions.

See Chapter 4 for additional sources to verify income.

See W-2 Manual Section 4.1.2 for suggested sources to verify questionable information.

13.2.1.3.3 Difficulties Verifying Information

If the W-2 agency has difficulty verifying the information that prompted an FEV referral, the agency must attempt all methods of communication, including, but not limited to, phone calls, letters, and emails. If the W-2 agency is still unsuccessful in obtaining additional verification, it must contact its DCF Regional Administrator or Coordinator for guidance.

13.2.2 Error-Prone Profile

13.2.2.1 Review of Error-Prone Profile

13.2.2.1.1 Prohibited Error-Prone Profile Characteristics

13.2.2.1.2 Residence

13.2.2.1.3 Household Composition

13.2.2.1.4 Assets

13.2.2.1.5 Earned Income

13.2.2.1.6 Unearned Income

13.2.2.1.7 General Criteria

An error-prone profile is a list of characteristics recognized by the W-2 agency as indicators of potential fraud or error(s) on a case. It allows the W-2 agencies to allocate and prioritize administrative and investigative resources to those cases according to their with a high potential for error or fraud.

The criteria for an error-prone profile must accommodate situations applicable to the specific agency. Agencies are encouraged to add criteria specific to situations applicable to the W-2 agency and its service area to the error-prone profile. For

example, if there are is a high number of jobs in the area that provide opportunities for earning tips. In these situations, the error-prone profile would may include not reporting zero tip income when working a job that routinely receives tips. FEV activities may reveal that some characteristics originally thought to show potential errors are irrelevant and not cost effective to pursue.

13.2.2.1 Annual Review of Error-Prone Profile

FEV may reveal that some chosen error-prone profile characteristics are irrelevant and may not indicate potential fraud or error. Because Error-prone profile criteria are likely to change over time, as conducting FEV reveals more accurate characteristics.

The W-2 agency must is required to evaluate its error-prone profile annually to determine if the profile is actually identifying errors successfully. The recommended target is that 30% of cases referred to FEV should result in a referral for fraud investigation. If the W-2 agency does not meet the 30% target, it should may remove characteristics that are not error-prone and add other alternative characteristics that may be error-prone.

13.2.2.2 Prohibited Error-Prone Profile Characteristics

The following characteristics must not never be used when developing an error-prone profile:

1. Race;
2. Color;
3. National origin;
4. Ethnic background;
5. Sexual orientation;
6. Religion;
7. Age;
8. Political belief;
9. Disability;
10. Association with a person with a disability; and
11. Marital status.;
12. Tribal association;
13. Citizenship status;
14. Employment history;
15. Migrant farm worker status;
16. Gender identification or expression;
17. Criminal background; and

18. Personal knowledge/relationship of the applicant or participant.

Federal regulations specifically prohibit error-prone profiles from targeting migrant farm workers or Native Americans.

13.2.2.3 General Criteria Characteristics

General error-prone indicators include:

- Individual has provided contradictory information or made statements inconsistent with information provided during a previous contact in the application or review;
- Case was previously closed for loss of contact or failure to provide essential information;
- Case in which fraud was previously alleged or committed;
- Case in which information provided by the applicant is incomplete or not clear;
- Case was previously referred for FEV, which resulted in either denial or reduction of benefits; and
- Case was flagged for potential error via the automated process for identifying error-prone cases in CWW.

13.2.2.4 Residence

Error-prone indicators for residence include:

- Conflicting documentation or verification differing from that what is reported by the individual;
- Recent arrival (within the prior three months) in the agency's county, excluding not including refugees, migrant farm workers, people who are homeless, and residents of shelters;
- Highly mobile families whom who rarely stay in one location for more than two or three months, not including people in unstable housing situations; and
- Frequent or prolonged visits outside of the W-2 Geographic Area.

EXAMPLE 1: George applies for W-2. During the application process, he submits a pay stub from his employer. George reports he lives in Wisconsin and intends to stay in Wisconsin but the address on the pay stub is for an apartment in Minnesota. The FEP asks George for a utility bill as an additional piece of verification for his residency.

13.2.2.5 Household Composition

Error-prone indicators for household composition include:

- Employable household members listed on the application and then later reported to have moved;
- Collateral contact statement (see 13.2.1.3.1) is inconsistent with the individual's statement of household size;
- Landlord's address is same as the individual's, but the landlord is not included as a household member;
- Landlord is the absent parent or ex-spouse;
- An unmarried individual gives birth to a baby who is given the same last name as a male friend, but client claims male friend does not live with her;
- Individual reports someone else pays the rent for several months, but that person is not listed in the home;
- Household reports large increases or decreases in household size or a frequently fluctuating household size; and
- Other household member(s) included on a JAL or EA application, but not on the W-2 application; and
- Other household member(s) included on a FoodShare or BadgerCare case, but not reported to be in the household for a W-2 application.

EXAMPLE 2: Sara applies for W-2 and reports her W-2 group as only her and her daughter, stating that her daughter's father, Juan, is not in the home. The FEP can see in CWW that Sara receives FoodShare and that Juan is included on her case. The FEP asks Sara to provide additional verification.

13.2.2.6 Assets

Error-prone indicators for assets include:

- Individual reports no assets or resources on the application, but has no unpaid bills;
- Individual reports no vehicle, but has reports no reasonable other explanation of the for their transportation method;
- Individual claims no income for an extended period of time, but offers no satisfactory other explanation of how needs were met before applying;
- Information provided by the individual shows a substantial reduction in assets just prior to application for assistance; and
- Reported assets are very near or equal to the asset limits.

13.2.2.7 Earned Income

Error-prone indicators for earned income include:

- Reported income is different than IRS records or state tax forms;

- Individual's expenses are being met, although individual's their reported income is not enough to satisfy their financial obligations;
- Self-employment income reported to have stopped (potential business assets available);
- Individual reports zero income but states someone else is paying the bills;
- Household that has an adult wage earner who becomes unemployed and reports no unemployment benefits or reports that unemployment benefits have stopped, but employment has not resumed;
- Bank statement shows multiple deposits of \$600 or more from mobile payment apps such as Apple Pay, Zelle, Venmo, PayPal, or Cash App, but no self-employment has been reported;
- Increase in nonparticipation without attempts from the individual to provide good cause; and
- Application for JAL or EA indicates an increase in earned income not previously reported.

