

WISCONSIN DEPARTMENT OF HEALTH SERVICES
Division of Medicaid Services
1 W. Wilson St.
Madison WI 53703

To: Caretaker Supplement Handbook Users

From: Jori Mundy, Bureau Director
Bureau of Eligibility and Enrollment Policy

Re: **Caretaker Supplement Handbook Release 23-01**

Release Date: 04/17/2023

Effective Date: 04/17/2023

EFFECTIVE DATE	The following policy additions or changes are effective 04/17/2023 unless otherwise noted. Underlined text denotes new text. Text with a strike through it denotes deleted text.
POLICY UPDATES	
2.4.1.1 Signatures from Representatives	Clarified information about applications by authorized representatives and durable power of attorney.
2.6.1 Time Frames Introduction	Updated application processing rules to new 20-day minimum verification period (effective 2/25/2023). Aligned with other Income Maintenance programs.
3.1.14 Verification	Updated to 20-day minimum verification period for requested verifications and added general rules for agencies to follow (effective 2/25/2023). Aligned with other Income Maintenance programs.
4.3 Recoupment of Incorrect Benefits	Clarified recoupments related to fair hearing decisions.
4.7 Fair Hearing	Section rewritten to replace fair hearings policies formerly in the Income Maintenance Manual (these CTS policies differ slightly from the other Income Maintenance programs).
4.8 Representatives	Section rewritten to provide descriptions of types of representatives.
4.8.1 Authorized Representatives	Updated grammar.
4.8.2 Legal Guardians and Conservators	New section.
4.8.3 Power of Attorney	New section.
4.9 Releasing Information	New section to replace policies formerly in the Income Maintenance Manual (these CTS policies differ slightly from the other Income Maintenance programs).
4.10 Applicant and Member Access Rights	New section to replace policies formerly in the Income Maintenance Manual.
4.11 Documents	New section to replace policies formerly in the Income Maintenance Manual.

2.4 Valid Signature

2.4.1 Valid Signature Introduction

2.4.1.1 Signatures from Representatives

The following people can sign the application with their own name on behalf of the applicant:

- **Guardian**

When an application is submitted with a signature of someone claiming to be the applicant's guardian, obtain a copy of the document that designates the signer of the application as the guardian. From the documents provided, ensure that the person claiming to be the applicant's guardian can file an application on ~~the applicant's~~ their behalf (see SECTION 4.8.2 LEGAL GUARDIANS AND CONSERVATORS).

When someone has been designated as one of the following, only the guardian, not the applicant, may sign the application or appoint an authorized representative:

- Guardian of the estate
 - Guardian of the person and the estate
 - Guardian in general
- If the applicant only has a **legal guardian of the person**, the guardian may sign the application since they are acting responsibly for an incompetent or incapacitated person. However, a legal guardian of the person can't appoint an authorized representative. The applicant must be the one to appoint an authorized representative if they choose to have one.

The applicant may appoint their legal guardian of the person to be the authorized representative. If the legal guardian of the person has been appointed, they may sign the application as the authorized representative.

- **Authorized Representative**

The applicant may authorize someone to represent ~~him or her~~ them. An authorized representative can be ~~an individual~~ a person or an organization (see SECTION 4.8.1 AUTHORIZED REPRESENTATIVES). ~~See Section 4.8 Authorized Representatives for more information.~~

~~If the applicant needs to appoint).~~

Applicants appointing an authorized representative when applying by telephone or in person, ~~instruct the applicant~~ need to complete the Appoint, Change, or Remove an Authorized Representative form (Person [F-10126A](#) or Organization [F-10126B](#)).

~~An~~ Once appointed, an authorized representative ~~is~~ may be responsible for submitting a completed, signed application and any required documents. However, the authorized representative is not required to sign the application, though they are able to sign on behalf of the applicant. If an applicant has an authorized representative, the applicant can still sign the application on their own behalf.

When appointing an authorized representative, someone other than the authorized representative must witness the applicant's signature. If the applicant signs with a mark, two witness signatures are required.

- **Durable power of attorney** (Wis. Stat. ch.244)

A durable power of attorney is a person to whom the applicant has given power of attorney authority and agrees that the authority will continue even if the applicant later becomes disabled or otherwise incapacitated (see SECTION 4.8.3 POWER OF ATTORNEY:-

~~When a submitted application is).~~

Applications signed by someone claiming to be the applicant's durable power of attorney:

- a. ~~Obtain~~ are not considered properly signed unless a copy of the ~~document the applicant used to designate the signer~~ Durable Power of Attorney form designating the durable power of attorney.
 - b. ~~Review the document for a reference that~~ is included with the application and indicates the durable power of ~~attorney~~ attorney's authority continues notwithstanding any subsequent disability or incapacity of the applicant.
- ~~Do not consider the application properly signed unless both of these conditions are met.~~

An ~~individual's~~ applicant's durable power of attorney may appoint an authorized representative for purposes of making a CTS application if authorized on the Durable Power of Attorney form. The Durable Power of Attorney form will specify what authority is granted.

