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TO: **W-2 Agencies**  
**Income Maintenance Supervisors**  
**Income Maintenance Lead Workers**  
**Income Maintenance Staff**  
**Workforce Development Boards**  
**Job Center Leads and Managers**  
**Training Staff**  
**Child Care Coordinators**

FROM: Janice Peters  
Bureau of Wisconsin Works  
Division of Family Supports

**DWS OPERATIONS MEMO**

No: 07- 37

DATE: 07/10/2007

FS	<input type="checkbox"/>	MA	<input type="checkbox"/>	SC	<input type="checkbox"/>
CTS	<input type="checkbox"/>	CC	<input checked="" type="checkbox"/>	W-2	<input checked="" type="checkbox"/>
FSET	<input type="checkbox"/>	EA	<input type="checkbox"/>	CF	<input type="checkbox"/>
JAL	<input checked="" type="checkbox"/>	JC	<input type="checkbox"/>	RAP	<input type="checkbox"/>
WIA	<input type="checkbox"/>	Other	EP	<input type="checkbox"/>	★

PRIORITY: HIGH

SUBJECT: **W-2 and CC Agency Representation at Public Assistance Overpayment Tax Intercept Administrative Hearings**

**CROSS REFERENCE:** Wis. Stats. 49.85; Administrative Rule DWD 12.23; BV Self-Study Guide (OM 99-64); CARES Guide, Chapter 9

**EFFECTIVE DATE:** Immediately

**PURPOSE**

The purpose of this memo is to inform Wisconsin Works (W-2) and Child Care (CC) agencies of the requirement to attend all public assistance overpayment tax intercept administrative hearings conducted by the Department of Administration, Division of Hearings and Appeals (DHA). These hearing proceedings are regulated under Wis. Stats. Chapter 227 for the public assistance programs that are subject to tax intercept which include W-2, CC and Job Access Loans (JAL).

**BACKGROUND**

When W-2/CC Agency benefit overpayment actions are not successful, the Public Assistance Collection Unit (PACU) located in the Department of Workforce Development (DWD) serves as the state's central collection section for the recovery of delinquent public assistance overpayments. The PACU is responsible for administering the tax intercept program through the Central Recoveries Enhanced System (CRES). This system was redesigned and implemented in November, 2006.

Public assistance overpayments may be collected through the interception of Wisconsin state tax refunds, including tax credits. Once the client is notified of the intended tax intercept action, he or she has 30 days to appeal the interception. If there is no appeal filed, the PACU refers the debt through automation to the Department of Revenue (DOR) for purposes of intercepting a debtor's tax refund or credit to repay a delinquent overpayment.

## ***POLICY***

W-2 and CC agencies, including both private W-2 agencies and county administered W-2 agencies, are required to attend all overpayment related hearings including tax intercept hearings as they relate to respectively administered programs. Although the PACU operates the tax intercept program, the agency that initiated the overpayment is responsible for attending and providing adequate case documentation to support the state's collection actions in a tax intercept hearing.

## ***PROCEDURE***

1. Claim(s) are established in CARES by W-2 and CC agency representatives and an overpayment notice is sent to all liable individuals per procedures in OM-99-64 and CARES Guide, Chapter 9.
2. A repayment agreement (RPA) is sent by CARES. Liable individuals have the opportunity to enter into an acceptable voluntary repayment agreement.
3. If the agreed upon payment is not received in any given month, a dunning notice is sent by CARES (up to three times over the life of the debt).
4. After the fourth monthly payment is missed, the claim(s) becomes delinquent and are referred to the CRES system for further delinquent collection action.

Once a debt is delinquent and eligible for State tax intercept, it is automatically referred to the CRES system through CARES. CRES sends a DOR tax intercept notice to liable individuals that instruct the debtor that he or she has 30 days to request a hearing to dispute the tax intercept action. The State PACU is required to notify the debtor at the debtor's last-known address. The PACU notifies the debtor of the intended offset only one time over the life of the debt. If the debtor does not request an administrative hearing within the 30 days, the debt is sent automatically to DOR by CRES for collection.

If an administrative tax intercept hearing is requested, the PACU will stop the DOR state tax intercept action pending the hearing outcome.

## ***ROLE OF W-2/CC AGENCY IN TAX INTERCEPT HEARING***

A tax intercept hearing may be limited to the tax intercept issue or questions of prior payment or debtor identity; however, under certain circumstances the Administrative Law Judge (ALJ) may decide to review the underlying merits of the overpayment. This can include inquiries such as how the overpayment was calculated and whether proper notice to the debtor(s) had been provided. Therefore, the agency must attend the hearing and be prepared to defend the original overpayment determination as well as the tax intercept action.

Documentation that the W-2/CC agency should present at the hearing may include but is not limited to:

- The policy supporting the agency's action (i.e. why the overpayment occurred)
- Any relevant documentation supporting the overpayment, for example:
  - Original overpayment notices and worksheets, dunning notices, signed RPA's
  - CARES budget and issuance screens
  - Case comments
  - Employment verifications
  - Fraud investigations, if applicable
  - Any related Fact Findings for W-2/JAL
  - Any related Fair Hearings for Child Care

Each month, as new delinquent debtors are identified and referred to CRES, the PACU sends DOR tax intercept notices to the debtors and provides a copy to the appropriate W-2 and CC agency. This notice must be presented by the agency at the tax intercept hearing. If an agency is unable to locate their copy of the DOR tax intercept notice prior to a scheduled hearing, the agency representative may contact the PACU to request a new copy (see contact information below).

The PACU is notified of all overpayment related administrative hearing requests and monitors and complies with all DHA decisions and orders.

The DHA will notify W-2 and CC agencies of all requested administrative tax intercept hearings. W-2 and CC agencies are required to prepare a statement explaining the disputed action which is being appealed to DHA within 10 days of receiving a hearing notification. A copy of this statement must be forwarded to the PACU at the address or fax number below. DHA will also send a subsequent notice with the date; time and location of the tax intercept hearing via email.

The tax intercept hearing will be held in the petitioner's current county of residence. If the case has been transferred to another W-2 or CC 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 for any requested tax intercept 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 ALJ and his/her telephone number to contact for requested telephone appearances.

**NOTE ➤ All Milwaukee W-2 tax intercept hearings (W-2 and JAL) are scheduled and held at 1220 W. Vliet Street. The appropriate Milwaukee W-2 agencies are notified of scheduled hearings via a hearing docket emailed to designated staff. The W-2 agency may attend the hearing via telephone if unable to appear in person due to the location of the hearing and should request a telephone appearance by contacting DHA (see contact information below).**

**CONTACTS**Public Assistance Collection Unit (PACU)

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★Program Categories – FS – FoodShare, MA – Medicaid, SC – Senior Care, CTS – Caretaker Supplement, CC – Child Care, W-2 – Wisconsin Works, FSET – Food Stamp Employment and Training, CF – Children First, EA – Emergency Assistance, JAL – Job Access Loan, JC - Job Center Programs, RAP – Refugee Assistance Program, WIA – Workforce Investment Act, Other EP – Other Employment Programs.  
DHFS/DHCF/BEM/JE

DWD/DWS/BDS/jlb