EXAMPLE 3: Tonya applies for W-2. On her application, she reports no earned income. She has a bank account with \$100 in savings. When verifying the bank statement from her account, the FEP notices multiple deposits from Venmo in the amount of \$700. The FEP asks Tonya about these deposits and she states that they are from friends paying her back through her Venmo account. The FEP asks Tonya to provide additional verification.

13.2.2.8 Unearned Income

Error-prone indicators for unearned income include:

- Household member claims disability, but does not report SSI, SSDI, or worker's compensation;
- Application for JAL or EA indicates source(s) of unearned income not previously reported; and
- Individual owns one or more rental propert(ies).

NOTE: If any of the case characteristics listed in sections 13.2.2.3-13.2.2.8 can be explained by a barrier such as a recent trauma, domestic violence, or homelessness, it must not be considered part of an error-prone case and must not be referred for investigation. Please see section 9.1 for more information on participant barriers.

13.2.3 Additional Prevention Methods

The W-2 agency may also complete the following to prevent fraud or errors in cases they may find questionable:

1. Review information in CWW, BRITS, and ECF during the application process for any program integrity red flags or comments from other programs.
2. Check data exchanges in CWW to verify income is being reported the same by the employer as the applicant or participant. (See W-2 Manual Section 13.3 for more information)
3. If there is reasonable suspicion of duplicate benefits in another state, the W-2 agency may:
 - a. Ask the BWF Work Programs Help Desk to check for the applicant in the quarterly PARIS report; or
 - b. Conduct their own out of state inquiry using other state's contact information found here: <https://www.acf.hhs.gov/ofa/map/about/help-families>.

13.3 Fraud Investigation Detection

Program Integrity detection includes maintaining and reviewing a number of sources to detect potential red flags that may require further inspection. This information is available either annually, quarterly, or at any time, depending on the source.

If the investigation concludes in a determination of possible fraud or error, the W-2 agency may need to do one or more of the following:

- Initiate a case closure to prevent further improper payments;
- Refer the case to BRITS for fraud investigation;
- Process an overpayment; and/or
- Process an IPV.

13.3.1 Fraud Investigation Income and Eligibility Verification System (IEVS) Data Exchanges

The primary goal of a fraud investigation is to determine the correctness of an allegation that an applicant or recipient of W-2 payments and services, including employment position payments and JALs, intended to misrepresent his or her eligibility criteria or committed any act that constitutes an IPV.

In most suspected fraud cases referred to an investigator by the W-2 agency:

- A benefit overpayment is suspected and the agency has reason to believe the overpayment is the result of misrepresentation of program eligibility requirements. The misrepresentation of program eligibility or fraudulent activity may be the result of:
 - o False or misleading statements of circumstances,

- o Failure to report a change in circumstances,
 - o Concealed or withheld facts, or
 - o Violation of a program regulation or State statute relating to program benefits.
- The benefit(s) would not have been provided, but for the false representation.
 - The conduct of the applicant or recipient indicates the misrepresentation or fraudulent use of the benefit was done with knowledge and intent.

The Income and Eligibility Verification System Data Exchange (IEVS DX) includes the following information:

- Unemployment insurance benefits (UIB);
- SSNs (SOLQ-I);
- SS payments (SOLQ-I);
- Other SS income (SOLQ-I); and
- Earned income through wages (SWICA).

13.3.1.1 Unemployment Insurance Benefits (UIB) and State Online Query – Internet (SOLQ-I)

The UIB and SOLQ-I data exchanges run automatically through CWW at:

- Intake;
- Review;
- Person add; and
- Program add.

The W-2 agency must follow up on any discrepancies between the information gathered via these data exchanges and participant-reported information.

13.3.1.2 State Wage Information Collection Agency (SWICA)

The State Wage Income Collection Agency Data Exchange (SWICA) is run quarterly. If there is a difference between participant-reported wages and the wages collected in this data exchange, CWW creates a discrepancy. The W-2 agency must follow up on any discrepancies by attempting to verify income.

For more information on these data exchanges and required W-2 agency action on discrepancies, see W-2 Manual Section 4.1.5.

13.3.2 Referrals for Fraud Investigation Review of Existing Comments in CWW and WWP

CWW case comments are shared between:

- W-2;
- Health Care (Badger Care Plus);
- Child Care (Wisconsin Shares); and
- Foodshare.

At application, FEPs must review recent case comments in CWW to look for any comments from other programs that may indicate potential fraud or error on the case.

FEPs may also review case comments at any time and should review case comments if there is questionable information on the case.

FEPs should also review WWP PIN comments if there is questionable information on the case.

13.3.3 Disposition of Fraud Investigation Public Assistance Reporting Information System (PARIS) Report

The PARIS data exchange is a report containing information for recipients of public assistance who are receiving duplicate benefits in two or more states. DCF receives this report quarterly and reviews it for possible duplicate benefits. If there is a W-2 recipient on the report who is receiving duplicate benefits in another state, DCF contacts the participant's W-2 agency, and the W-2 agency must refer the case to BRITS and complete their fraud investigation and potential overpayment claim. If the participant is found to have knowingly committed fraud to receive payments in two or more states, they are subject to the penalty under W-2 Manual Section 13.5.2.

13.3.4 W-2 Service Provider Fraud Outside Referrals and Complaints

Potential fraud referrals can come from the following sources:

- The public;
- Other W-2 agencies;
- The Department of Children and Families, including, but not limited to, the DCF W-2 Fraud Inbox and the Customer Service Line;
- Other state of Wisconsin public programs such as Health Care (Badger Care Plus), Foodshare, and Child Care (Wisconsin Shares);
- Other state of Wisconsin departments; and
- Other states or governmental programs.

Potential fraud referrals from these sources should be reviewed when they are received and entered into BRITS.

13.3.5 Third Party Verification

If there is unreported income or assets found through the third party verification process, DCF sends a report detailing cases that require additional investigation. It is the W-2 agency's responsibility to review the reported information and determine if the previously unreported income or assets would have impacted eligibility and process any overpayments as needed. Depending on the results of the investigation, it may also be appropriate to process an IPV.

13.3.6 Review of Activity Logs and Documentation

Activity logs contain information verifying W-2 participation as indicated in W-2 Manual Section 6.3.2. These logs include details on activity dates and times, signatures, and other information that can be forged or altered in some way. This may include, but is not limited to:

- Information that does not seem consistent with the case;
- Signatures that are supposed to be from different people that look similar;
- A document or form that appears to have been altered; or
- Other indicators of forgery or alteration.