The appointment of a durable power of attorney does not prevent an applicant from filing ~~his or her~~ their own CTS application nor does it prevent the applicant from granting authority to someone else to apply for public assistance on ~~his or her~~ their behalf.

- Someone acting responsibly for an incompetent or incapacitated person.

Example 1	Carla is hospitalized and temporarily incapacitated. Marco, a hospital social worker, can apply for CTS on Carla's behalf.
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2.6 Time Frames

2.6.1 Time Frames Introduction

All applications received by an agency must be processed and eligibility approved or denied as soon as possible, but no later than 30 calendar days from when the agency receives the application. This includes issuing a Notice of Decision.

The 30-day processing time frame ~~must~~will be extended to allow the applicant at least ~~40~~20 days to provide requested information or verification.

~~Workers may also extend the 30-day processing time up to 10 days to allow the applicant additional time to provide the information.~~

Example 1:	A signed application was received on March 15. The worker processed the application on April 7 and requested verification. Verification was due April 17 <u>27</u> but was not received by that date. Even though the end of the 30-day application processing period was April 14, the application should not be denied until April 17 <u>27</u> to allow at least 40 <u>20</u> days to provide verification.
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If an agency fails to take action (positive or negative) during the 30-day processing period, and the applicant is subsequently found eligible, redetermine eligibility using the filing date associated with that most recent application.

Example 2:	A signed application was received on May 15. The first day of the 30-day period was May 16. The end of the 30-day period would have been June 14. The application was approved on June 20, and the applicant is determined eligible beginning May 1.
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3.1 Nonfinancial

3.1.14 Verification

CTS applicants and members must provide verification when requested in order for an IM agency to process an application or review of eligibility for CTS. The verification requirement applies to both non-financial and financial information. Failure to provide such verification will result in denial or termination of CTS benefits. Applicants and members must be given a minimum of 20 days to provide requested verification.

The following information must be verified by ~~members or~~ applicants or members or through data exchanges when CTS eligibility is being determined:

- Social Security Number
- Citizenship or ~~alien~~ immigration status

Note: To be eligible for ~~Caretaker Supplement, an individual~~ CTS, a person declaring U.S. citizenship must provide proof of citizenship with two exceptions to this requirement:

- Citizenship verified by the SSA data exchange is considered sufficient verification for ~~Caretaker Supplement~~ CTS applicants and members.
- SSI recipients have already verified their citizenship to SSA and do not need to verify citizenship status for ~~Caretaker Supplement~~ CTS.

- School enrollment for 18-year-olds
- Income earned from employer
- Income earned from self-employment (IRS tax forms must be signed by the member.)
- Unearned income (~~i.e.,~~ for example, Social Security)
- Pregnancy of minor child
- Property transferred in past 24 months (for example, land, stocks, etc.)

General Rules for Verification

1. Over-verification, including requiring excessive pieces of evidence for any one item or requesting verification that is not needed to determine eligibility, is prohibited. Once the accuracy of a written or verbal statement has been established, additional verification can't be required. For example, once U.S. citizenship is verified, an applicant or member never has to verify it again.
2. If information has already been verified, the applicant or member does not need to verify it again except in the following situations:
 - a. There is reason to believe the information is fraudulent or differs from more recent information. If fraud is suspected, the IM agency will determine if a referral for fraud or for front-end verification should be made.

- b. The member reported a change to information that is subject to verification.
 - c. At renewal, information is subject to verification.
- 3. One particular type of verification can't be exclusively required when various types are adequate and available.
- 4. Verification need not be presented in person. Verification may be submitted by mail, fax, email, or through another electronic device or through an authorized representative.
- 5. Special groups or persons can't be targeted based on race, color, national origin, age, disability, sex, religion, or migrant status for special verification requirements.
- 6. The applicant or member can't be required to sign a release form (either blanket or specialized) when the applicant or member provides required verification.
- 7. Verification of information that is not used to determine eligibility can't be required.
- 8. During verification, the applicant or member can't be harassed or have their privacy, personal dignity, or constitutional rights violated.

The applicant or member has primary responsibility for providing verification and resolving questionable information.

IM agencies must assist the applicant or member in obtaining verification if they request help or have difficulty in obtaining it.

The best information available should be used to process the application or change within the time limit when both of the following two conditions exist:

- 1. The applicant or member does not have the power to produce verification.
- 2. Information is not obtainable timely even with the IM worker's assistance.

Applicants meeting the CTS eligibility criteria based on this best available information are eligible for benefits. Even after the application or change is processed using best available information, the IM agency is required to continue in their attempts to obtain verification. When the verification is received, benefits may need to be adjusted or recovered based on the new information. The agency must explain this to the applicant or member when requesting verification.

4.3 Recoupment of Incorrect Benefits

Occasionally, CTS benefits are overpaid. This may happen when an SSI parent was ineligible for CTS because ~~his or her~~ their child(ren) was out of the home, the child received SSI for the month in question, the parent's SSI eligibility was retroactively denied by the Social Security Administration, or the parent provided fraudulent information that led to CTS eligibility. In addition, if benefits are continued pending a fair hearing and the agency's adverse action is upheld, or the fair hearing is withdrawn or abandoned, any overpayments caused by benefits having been continued may be subject to recovery. Both member and agency errors are subject to recovery as long as they meet the requirements provided below.

