



Date: August 10, 2022

DMS Operations Memo 22-14

August 19, 2022

To: Income Maintenance Supervisors  
Income Maintenance Lead Workers  
Income Maintenance Staff

**Affected Programs:**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> BadgerCare Plus | <input type="checkbox"/> Caretaker Supplement              |
| <input checked="" type="checkbox"/> FoodShare       | <input type="checkbox"/> FoodShare Employment and Training |
| <input checked="" type="checkbox"/> Medicaid        |  |
| <input type="checkbox"/> SeniorCare                 |  |

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Division of Medicaid Services

**Change in Total Overpayment Policy**

**CROSS REFERENCE**

- FoodShare Wisconsin Policy Handbook, [3.14.1 Intentional Program Violation \(IPV\) Disqualification](#), [7.3.1 Benefit Overpayment](#), and [7.3.2 Calculating Overpayment Claim Amounts](#)
- BadgerCare Plus Handbook, [Chapter 28 Corrective Action](#)
- Medicaid Handbook, [22.2 Overpayments](#)
- Process Help, [31.3 Benefit Recovery](#)
- WI § 49.497
- WI § 49.793
- 7 U.S. Code § 2022
- 7 CFR 273.18(e)(7)(i)

**EFFECTIVE DATE**

August 10, 2022

**PURPOSE**

This operations memo announces a change in policy for health care and FoodShare total overpayments to align with federal regulations.

**Note:** The policies described in this memo do not override any temporary policies in place during the COVID-19 pandemic, including but not limited to the prohibition on assessing overpayments for months during the federal public health emergency.

## **BACKGROUND**

When a person receives health care or FoodShare benefits they were not entitled to, it is considered an overpayment. Income Maintenance (IM) agencies establish claims against members to repay the benefits they weren't entitled to receive.

In most cases, IM agencies must gather information or verification, or both, to determine whether an overpayment has occurred and how much it is. This requires cooperation from the member and, as needed, third parties. When all attempts to obtain information from the member or third parties are unsuccessful, the IM agencies use the best information they have available, such as information from data exchanges.

Currently, when the member fails or refuses to provide the information and no other information is available from third parties or data exchanges, the overpayment is calculated as if the applicant or member was completely ineligible for the benefit, called a total overpayment.

## **POLICY**

Effective August 5<sup>10</sup>, 2022, for health care and FoodShare, when all attempts to obtain verification are unsuccessful, information is not available in data exchange, and it is not possible to determine the correct amount of benefits that should have been issued to the applicant or member, an overpayment may not be established.

An overpayment claim is not required to investigate a potential IPV or fraud if there is clear and convincing evidence an IPV or fraud occurred. In addition, the establishment of an overpayment claim in itself is not sufficient for a finding of an IPV or fraud. A member who fails to cooperate with a worker attempting to determine if an overpayment occurred is not clear and convincing evidence of an IPV or fraud.

## **CONTACTS**

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