13.3.7 Monthly Reviews of Auxiliary Payments

At a minimum, W-2 agencies must perform a monthly review of W-2 auxiliary payment monitoring reports available in *WebI*. The data in these reports is updated directly from the CARES Benefit Issuance subsystem into WebI by the second Monday of every month. The agency must investigate questionable payments or payment discrepancies identified on the reports. Examples of questionable payments or discrepancies include:

1. Multiple payments to a case for the same benefit month by one or more workers; or
2. Check amounts for a particular month issued to a case that exceed the maximum monthly W-2 payment for the assigned placement (see 10.1).

If an agency identifies a questionable payment or a payment discrepancy, the W-2 agency must contact the appropriate case worker(s) to confirm that the discrepancy is not an improper or illegal payment.

If an improper payment has been made, the W-2 agency must take appropriate action to recover the payment. If applicable, fraud prevention actions will be implemented in

accordance with W-2 contract and state fraud program requirements. Regional DCF staff identifying any major discrepancies on the reports will contact the W-2 agency to ensure that the agency is investigating the discrepancies and gather the agency's feedback on their findings. Regional DCF staff will also determine whether appropriate corrective action has been taken (e.g., benefit recovery, fraud referral, etc.).

13.4 Intentional Program Violation Investigations

13.4.1 Intentional Program Violation Fraud Investigations

The primary goal of a fraud investigation is to determine the correctness of an allegation that an applicant or recipient of W-2 payments and services, including employment position payments and JALs, intended to misrepresent his or her eligibility criteria or committed any act that constitutes an IPV.

A fraud investigation occurs to determine whether an individual intentionally misrepresented their eligibility criteria or committed an IPV (see 13.5.1).

A fraud investigation referral can be for applicants and/or recipients of:

- W-2 payments and services; or
- JAL.

In most suspected potential fraud cases: referred to an investigator by the W-2 agency:

- A benefit overpayment is suspected and the An agency has reason to believe the an overpayment is the result of intentional misrepresentation of program eligibility requirements. as the result of: The misrepresentation of program eligibility or fraudulent activity may be the result of:
 - o False or misleading statements of circumstances, including income, assets, and household composition;
 - o Failure to report a change in circumstances, that would have led to decreased or discontinued payments;
 - o Concealed or withheld facts,; or
 - o Violation of a program regulation or Sstate statute relating to program benefits eligibility.
- The benefit(s) A payment would not have been provided, but for the false representation. if case information had not been misrepresented.
- The conduct of the applicant or recipient indicates the misrepresentation or fraudulent use of the benefit was done with knowledge and intent.

13.4.1.1 Intentional Program Violation Determination and Notification Referrals for Fraud Investigation

The steps the The W-2 agency must take to initiate and process a fraud investigation referral are as follows by completing the following:

1. Assess Determine whether the case meets the agency's fraud referral criteria established in the agency's standard operating procedures;
2. Review the allegations contained in the investigation referral;
3. Conduct the investigation in accordance with the agency's standard operating procedures to substantiate the allegations of fraud;
4. Provide specific information regarding Document the investigation in BRITS (see 13.1.5); and
5. Initiate the processes for prosecution of fraud cases, applying an IPV, and calculating calculate and collecting collect fraudulent overpayments, and refer the case for prosecution, as necessary.

13.3.2.1 Identifying Potential Fraud

Potential fraud may be identified by various sources, including:

- W-2 agency staff;
- IM agency staff;
- Other agency staff (Child Welfare, Child Support, Child Care);
- FIRE staff;
- FDIU;
- W-2 Fraud and Child Care Anti-Fraud Task Forces;
- Program Integrity Unit;
- Complaints from the general public; and
- Anonymous tips from the general public.

Potential fraud may also be identified using various tools:

- Error-prone profiles;
- Periodic case audits;

- Shared information on automated systems (CWW, CARES, WWP, and Data Exchanges);
- Case worker alerts (W-2 and IM);
- Automated reporting systems (WebI); and
- PARIS interstate matches.

W-2 agencies should establish networks with local agencies to promote communication of fraud referrals. Fraud committed by an individual in one program may be simultaneously occurring in another program.

13.3.2.2 13.4.1.2 Timeliness of Fraud Investigation

The W-2 agency must conduct fraud investigations within 90 calendar days from the date the referral was created in BRITS.

If a fraud investigation is expected to exceed 90 days, the W-2 agency's fraud representative must:

1. Record an extension due date in BRITS; and
2. Provide an explanation in BRITS comments.

When a W-2 agency designates fraud investigation activities to a third party, the W-2 agency is responsible for establishing procedures for requesting investigation extensions, including the criteria for approval or denial.

13.3.2.3 Sources for Fraud Investigation

To determine the appropriate fraud investigation source(s) to verify the correctness of an allegation that prompted a fraud referral, see 13.2.3.2.

13.3.3 13.4.1.3 Disposition of Fraud Investigation Outcomes

When the investigation finds that an individual intended to intentionally misrepresented his or her their eligibility criteria information in order to become or remain eligible for W-2, or committed any other act that constitutes an intentional program violation (IPV), the W-2 agency must may need to take one or more of the following actions:

1. Establish an IPV or take no action to establish an IPV because the fraud allegation was not substantiated (see 13.5.1);
2. Initiate a case closure to ensure no more improper payments are issued;

23. Determine whether the case meets the agency's criteria for referral to the District Attorney for prosecution for fraud (see 13.5.1.2.3); and/or
34. Establish overpayments claims to attempt to recover any payments incorrectly paid to the individual as the result of the fraud (see 13.6).

If the investigation concludes that no fraud was committed, the W-2 agency must:

1. Ensure that the individual's case remains open or reopens and there was no break in payments during the investigation; and
2. Process an auxiliary payment if the participant under investigation is owed any W-2 payments.

All fraud investigations must be completed and documented in BRITS, regardless of the outcome. For more information on BRITS, see Section 13.1.5.

13.5 Referral to Prosecution Sanctions

Sanctions are penalties participants can face for committing fraud in the W-2 and JAL programs.

Sanctions for the W-2 and JAL programs include Intentional Program Violations (IPVs) and referrals for criminal prosecution.

Note: Hourly payment reductions and case closures not related to fraud can also be referred to as sanctions. For more information, see Chapter 11.

Individuals have the right to dispute any penalties and can do so through the Fact Finding process. For more information on Fact Finding and other dispute processes, see Chapter 12.