Since CTS benefits are paid as part of the parent's SSI benefit payment, the State SSI program recoups overpaid benefits. While CARES and BRITS do not track CTS benefit recovery. ~~However,~~ the local agency worker ~~must determine~~ determines when an overpayment has occurred. ~~See (see Process Help, Section 9.9.9 Overpayments.~~

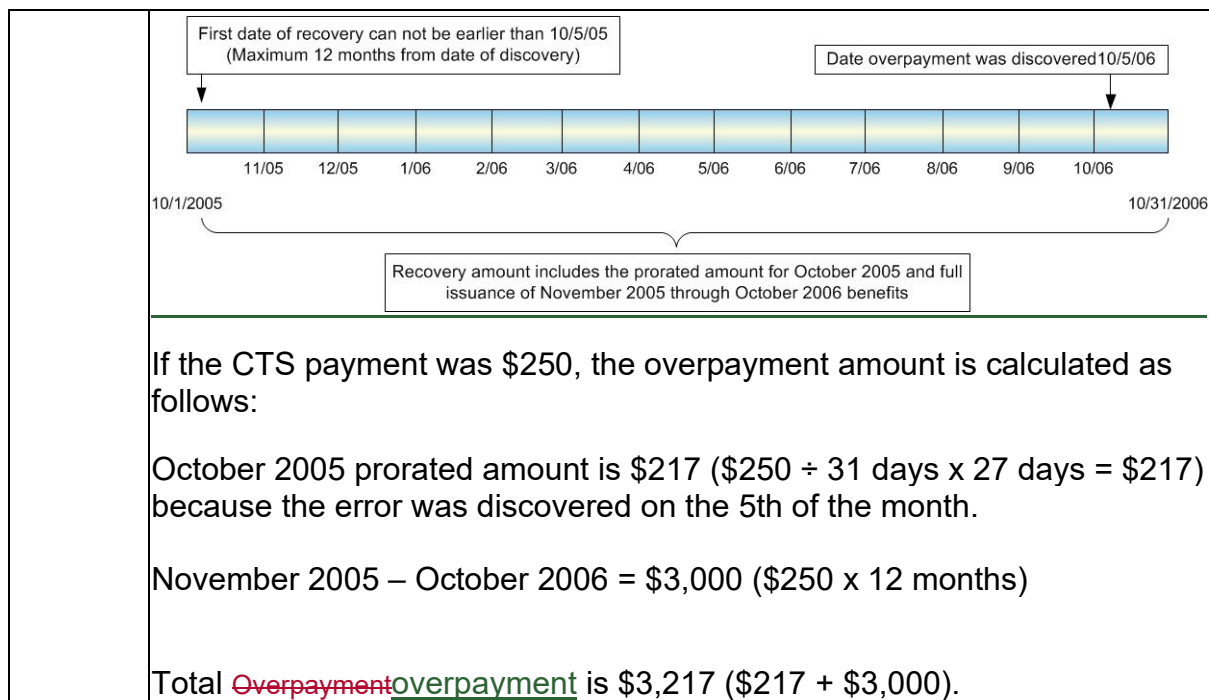
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Administrative Rules (DHS 2) permit the State SSI program to collect 10 ~~percent~~ % of each future SSI payment (which may include CTS benefits) until an overpayment is repaid. SSI parents may repay the entire amount owed in a single payment, or negotiate with the State SSI program for a payment schedule that is higher than 10 ~~percent~~ % per month.

Incorrectly paid CTS benefits ~~cannot~~ can only be recovered for ~~more than~~ 12 months prior to the date of discovery of the incorrect payment. Agencies administering CTS ~~shall~~ must ensure that recovery of incorrectly paid CTS benefits extends no more than 12 months back from the date of discovery.

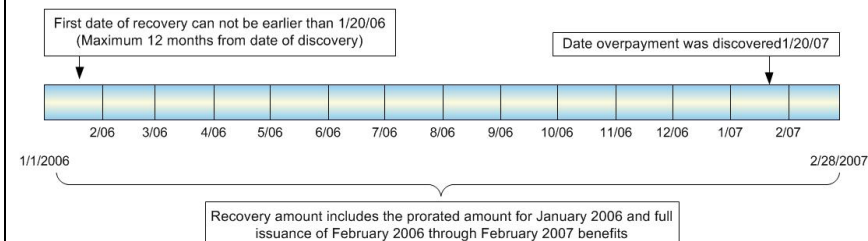
Date of discovery means the actual date, not the month of discovery. Unless the discovery is made on the first of the month, the overpayment amount for the first month will need to be prorated. To prorate the overpayment amount, divide the monthly payment amount by the number of days in that month and round down to the nearest dollar. Then multiply the result by the number of days subject to recovery in that month.