13.5.1 Referral to Prosecution Intentional Program Violations

13.5.1.1 Referral Criteria Intentional Program Violation Process

13.5.1.2 Prosecution Alternatives Intentional Program Violation Penalties

As a part of the W-2 agency's fraud standard operating procedures, the W-2 agency must establish internal policies and procedures for identifying fraud cases for referral to prosecution. W-2 agencies are encouraged to develop referral criteria with their local District Attorney's office to make a satisfactory referral to prosecution.

13.5.1.1 Referral Criteria

W-2 agencies must determine if a case should be referred for prosecution based on whether:

1. The completed investigation report supports the allegation of fraud and provides evidence of intent;
2. The investigation was completed in a timely manner;
3. The case meets the local agency's policy and cost effective criteria;
4. The case meets the local District Attorney's prosecution criteria; and
5. The agency designee recommends prosecution.

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 JAL:

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.

To determine whether in order to impose an IPV penalty for W-2 applicants, JAL applicants, or W-2 participants an individual, the IPV must have been committed on or after November 1, 2012.

An applicant does not have to receive payments or services prior to the agency imposing an IPV penalty.

The receipt of payments or services is not a requirement for imposing an IPV penalty. If an individual commits an IPV during the application process and prior to eligibility determination, the agency can still impose an IPV penalty.

The following are eExamples of IPV's may include, but are not limited to:

- Concealing or intentionally not reporting unearned income or assets;
- Failing to report Concealing or intentionally not reporting employment;
- Failing to report Intentionally misrepresenting, and/or not reporting any changes to, household composition change (including minor children);

- Failing to disclose/report Intentionally hiding or not disclosing non-Wisconsin residency;
- Submitting documentation that has been knowingly forged or tampered with;
- Intentionally Submitting false information; or
- Using a JAL for other than an approved purpose Intentionally misrepresenting the reason for a JAL.

Reminder: Prior to entering establishing an IPV, the W-2 agency must:

1. Complete a full fraud referral and investigation; and
2. eEnter all required fraud information in *BRITS*. (See 13.1.5)

An IPV must not be established if the W-2 agency is unable to determine that the individual acted intentionally.

13.5.1.1 Referral Criteria Intentional Program Violation Process

W-2 agencies must determine if a case should be referred for prosecution based on whether:

1. The completed investigation report supports the allegation of fraud and provides evidence of intent;
2. The investigation was completed in a timely manner;
3. The case meets the local agency's policy and cost effective criteria;
4. The case meets the local District Attorney's prosecution criteria; and
5. The agency designee recommends prosecution.

If the outcome of a fraud investigation confirms that an individual has committed a fraudulent act, within seven working days, 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 Wis. Stat. s. 49.151.(2);
3. Determine the date or date range the IPV occurred; and
4. Enter the IPV in CWW to notify the individual of the IPV.

The W-2 agency can only impose one IPV penalty period at a time, regardless of if multiple acts of fraud have been committed. For more information on IPV penalties, see 13.5.1.2.

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.

13.5.1.1.1 Determining the Date of an Intentional Program Violation

The date of **the** 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 penalty**. If the fraudulent act resulted in an overpayment, however, 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 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 on October 3, 2012, by changing 15 hours to 5 hours. The fraudulent act (of submitting falsified information) was committed prior to November 1, 2012. The W-2 agency must not apply an IPV penalty.

EXAMPLE 12: When the W-2 agency determines Lisa's initial W-2 eligibility 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 **On December 17, 2012, Lisa applies for W-2 and reports that her W-2 group only includes her and her son. Lisa is determined eligible for W-2. In February 2013, Lisa reports that Tony is living with her. The FEP then learns 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 completes a fraud referral and investigation. The investigation concludes that Lisa intentionally misrepresented her household in order to receive W-2 payments. The W-2 agency will must 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 applies an IPV penalty and processes an overpayment for the time Lisa was financially ineligible.**

EXAMPLE 3: Judy was found eligible for **is enrolled in** a W-2 T placement in February 2014. **On October 1,** Through a third party data exchange, Judy's FEP finds out **through a third-party data exchange** that Judy received \$10,000 as an inheritance on June 12,

2014. When Judy's FEP contacts Judy her, 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 her inheritance timely, her overpayment period starts the day she received the inheritance, June 12, and ends the day before she was again eligible, August 31. If Judy had reported the income timely, there would not have been an overpayment. The W-2 agency completes a fraud referral and investigation. The investigation concludes that Judy intentionally concealed her inheritance in order to remain eligible for W-2 payments. The date of the fraudulent act is June 12, 2014. The agency must apply an IPV penalty and process an overpayment for the time Judy was financially ineligible.

EXAMPLE 4: 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 the asset limit assets. Suki agrees, and Suki's FEP closes her case on July 31, 2016. There is no IPV or 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.

13.5.1.1.2 Intentional Program Violation Notification

The W-2 agency must notify an individual in writing that he or she committed an IPV by generating the IPVI letter from CWW. The letter informs the individual:

1. He or she 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. He or she has seven working days to provide any additional information regarding the IPV.

An individual must be notified in writing by the W-2 agency that they committed an IPV.

The IPV letter is automatically generated and sent from CWW when an IPV is entered, and informs the individual of the following:

1. The W-2 agency's determination of the IPV;
2. The dates and a description of the fraudulent act that resulted in the IPV penalty; and

3. The seven working days timeframe the individual has to provide any additional information regarding the IPV.

The W-2 agency must allow seven working days for the individual to rectify the IPV.

- If the individual submits additional information related to the IPV within the seven working day timeframe, 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 delete the IPV 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 impose the IPV.

The individual must be allowed seven working days to rectify the IPV with the W-2 agency by submitting additional information related to the IPV during that time.

If additional information is submitted, the W-2 agency must review it and determine if the IPV should be overturned. The W-2 agency must enter a comment in the BRITS referral explaining the additional information received and whether it upheld or overturned the IPV and why.

| If the IPV is | The W-2 agency must |
|---------------|--|
| Overturned | Delete the IPV and notify the individual that an IPV penalty will not be imposed. |
| Upheld | Impose the IPV penalty by running eligibility and confirming in CWW. Note: For cases that are still open, the W-2 agency must redetermine eligibility for the current month prior to CWW auto-closing the case at the end of the month. |

When an IPV penalty is imposed, the period of ineligibility begins the first day of the month after the seven working day timeframe. CWW will generate a Notice of Eligibility to the ineligible individual.