Example 1:	<p>A worker discovers on October 5, 2006, that an overpayment of CTS benefit exists <u>occurred</u> because the child, for whom the benefit was being paid, was not living in the home since August 1, 2005. CTS closes effective November 1, 2006. Recovery <u>Since recovery</u> can only extend back 12 months from date of discovery. In this case, only the benefits paid from October 5, 2005, to October 31, 2006, can be recovered.</p> <p><u>Benefits paid August 1, 2005, to October 4, 2005, are not recoverable.</u></p>
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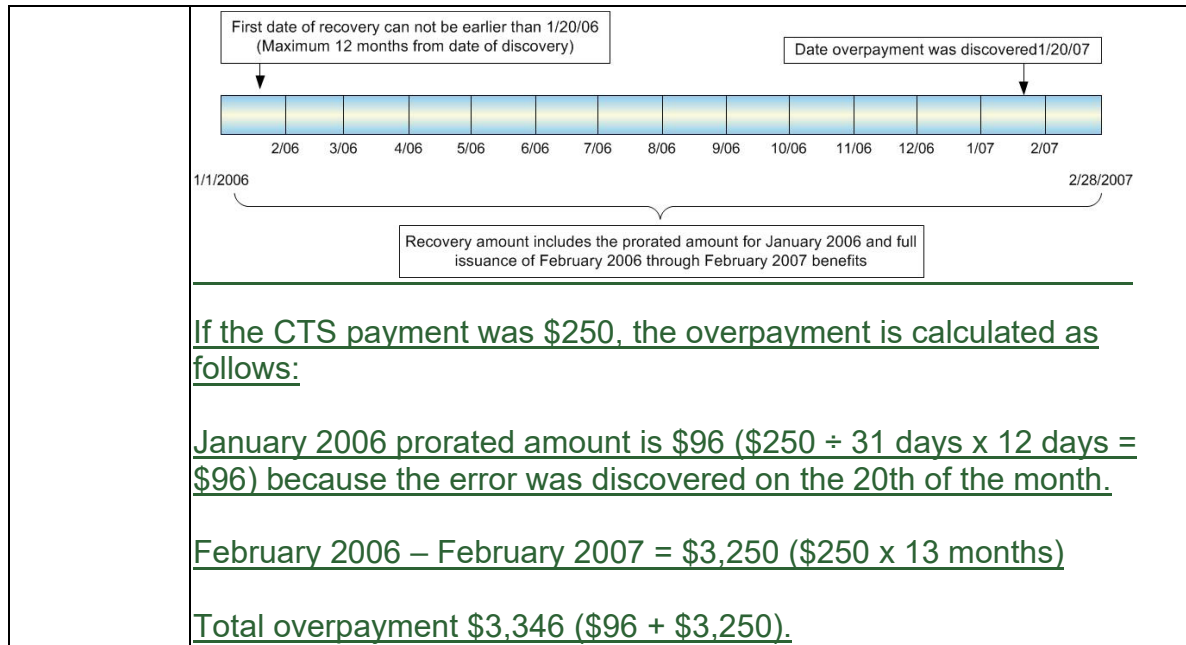
Example 2:

~~The worker discovers on January 20, 2007 that the recipient's assets exceeded program limits as of January 1, 2005 (CTS closes effective February 28, 2007 following adverse action notice). Since the discovery date is 1/20/07, the overpayment can only extend back to 1/20/06 (twelve months from the discovery date).~~



~~the CTS payment was \$250, the overpayment is calculated as follows: January 2006 prorated amount is \$96 ($\$250 \div 31 \text{ days} \times 12 \text{ days} = \96) because the error was discovered on the 20th of the month. February 2006 – February 2007 ($\$250 \times 13 \text{ months} = \$3,250$) Total overpayment \$3,346 ($\$96 + \$3,250$).~~

<u>Example 2:</u>	<u>The worker discovers on January 20, 2007, that the recipient's assets exceeded program limits starting January 1, 2005. CTS closes effective February 28, 2007, following adverse action notice. Since the discovery date is January 20, 2007, the overpayment can only extend back to January 20, 2006. Benefits paid January 1, 2005, to January 19, 2006, are not recoverable.</u>
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CTS overpayments that occur because the worker cannot give proper (timely) notice and close the case by the end of the current month are also recoverable.

Example 3:	<p>On December 21, 2006, the worker learns that a child moved out of the home on December 19, 2006, and the case is no longer eligible for CTS. The worker enters the new information into CARES but the CTS eligibility does not end until January 31, 2007.</p> <p>The benefits paid in January are subject to recovery since the parent was not eligible for them, but they continued until adverse action notice could be provided.</p>
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Voluntary repayments of CTS overpayments may be addressed to ~~DHS, State SSI Program, P.O. Box 6680, Madison, WI 53716-0680.~~

DHS
ATTN: State SSI Program
P.O. Box 6680
Madison, WI 53716-0680

4.7 Fair Hearing

CTS applicants ~~who are denied CTS eligibility and ongoing CTS recipients who are given notice of adverse action (benefit reduction, termination or overpayment and recoupment) have a right to~~ may appeal any of the following actions of the Department of Health Services (DHS) or an Income Maintenance (IM) agency and request a fair hearing ~~regarding the agency action.~~;