(See Operations Memo 13-10 for instructions on entering W-2 and JAL IPVs in CWW)

EXAMPLE: On May 28, 2013, the W-2 agency receives a fraud investigation report on Mary's case alleging that she concealed income. The Fraud Coordinator reviews the report on June 6, 2013 and determines that the fraudulent act was intentional. On that day, the W-2 agency enters the IPV in CWW and generates an IPV notification letter (IPVI) to Mary, giving her until June 17, 2013 to provide any additional information regarding the IPV. On June 18, 2013, the agency imposes the IPV penalty because Mary did not submit new information. This is Mary's first IPV. Mary will be ineligible for W-2 for six months beginning July 1, 2013, and ending December 31, 2013.

13.5.1.2 Intentional Program Violation Penalties

13.5.1.2 Prosecution Alternatives

There are several alternatives that allow individuals to avoid criminal prosecution in court by agreeing to certain terms at various points of the legal process:

- Pre-Charge Diversion Agreement;
- Pre-Trial Agreement;
- Deferred Prosecution Agreement; and
- Disqualification Consent Agreement.

If the W-2 agency determines that an individual has committed a W-2 or JAL IPV, the W-2 agency must impose an IPV penalty denying W-2 and JAL 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.

An individual who committed a W-2 or JAL IPV must be denied W-2 and JAL eligibility for the time frame that corresponds to the number of IPV penalties committed. The penalty time frames per IPV are as follows:

| IPVs committed | Length of penalty |
|----------------|-------------------|
| First | Six months |
| Second | One year |
| Third | Permanently |

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 Chapter 12). The duration of the ineligibility period is never subject to review.

Each IPV determination is subject to the dispute resolution process (See Chapter 12). Individuals may only dispute the determination of the IPV, not the duration of the ineligibility period. If an IPV is not reversed under the W-2 dispute resolution process, the penalty duration continues uninterrupted.

13.5.1.2.1 Imposing an Intentional Program Violation Penalty

IPV determinations for *W-2* (including *JAL*s), Wisconsin Shares (child care) and EA 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*. 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 EA.

If a *W-2* applicant or participant demonstrates an inability to obtain child care as a result of a child care *IPV*, the *W-2* agency must not grant good cause for all nonparticipation.

The following *IPVs* are program-specific and determined independently of each other:

- An *IPV* penalty imposed for Wisconsin Shares (child care) applies only to child care.
- An *IPV* penalty imposed for Emergency Assistance (EA) applies only to EA. For more information on EA *IPVs*, see [EA Manual Chapter 8](#).

However, an *IPV* penalty imposed for either *W-2* or *JAL* applies to both *W-2* and *JAL* eligibility.

EXAMPLE: Leo received a *W-2* *IPV* for intentionally misrepresenting his income so that he would be eligible for *W-2* payments. The *W-2* agency imposes an *IPV* penalty, denying Leo *W-2* eligibility for six months. Leo applies for a *JAL* and is denied for the loan because of his ongoing *W-2* *IPV* penalty.

A *W-2* applicant or participant must not be granted good cause for nonparticipation due to lack of child care that is a result of a child care *IPV*.

An individual may still receive an *IPV* penalty even if the *W-2* case has been closed for a *JAL* already issued.

EXAMPLE: Cathy applies for *W-2* and child care. During the *W-2* application process, Cathy states that she and her two children reside in her home. She states that her husband James moved out two months ago and she does not know where he is. The *FEP* completes the *W-2* intake and confirms eligibility. The *FEP* reviews all *W-2* forms with Cathy before she signs them. After the appointment, the *FEP*'s co-worker approaches her and states 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* learns after the appointment that Cathy intentionally misrepresented her household and that her husband also lives with the family. The *FEP* discusses the situation with the Fraud Coordinator who completes a fraud investigation and decides determines that Cathy committed a *W-2* *IPV*. The Fraud Coordinator notifies child care of the finding and child care makes the a separate *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 two 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 non-financial and financial eligibility.

13.5.1.2.2 Imposing an IPV Penalty for W-2 Groups with More than One Adult

More than one adult in the *W-2 Group* may be determined to have committed an IPV and can be subject to the penalty. Only the individual determined to have committed an IPV must receive the penalty. An individual ineligible for W-2 due to an IPV penalty is an *Included Adult* in the W-2 Group for the purpose of financial eligibility; however, the individual is not eligible for a W-2 placement or services or JAL.

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

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

(See Operations Memo [13-10](#) for instructions on entering W-2 and JAL IPV's in CWW)

When there is more than one adult in the *W-2 Group*, the W-2 agency must identify which individuals were involved in the fraudulent act that resulted in the IPV determination.

Only the individual(s) determined to have committed the IPV must receive the penalty.

W-2 Groups which include more than one adult may still be eligible for W-2 and JAL services if at least one of the adults in the group does not have an IPV penalty imposed.

In these circumstances, the individual with an IPV penalty is still counted in the W-2 Group for the purpose of financial eligibility. CWW will reflect the ineligible individual as an *Included Adult*. Included adults are not eligible for a W-2 placement, services, or a JAL.

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

EXAMPLE: Marta and Jose apply for W-2 for themselves and their two children in January 2024. Marta was previously on W-2 in September 2023 when Jose was out of the house. Marta has an IPV that was imposed three months ago in October 2023. Jose moved into the household in December 2023. The FEP completes the intake and determines the W-2 Group to be eligible. Since Marta is an Included Adult in the W-2 Group and not eligible for placement, Jose is placed in the W-2 placement.

13.5.1.2.3 Additional Intentional Program Violation 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:

1. **Refer for possible criminal prosecution.** The W-2 agency must communicate with its Corporate Counsel legal 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.
2. **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.

See 13.5.3 for more information.

13.5.1.3 Overpayment Recovery for Intentional Program Violations

The W-2 agency must establish all W-2 overpayments claims in the BRITS CARES BV Subsystem. CARES BRITS automates the collection process by sending the overpayment notice, repayment agreement, and past-due (dunning) notices. CARES also automates recoupment of overpayments from ongoing payments.

Because an individual's W-2 case will close for an IPV, it is not possible to recoup the associated overpayment by reducing from ongoing payments. When entering overpayment claims related to for an IPVs, the W-2 agency must use IV as the Error Type on CARES screen BVCL in BRITS.

IPV overpayments will be recovered from the individual through repayment (see 13.6.3.2).

If a balance still exists when the individual reapplies for, and is found eligible for W-2 after their penalty period is complete, CARES BRITS will recoup the remaining overpayment from ongoing W-2 payments. (See 10.3.3)

Under no circumstances can the W-2 agency recoup recover a JAL payments repayment from a W-2 payments, including from JAL recipients that have a JAL IPV. any JAL payments that occur due to an IPV. When a JAL recipient commits an IPV and receives an IPV penalty, the recipient is still subject to the terms of his or her their JAL repayment agreement are still in effect. (See 17.5.1)

13.5.1.4 Dispute Resolution Process

An individual may appeal an IPV determination by requesting a Fact Finding Review (See Chapter 12). A W-2 IPV determination and the establishment of an IPV-related overpayment are considered two separate actions. The individual must appeal each action separately.

13.5.2 Misrepresentation of Identity or Residence

A W-2 participant will be prohibited from participating in W-2 or receiving a JAL for 10 ten years if convicted in a federal or state court for of any of the following reasons:

1. Knowingly and willfully making or causing to be made any false statement or representation of material fact in any application for benefits or payments with respect to his or her identity or place of residence for the purpose of receiving state TANF assistance simultaneously from this state and at least one other state.

Dual TANF Assistance: Knowingly and willfully providing false information about their identity or place of residence in an application for benefits or payments, with the intent to receive state TANF assistance from Wisconsin and at least one other state simultaneously.

2. **Dual Assistance with TANF and Another Program:** Fraudulently misstating or misrepresenting his or her their identity or place of residence for the purpose of receiving from this state and at least one other state benefits or payments from Wisconsin and at least one other state simultaneously under one of the following programs:
 - a. Medical Assistance;
 - b. FoodShare; and or
 - c. SSI.

This misrepresentation is an IPV and must be counted as such when determining permanent ineligibility for three occurrences of IPV.

The 10 ten-year period will begin on the date of conviction. If the person individual who has been suspended from participating in W-2 for any of the above reasons is pardoned by the president of the United States for the conduct that caused the suspension, eligibility may be restored beginning on the first day of the first month after the pardon was granted.

13.5.1 3 Referral to Prosecution

13.5.13.1 Referral Criteria

13.5.13.2 Prosecution Alternatives

As a part of the W-2 agency's fraud standard operating procedures, the W-2 agency must establish internal policies and procedures for identifying fraud cases for referral to prosecution. W-2 agencies are encouraged to develop referral criteria with their local District Attorney's office to make a satisfactory referral to prosecution.

13.5.13.1 Referral Criteria

W-2 agencies must determine if a case should be referred for prosecution based on whether:

1. The completed investigation report supports the allegation of fraud and provides evidence of intent;
2. The investigation was completed in a timely manner;
3. The case meets the local agency's policy and cost-effective criteria;
4. The case meets the local District Attorney's prosecution criteria; and
5. The agency designee recommends prosecution.

13.5.13.2 Prosecution Alternatives

There are several The following prosecution alternatives that allow individuals to avoid criminal prosecution in court by agreeing to certain terms at various points of the legal process:

- Pre-Charge Diversion Agreement;
- Pre-Trial Agreement;
- Deferred Prosecution Agreement; and
- Disqualification Consent Agreement.

13.6 Fraudulent Benefit Recovery Collections

13.6.1 W-2 Overpayments

10.3.1.1 Calculating W-2 Overpayments

10.3.1.1.1 Calculating W-2 Overpayments When Moving Between W-2 T and CSJ Placements

10.3.1.1.2 Including the Amount of Child support Retained in W-2 Overpayment Calculations

An overpayment is issued when a participant receives a payment they were not eligible for. W-2 overpayments may occur as a result of an error by either the participant or the W-2 agency. There are three types of overpayments:

1. **Administrative Error:** The W-2 agency commits an error that results in an incorrect payments. This type of error is also known as non-client an agency error.
2. **Inadvertent Household Client Error:** The W-2 participant reports incorrect information or fails to report information due to a misunderstanding or unintended error. This type of error is known as client error (CE).
3. **Intentional Program Violation:** The W-2 participant willfully reports incorrect intentionally misrepresents or withholds information or fails to report information and, as a result, is found guilty of IPV by the W-2 agency imposes an IPV. (See 13.4.1)

If a W-2 agency issues a W-2 payment in error, the agency must create an overpayment claim. If the agency receives a returned check and there is an open overpayment claim, the agency must contact PACS to adjust the claim.

W-2 agencies should seek recovery and establish liability for overpayments only from adults members of in the W-2 Group. The adult member individual must have been an adult member of the W-2 household member group at the time the overpayment occurred.

The W-2 agency must establish the overpayment for only the amount of W-2 payments incorrectly paid to the individual. If fraud is suspected in other programs, the W-2 agency should communicate with other affected programs so all program benefit overpayments can be recovered.

Overpaid W-2 payments from paid W-2 employment positions and child care may will be recouped from either a CSJ or W-2 T payment. For more on recoupment, see 13.6.3.1.

If a W-2 agency issues a W-2 payment in error, the agency must create an overpayment claim. If the agency receives a returned check, the check must be posted as a repayment to the claim.

13.6.1.1 Liability and Deadlines for Establishing Overpayment Claims

The deadline for establishing liability for an overpayment claims varies depending upon the overpayment type.

10.3.2.1 Deadline for an Inadvertent Household Error or IPV Overpayment Claim

A claim for incorrect benefits due to an inadvertent household error or *IPV* that are subject to recovery should be established before the last day of the calendar quarter following the calendar quarter in which the overpayment was discovered. However, this does not bar the establishment of claims due to an inadvertent household error or *IPV* that fall past this timeframe. Claims for incorrect payments may be established up to six years after the discovery of the error.

| Overpayment Type | Liability |
|----------------------|--|
| Administrative Error | Up to one year prior to the notification date of the overpayment. See 13.6.2.3. |
| Client Error | Up to six years prior to the notification date of the overpayment, which is also known as the date of discovery. |
| IPV | Up to six years prior to the notification date of the overpayment, which is also known as the date of discovery. |

Overpayment claims for all error types must be entered into BRITS within 90 calendar days after the overpayment referral date. An overpayment notice is automatically generated and sent by BRITS the next working day.

EXAMPLE 1: If an overpayment is discovered on June 20th July 8, it must be established by September 30th October 6.

EXAMPLE 2: If an overpayment is discovered on January 2nd, it must be established by June 30th.

10.3.2.2 Deadline for an Administrative Error Overpayment Claim

Administrative error claims cannot be established if the end of the overpayment period exceeds 12 months from the date of discovery. The date of discovery is the notification date of the overpayment claim.