- Denial of an application for CTS or the overt denial of the right to apply
- Failure to act on an application with reasonable promptness
- Reduction or termination of CTS benefits
- The determination of the amount or initial eligibility date of CTS benefits
- The determination of an overpayment of CTS benefits
- The determination to recover an overpayment of CTS benefits by means of certification to the Wisconsin Department of Revenue and the determination of the amount of such an overpayment as including an amount they believe has already been repaid or discharged in bankruptcy

The right to a fair hearing and hearing procedures are specified in ~~ss. Ch.~~ State Statutes, Chapter 227, Subchapter III, Administrative Actions and Judicial Review, and in the Wisconsin Administrative Code, Chapter HA 3, Procedure and Review. ~~Customers have up to 45 days after the effective date of an adverse action to appeal a decision.~~

~~Requests for hearings should be addressed to:~~
Practice for Fair Hearings.

Hearings are conducted by the Wisconsin Department of Administration
Division of Hearings and Appeals
~~P.O. Box 7875~~
~~Madison, Wisconsin 53707-7875.~~

~~The will arrange for a hearing examiner to hear the appeal at the IM agency office or by phone. Notice of the place and time (DHA) for the hearing and the hearing decision will be sent to the SSI parent, his or her representative, the IM agency, and the SSI Caretaker Supplement (CTS) program. In some instances, when the recipient requests a hearing before~~ addition, DHA conducts hearings for the effective date of BadgerCare Plus, Medicaid, and FoodShare programs.

Hearings serve to:

1. Interpret the ~~adverse action,~~ program to applicants and members who disagree with the ~~DHA will order continuation of CTS benefits pending agency's~~ action.

2. Bring the ~~outcome of a hearing. When this occurs~~ applicant or member, the ~~IM agency worker is responsible~~, and state authorities into discussion for ~~assuring that benefits continue. When benefits~~ a better understanding of problems.
3. Resolve factual disputes.
4. Clarify policies and their application in relation to laws and regulations.
5. Review policies in program administration and reveal those which require clarification or revision.
6. Promptly remedy unfair treatment, mistaken or arbitrary action, and negligence.

Hearings are conducted by an Administrative Law Judge (ALJ). The ALJ is an impartial official who:

- Is familiar with relevant federal and state policies and procedures.
- Was not involved in the action being contested.
- Was not the immediate supervisor of the worker who took the action.
- Does not have ~~continued and the~~ a personal stake or involvement in the case.

ALJs are duly appointed and qualified agents of DHA.

The ALJ's powers and duties are to:

- Administer oaths or affirmations.
- Ensure all relevant issues are considered.
- Request, receive, and place in the record all evidence necessary to decide the issue.
- Regulate the hearing's conduct and course consistent with due process to ensure an orderly hearing.
- Provide a hearing record and ~~decision of~~.

The ALJ conducts the hearing and issues its decision on CTS cases usually within 60 to 90 days of the date DHA receives the hearing request.

The ALJ will issue a final decision for most hearings. The IM agency must carry out the decision within 10 days.

The ALJ will sometimes issue a proposed decision if there are questions about CTS policy or if the policy conforms to state and federal law. All parties may send written comments to DHA within 15 days of receipt of the proposed decision. After the 15-day comment period, DHA will send the proposed decision and all comments received to the Secretary of the Department of Health Services. The Secretary will review the proposed decision and make the final decision. The final decision will then be communicated to all parties.

If the applicant, member, or representative fails to appear at the hearing without good cause, the hearing ~~examiner~~ request will be dismissed. This type of dismissal is ~~not in the SSI parent's favor, the parent~~ called an Abandoned Hearing. DHA will notify the applicant, member, or representative and the agency when a hearing is ~~responsible for repaying any benefits for which he or she was not entitled~~ dismissed.

If an applicant or member disagrees with a hearing decision, they may request a rehearing or appeal the hearing decision to the Circuit Court (see SECTION 4.7.7 REHEARING and SECTION 4.7.8 JUDICIAL APPEALS).

An applicant or member who wins a decision may also ask for reimbursement of any attorney fees (see SECTION 4.7.6 COST MOTION).

The hearing record is available for copying and inspection by the applicant, member, representative, or agency at any reasonable time. All hearing records and decisions are available for public inspection and copying, so long as applicant and member identity is safeguarded.

4.7.1 Resolution Prior to Hearing

When an applicant or member disagrees with an agency's action, the applicant or member may contact their agency to attempt to resolve the issue. This may be done through the normal modes of communication between the applicant or member and the agency, such as a phone call or in-person visit. It also may be done through an agency conference where the applicant or member meets with the worker responsible for the agency's action or other agency representatives.

Contact with the agency does not affect the applicant or member's right to a fair hearing or the time limit for requesting a fair hearing. The agency must advise the applicant or member that an agency conference is the applicant or member's choice and doesn't delay or replace a fair hearing. The applicant or member may request a hearing without first contacting the agency.

Note If the applicant or member requests a fair hearing, the fair hearing process will continue unless the applicant or member voluntarily withdraws the hearing request in writing to DHA (see SECTION 4.7.6 WITHDRAWAL OF FAIR HEARING REQUEST).