13.6.2 Calculating W-2 Overpayments

W-2 overpayments can occur throughout the time a participant is in W-2. To maintain accurate and consistent calculations of overpayment amounts, W-2 agency workers are required to use the W-2 Payment Calculator and Overpayment Worksheet to calculate a participant's overpayment.

13.6.2.1 Calculating W-2 Overpayments When Moving Between W-2 T and CSJ Placements

When a participant moves between a W-2 T and a CSJ placement during a participation period, the payment is not prorated. Instead, the participant receives the payment for the placement they were in at the end of the participation period. (see [10.2.5.1](#)).

When calculating an overpayment in this situation, W-2 agency workers must use the full payment amount of the last placement the participant was in.

EXAMPLE: Laura is in a CSJ placement for the 1/16-2/15 participation period. She discloses additional barriers to her FEP on 2/14, and this discussion leads to a new placement of W-2 T. The FEP does not update the placement in CWW until 2/28, after pulldown, so Laura is issued a full CSJ payment of \$653, instead of \$608 for the W-2 T placement she should have been in at end of the participation period. Laura will have an overpayment in the amount of \$45 (\$653-608) because payments are not prorated when changing between a CSJ and W-2 T.

13.6.2.2 Including the Amount of Child Support Retained in W-2 Overpayment Calculation

All parents in the W-2 group are required by law to assign all child support payments to the State while they are participating in the W-2 program and placed in a CSJ or W-2 T placement, or a CMC placement in certain situations. W-2 participants in these placements have 25% of their **c**Child **s**Support retained by the State. (See [15.1](#)).

Participants who incur overpayments related to eligibility such as unreported income and assets should not have had any of their **c**Child **s**Support retained during the time period they were ineligible for W-2. When determining eligibility-related overpayments,

W-2 agency workers must consider the amount of Child Support retained by the State when determining the final overpayment amount.

Overpayment calculations involving moving from a paid to an unpaid placement such as a CMF also need to consider the retained Child Support because unpaid placements are not subject to child support assignment and retention.

EXAMPLE: Doris is in a CSJ placement. Her worker learns she is no longer eligible and has incurred an overpayment for her last two months of payments. During those two months, the State retained \$30 a month of her child support payment received due to W-2 participation. Because Doris was not eligible for the W-2 program during that time, the W-2 agency worker must subtract the \$60 total in child support payments that was retained when calculating the overpayment. Doris earned \$1,306 in W-2 payments during two months of participation (\$653 x 2 months). The W-2 agency worker subtracts the retained child support payments from the overpayment to reach the final total overpayment to collect: $\$1,306 - \$60 = \$1,246$.

13.6.2.3 Determining the Overpayment Period

The overpayment period must have a start date and end date. The start date of an overpayment period is when the error was made, and the end date is when the incorrect payments were stopped.

The overpayment period for administrative error claims ends with the month the error last occurred and extends back 12 months, or when the error first became effective, whichever is most recent. In other words, the overpayment period cannot begin more than 12 months prior to the notification date of the overpayment.

To determine an overpayment period start date, consider the following potential dates:

1. The date when the participant reported incorrect information or failed to report information;
2. An unreported employment start date;
3. End or start date for placements that were not updated timely;
4. Dates of nonparticipation that were not entered timely; and
5. Any other relevant dates where an error occurred.

EXAMPLE 1: A W-2 worker discovers on October 1, 2005²⁴, that a W-2 participant incorrectly received W-2 payments beginning in August 2004²³ due to an administrative error. If the worker establishes the overpayment on October 1, 2005²⁴, the overpayment period cannot begin prior to October 2004²³. Therefore, the overpayment period would be October 2005 through November 2004. November 2023 to October 2024, even though the incorrect payments began in August 2023.

EXAMPLE 2: On August 1, a W-2 worker discovers unreported income for a W-2 participant. The worker determines through the employer that the participant started the new job earlier that year on May 23. The W-2 worker enters the unreported income and moves the participant into a CMF, effective August 7. Since the unreported income made the participant ineligible for W-2 payments, the start date of the overpayment period is May 23, when the participant started their new job. The end date of the overpayment is August 7, when the W-2 worker changed the placement.

13.6.3 Overpayment Recovery

All overpayments must be repaid in full. There are three methods for repaying an overpayment: Recoupment, Repayment, and Delinquent Collections.

13.6.3.1 Recoupment

Recoupment is the process of reducing ongoing W-2 payments until the case closes or the overpayment is repaid in full, whichever is sooner.

CSJ or W-2 T participants with an active client or administrative error overpayment will have their W-2 payments reduced by 10% per month.

CSJ or W-2 T participants with an overpayment due to an IPV will have their W-2 payments reduced by the following amounts:

| Overpayment Amount | Recoupment Amount |
|--|----------------------------|
| Less than \$300 | 10% of the monthly payment |
| At least \$300 but less than \$1,000 | \$75 per payment |
| At least \$1,000 but less than \$2,500 | \$100 per payment |
| \$2,500 or more | \$200 per payment |

Recoupment happens automatically in BRITS by reducing the monthly W-2 payment disbursed by DCF. The W-2 agency does not need to take any action once the overpayment claim is completed in BRITS.

The participant liable for the overpayment does not need to take any action while their case remains open. The participant may choose to make additional voluntary payments towards their overpayment if desired.

13.6.3.2 Repayment

Overpayment collections from persons in unpaid W-2 placements and closed cases must be sought by the W-2 agency.

Individuals with open overpayment claims who are either no longer open for W-2 or in an unpaid placement must repay their overpayment through a repayment agreement.

CARES BRITS will automatically send out repayment agreements for new claims, and dunning notices. All liable individuals must sign and return the agreement. If there is more than one liable individual on the case at the same address, each individual will receive their own repayment agreement. Only one agreement must be returned; however, it must include both liable individuals' signatures.

The repayment agreement will be returned to PACS, The W-2 agency which will work with the individual to negotiate a monthly repayment amount for each program overpayment they are liable for. must negotiate an amount of repayment for each program. Monthly repayments should be negotiated in an amount that will repay the overpayment within a reasonable length of time. It is recommended that the individual pay a monthly amount that will repay the overpayment in full within 36 months; however, the negotiated monthly repayment amount must be at least \$20 per month per liable individual. In the event of unsuccessful collection efforts by the W-2 agency and after the third dunning notice is sent by CARES, the Department will begin centralized collection efforts. For further information on repayment agreements, see Appendix - Benefit Issuance Guide.

Failure to return a signed Repayment Agreement and/or make a payment of the agreed upon amount each month will result in a dunning notice being automatically sent out by BRITS. Dunning notices inform the liable individual that they have missed a payment or have a past due balance.