4.7.2 Fair Hearing Request

A request for a fair hearing may be made by the applicant, member or former member, representative, immediate family member or someone with legal authority to act on their behalf. A request for a hearing may be made in writing by filling out the Request for Fair Hearing form ([DHA-28](#)) or writing a letter with the request and sending it to the Division of Hearings and Appeals (DHA).

Division of Hearings and Appeals
P.O. Box 7875
Madison, WI 53707-7875

Fax: (608) 264-9885

Email: DHAMail@wisconsin.gov

DHA will schedule a hearing upon receipt of the hearing request. DHA has jurisdiction to conduct hearings for CTS if the request is received by DHA within **45 days** of any of the following:

- The date on a denial notice, a notice of overpayment, or recoupment of benefits
- The **effective date** of a reduction or termination of benefits
- The date of other actions

DHA may dismiss a request if the action being appealed is a result of a change in federal or state law or policy affecting a significant number of members, unless the member questions its application specific to their case. When a hearing request is dismissed, DHA will notify the applicant or member.

A hearing request from an applicant or member who plans to move from Wisconsin before a decision would normally be issued, such as a migrant worker, will be expedited so the applicant or member can receive a decision and any restored benefits before they leave the state.

A group of people may request a group hearing if individual issues of fact are not disputed, and the sole issue being appealed is a federal or state law or policy. DHA may also consolidate several hearings on the same topic into one but only on questions of policy. Procedures for group hearings are the same as in individual hearings. Each applicant or member must be notified of the right to withdraw from a group hearing and pursue an individual hearing.

4.7.3 Continued Benefits

DHA may order a member's CTS benefits to continue while a decision on the hearing is pending. The IM and Fiscal Services agencies must comply with DHA's initial order until otherwise notified or the member waives this continuation of benefits. The IM agency must inform members of their right to waive continued benefits and that they may have to pay back any continued benefits received if they lose the hearing decision.

DHA can reverse its continuance order only when the hearing was not requested prior to the action's effective date. If DHA does not order benefits reinstated and the agency believes that the member is entitled to them, the agency must notify DHA.

Once benefit continuation has begun, the IM and Fiscal Services agencies must maintain those benefits until DHA orders a change or some other change in eligibility occurs.

4.7.4 Withdrawal of Fair Hearing Request

Only the applicant, member, or their representative may withdraw a fair hearing request for CTS. Applicants, members, and representatives can fill out the Voluntary Withdrawal form ([DHA-17](#)) or send a written and signed letter to DHA (see [SECTION 4.7.2 FAIR HEARING REQUEST](#) for DHA contact information).

Only DHA has the authority to grant or deny a withdrawal request. DHA will notify the agency if a fair hearing request is withdrawn.

4.7.5 Hearing Assignments

A hearing shall be:

- Held at a time reasonably convenient to the applicant or member or their representative, department, or agency staff, and the ALJ.
- Easily accessible to the applicant or member.
- Held on agency premises, whenever possible.

An applicant or member may be represented by an attorney or anyone of their choosing.

An applicant or member must notify DHA at least five days prior to the hearing if they need special arrangements for the hearing, such as an interpreter or a hearing site other than the county agency.

DHA shall provide written notice to the applicant or member and their representative, if any, of the time, date, and place of the hearing at least 10 days before the hearing.

DHA may postpone a hearing for good cause.

The parties may be directed by the ALJ to appear at a conference or to participate in a telephone conference to consider how issues might be clarified or simplified, whether facts or documents which may be admitted which will avoid unnecessary proof, or any other matter that may aid in the disposition of the appeal.

The applicant, member, or their representative shall have an opportunity to do any or all of the following:

- Examine all documents and records to be used or that are used at the hearing, and the content of the applicant's or member's case file, at a reasonable time before the date of the hearing and during the hearing.
- Present the case or have it presented by a representative.
- Bring witnesses.
- Question or refute any testimony or evidence and confront and cross-examine adverse witnesses.
- Submit relevant evidence to establish all pertinent facts and circumstances in the case.
- Advance relevant arguments without undue interference.

A hearing shall be recorded by the ALJ.

If individual issues of fact are not in material dispute and related issues of state or federal law are the sole issues being raised, DHA may respond to a series of individual requests for a hearing by conducting one group hearing.

4.7.6 Cost Motion

When the applicant or member wins a hearing, their attorney may file a cost motion with DHA. A cost motion is a request for payment of attorney fees and other costs associated with the hearing.

The ALJ will review the cost motion and agency response to DHA and decide if:

- The agency's position at the hearing was not "substantially justified" and costs associated with the cost motion must be paid from state funds.
- The agency was "substantially justified" or special circumstances exist which would make the award of the cost motion unjust.
- The cost motion was frivolous (that is, submitted in bad faith) for the purpose of harassing or maliciously injuring the state agency. The agency should include facts relating to harassment in its response to DHA if such conduct occurred. In this case, the hearing officer may award costs to the state agency.