13.6.3.3 Collections

Every time an individual fails to make their agreed-upon payment each month, they will receive a dunning notice. If the individual receives three total dunning notices over the life of the overpayment, the debt is considered delinquent and sent for collections.

The DCF Public Assistance Collection Section (PACS) located in DCF serves as the State's central collection section for the recovery of delinquent public assistance overpayments.

Delinquency collection actions can include the following:

- **Liens** – Docketed against a debtor's real and personal property, such as a home, to secure the state's interest.
- **Levies** – Issued against all real and personal property including wages or bank accounts.
- **State tax Interceptions** – Issued against the individual's state tax refunds or credits owed by the debtor.

All collection actions are initiated and tracked by PACS; however, W-2 agencies may need to assist PACS occasionally by obtaining and providing documentation supporting the collection action.

13.6.3.3.1 Administrative Hearings for Delinquency Collection Actions

Once the individual is notified of the delinquency collection action, he or she they has have 21 calendar days to appeal a levy or lien collection action and 30 calendar days to appeal a tax intercept collection action. The Division of Hearings and Appeals (DHA) conducts the administrative hearings for delinquency collection actions.

A delinquency hearing may be limited to the delinquency collection action or questions of prior payment or debtor identity. However, under certain circumstances, the ALJ may decide to review the underlying merits of the overpayment, including This can include inquiries such as how the overpayment was calculated and whether the agency provided proper notice to the debtor(s) had been was provided.

W-2 agencies are not involved in the delinquency hearing process. PACS will appear and prepare all exhibits for all lien and levy delinquency hearings. DCF's Office of Legal Counsel (OLC) will appear and prepare all exhibits for tax intercept hearings.

PACS and OLC will collaborate with the Wisconsin Works (W-2) agency prior to the delinquency hearing to determine if a fact-finding review took place on that claim.

When a W-2 or Job Access Loan (JAL) delinquency hearing results in the need to address the underlying merits of the overpayment, PACS, and OLC, and the W-2 agency will do the following:

will request that the ALJ schedules a fact finding if there was no prior fact finding decision made prior to the delinquency hearing. The local W-2 agency that established the claim will follow the current procedures in 12.2.5. If there is a fact finding decision on record, PACS will request that the ALJ schedule a departmental review. The local W-2 agency that established the claim will follow the current procedure for departmental review in Section 12.3.

If a merit hearing or departmental review already occurred on the W-2 or JAL related claim, PACS and OLC will provide that information at the time of the delinquency hearing and will request no additional hearing to be scheduled.

| Scenario | PACS and OLC will: | The W-2 agency will: |
|---|---|---|
| No prior Fact Finding decision on record. | Request that the ALJ schedule a Fact Finding. | Follow the Fact Finding procedure outlined in 12.2.5. |

| | | |
|--|--|--|
| A Fact Finding decision is on record, but no Departmental Review occurred. | Request that the ALJ schedule a Departmental Review. | Follow the Departmental Review procedure outlined in 12.3. |
| A Departmental Review already occurred. | Take no action. This information should have already been provided at the delinquency hearing. | Take no action. |

The delinquency hearing will be held in the *Petitioner's* current county of residence.

If the case has been transferred to another W-2 agency since the overpayment determination, both the current agency and the previous agency will be notified of requested appeals. The agency where the overpayment originated is the agency that must attend and provide supporting information if the hearing is rescheduled to a Fact-Finding or Departmental Review hearing. An agency can request to attend the hearing by telephone in a transferred case situation or at any other time that a telephone appearance is warranted. The notice of scheduled hearing will list the Administrative Law Judge and his or her their telephone number to contact for requested telephone appearances.

13.6.3.3.2 Collection Action Hearings

When an program participant individual appeals a lien or levy collection action through DHA for a W-2 or JAL overpayment, DHA will notify PACS and the local W-2 agency that established the claim via email. The local W-2 agency does not need to take any action at that time.

For lien or levy appeals, PACS will take the following actions:

- Prepare and provide DHA with all exhibits;
- Appear at the hearing and defend the lien and/or levy collection action;
- Review decisions for policy adherence;
- Comply with the hearing decision by removing/continuing lien and levy collection action; and
- Provide the certification of compliance to DHA, when necessary.

When a program participant appeals a tax intercept action through DHA for W-2 or JAL, DHA will notify PACS and the local agency that established the claim via email. The local W-2 agency does not need to take any action at that time. For tax intercept appeals, PACS and the Department of Children and Families (DCF) Office of Legal Counsel (OLC) will take the following actions:

- PACS will communicate with OLC DHA that a debtor initiated the action being appealed is a W-2 tax intercept appeal through DHA.
- OLC will request DHA to convert the delinquency hearing to a contested case hearing DHA will send hearing notification directly to DCF OLC.
- OLC will prepare and provide DHA with all exhibits.
- OLC will appear at the hearing and defend the tax intercept action.
- OLC PACS will comply with the hearing decision by removing/continuing the tax intercept action.
- OLC will work with PACS to will complete and provide a certification of compliance to DHA when necessary.

13.6.3.4 Benefit Recovery Investigation Tracking System (BRITS) and Central Recovery Enhanced System (CRES) Overpayment Recovery Actions

CARES processes overpayment claims, identifies liable individuals, and generates the appropriate notices and worksheets. CARES tracks the repayment of overpayments, issuance of notices of nonpayment, closes a claim when the balance is paid, and identifies and tracks refunds.

In BRITS, workers will:

- Enter and process overpayment claims;
- Identify liable individuals;
- Update or confirm mailing addresses;
- Upload a completed overpayment worksheet to the claim; and
- Document actions and other information.

Once the worker initiates the overpayment, BRITS:

- Generates the appropriate notices;
- Tracks the repayment of overpayments;
- Issues dunning notices;
- Closes a claim when the balance is paid; and
- Identifies and tracks refunds.

CARES BRITS sends three dunning or past due notices to the individual before referring delinquent claims for further collection action, as authorized by law, to the CRES.

CRES is monitored and maintained by the PACS. PACS uses the CRES system to initiate delinquent collection actions including state tax intercept and lien and levy for TANF the W-2 and JAL programs.

13.6.3.5 Recovery of AFDC Overpayments

As of 2024, all outstanding AFDC overpayments are delinquent and subject to collection actions by PACS. W-2 agencies have no responsibility to ensure repayment of this type of overpayment and should direct any questions they receive to PACS.