4.7.7 Rehearing

An applicant or member may request a rehearing by DHA. The request must be made within 20 days of the date of the decision. DHA may grant or refuse the request. A rehearing will be held only when there has been one or more of the following:

1. An error of law
2. An error of important fact
3. New evidence discovered which could not have been presented at the first hearing

DHA will usually not grant a rehearing unless the error or new evidence is sufficiently important to change the decision. If DHA neither grants nor denies a rehearing request within 30 days, the request is deemed denied.

4.7.8 Judicial Appeals

An applicant or member that disagrees with the final decision may appeal to the Circuit Court of their residence within 30 days of the date of the decision or rehearing denial, whichever is later.

Note An applicant or member may appeal to the court without first requesting a rehearing.

The applicant or member's petition for review to the Court must include:

1. The issue being appealed.
2. How they are aggrieved by the decision.
3. The request for relief they desire.

A copy of the petition will be served on DHS with notice to the Wisconsin Attorney General's Office.

4.7.9 IM Agency Responsibilities for Fair Hearings

4.7.9.1 Prior to the Hearing

The agency must prepare for the hearing by reviewing the appropriate case records and determine the cause of the contested action. The agency must submit a detailed summary to DHA and the applicant, member, or their representative that explains the action(s) under appeal within 10 days of receiving notification of the hearing request.

The agency must also gather relevant testimonies, exhibits, and materials from the case record and other sources. This information must be submitted to DHA and the applicant, member, or their representative prior to the hearing.

At least 10 days prior to the hearing, DHA sends a Notice of Scheduled Hearing to the applicant, member, and/or representative, as well as the agency. This allows the applicant or member and agency 10 days to prepare for the hearing. The applicant or member may request less advance notice to expedite scheduling the hearing.

The notice states:

1. DHA will dismiss the request if the applicant, member, or any representative fails to appear without good cause.
2. The name, address, and phone number of whom to notify if the applicant, member, or representative cannot attend.
3. The applicant or member and any representative may examine the case record prior to the hearing. Agencies must allow the applicant, member, or representative access to their case record and the opportunity to photocopy, free of charge and at a reasonable time before the hearing, all documents they would like to introduce as an exhibit at the hearing. Questions relating to the examination of sensitive information can be directed to DHA.

4.7.9.2 After the Hearing

Proposed Decisions

Agencies may respond to a Proposed Decision. Written comments must be sent to DHA within 15 days of the date of the proposed decision.

Final Decisions

A final decision is binding upon the department and IM or fiscal services agency involved and may be enforced by appropriate legal and fiscal sanctions.

When a decision is favorable to the applicant or member, the IM agency must carry out the decision's orders within 10 days of the order.

When the decision is not favorable to the applicant or member, the decision notice is the final notice for the case, except for overpayment notices. No further timely or adequate notice requirement applies for the issue that was appealed. CTS benefits will be discontinued or reduced immediately.

Cost Motion

The agency has 15 days from the filing of the cost motion to submit a written response to DHA.

Rehearing and Judicial Appeals

If a rehearing is granted or an appeal of the hearing decision is made to the Circuit Court, the agency must continue to comply with the final decision unless and until a decision from the rehearing or the Court reverses it. The agency is not required to assist the client in preparing a rehearing or a judicial appeal.

Recoupment

If an agency's adverse action is upheld or the fair hearing is withdrawn or abandoned, any overpayments caused by benefits having been continued may be subject to recovery based on the overpayment policies (see SECTION 4.3 RECOUPMENT OF INCORRECT BENEFITS)

4.8 Representatives

4.8.1 Authorized Representatives

Applicants or members can appoint either ~~an individual~~ a person or an organization as an authorized representative. An authorized representative can be appointed by completion of one of the following paper forms:

- Appoint, Change, or Remove an Authorized Representative: Person (F-10126A-~~r~~)
- Appoint, Change, or Remove an Authorized Representative: Organization (F-10126B-~~r~~)

If an applicant or member is represented by a legal guardian of the person and the estate, legal guardian of the estate, legal guardian in general, or conservator, the legal guardian or conservator must appoint the authorized representative. If the applicant or member only has a legal guardian of the person, the applicant or member must appoint the legal guardian of the person as an authorized representative if the applicant or member would like the legal guardian of the person to act on ~~his or her~~ their behalf. If the applicant or member has a power of attorney, the applicant or member can still appoint an authorized representative.

A valid authorized representative appointment requires all contact information of the authorized representative and the signatures of the applicant or member, the authorized representative, and a witness. If the applicant or member is signing with an "X," a valid appointment requires a witness signature. If any of the required signatures are missing, the following three conditions apply:

- The authorized representative appointment is not valid.
- This authorized representative ~~cannot~~ can't take action on behalf of the applicant or member.
- The agency ~~cannot~~ can't disclose information about the case to the invalid authorized representative.

There can be only one authorized representative on a case at a time ~~on a case~~. There is no time limit on how long a person or organization can act as authorized representative. The appointment of the authorized representative is valid until the applicant or member notifies the agency of a change or removal in writing. Once appointed, the authorized representative has ability to act for all open programs on the case.

Organizations acting as authorized representatives must provide the name and contact information of a person from the organization. Once the organization has been appointed as the authorized representative, anyone from the organization will be able to take action on behalf of the applicant or member (not just the person who signed the form on behalf of the organization). If an organization is only changing the contact

person for the organization, the member is not required to complete a new Appoint, Change or Remove Authorized Representative form if the organization is going to remain as the authorized representative.

The authorized representative should be familiar with the applicant or member's household situation and is expected to fulfill their responsibilities to the same extent as the ~~individual~~ person being represented. An authorized representative is limited to doing any or all of the following on behalf of the applicant or member:

- Apply for or renew benefits
- Report changes in the ~~applicant's~~ applicant or member's circumstances or demographic information
- Receive copies of the ~~applicant's~~ applicant or member's notices and other communications from the agency
- Work with the IM agency on any benefit-related matters
- File grievances or appeals regarding the ~~applicant's~~ applicant or member's eligibility

To change an authorized representative, the member must complete and submit the Appoint, Change, or Remove an Authorized Representative form (Person, F-10126A ~~F-10126A~~) or (Organization, F-10126B ~~F-10126B~~) to ~~his or her~~ their IM agency.

To remove an authorized representative, the member needs to let the agency know of the removal in writing. ~~For~~ (for example, by completing Section One of the Appoint, Change, or Remove an Authorized Representative form or submitting a signed letter indicating the removal~~;~~). The member does not need to gather additional signatures from the authorized representative or a witness to complete the removal of an authorized representative. Authorized representatives can also request in writing (for example, a signed statement) to be removed if they no longer want to act as the authorized representative. If an authorized representative is requesting to be removed, a signed statement is not needed by the member. An authorized representative designation is valid on a case until the agency receives a written and signed request ~~is received~~ for removal.

4.8.2 Legal Guardians and Conservators

Persons or interested parties may petition a court to appoint a guardian or conservator. There are a variety of reasons that an appointment may be sought, including but not limited to:

- Inability to manage finances
- Inability to manage personal health
- Inability to function safely without supervision
- Parent or guardian of minor is now deceased

Some of these appointments might be an emergency or temporary reason or for the purposes of succession after the death of the previous guardian or conservator.

A judge grants the guardian or conservator powers based on the circumstances of the person. A legal guardian of the person and the estate, legal guardian of the estate, or legal guardian in general is considered to be the applicant or member's legal guardian for CTS purposes. If a person or entity is one of these legal guardian types or the conservator, the applicant or member does not need to separately appoint them as the authorized representative. The legal guardian or conservator appointment grants them the powers that an authorized representative would have on the CTS case.

A legal guardian of the person is not considered to be the applicant or member's legal guardian for CTS purposes. The applicant or member must appoint the legal guardian of the person as an authorized representative if the applicant or member would like the legal guardian of the person to act on their behalf.

Depending on their court-appointed powers, a guardian or conservator can apply for and act in the same capacity as an authorized representative for the household. It is possible the court-appointed powers will give the guardian or conservator sole authority to manage the person's eligibility.

The legal guardian or conservator should be familiar with the applicant or member's household situation and is expected to fulfill their responsibilities to the same extent as the person being represented. The legal guardian or conservator can take any action on the application or case on behalf of the applicant or member unless the guardianship or conservatorship court order limits their powers.

Applicant and member notices and other communications from the agency will be sent to the legal guardian or conservator.

See SECTION 2.4 VALID SIGNATURE for information on valid application signatures by legal guardians or conservators.

4.8.3 Power of Attorney

An applicant or member may appoint a power of attorney. A power of attorney may act within the scope of authority granted in the power of attorney appointment.

A durable power of attorney is a person to whom the applicant has given power of attorney authority and agrees that the authority will continue even if the applicant later becomes disabled or otherwise incapacitated. Only a durable power of attorney for finances (may also be known as a durable power of attorney for finances and property) is considered to be the power of attorney for CTS purposes.

If a person has a durable power of attorney for finances, the applicant or member does not need to separately appoint them as an authorized representative. The durable power of attorney for finances appointment grants them the powers that an authorized representative would have on the CTS case.

The durable power of attorney for finances should be familiar with the applicant or member's household situation and is expected to fulfill their responsibilities to the same

extent as the person being represented. The durable power of attorney for finances can take any action on the application or case on behalf of the applicant or member unless the power of attorney appointment limits their powers.

Applicant and member notices and other communications from the agency will be sent to the durable power of attorney for finances.

See SECTION 2.4 VALID SIGNATURE for information on valid application signatures by a power of attorney.

4.9 Releasing Information

4.9.1 Disclosure Without Consent

Department of Health Services (DHS), Department of Workforce Development (DWD), Department of Children and Families (DCF), and its contractees may disclose a person's information from the agency record to other programs routinely and without the person's consent for a purpose compatible with the data's collection.

Income Maintenance (IM) agencies may disclose a person's information from the agency record to the following agencies:

1. County child support agencies.
2. County departments of social or human services.
3. DHS-contracted county, tribal, and private W-2 agencies.
4. Weatherization agencies under contract with the Wisconsin Department of Administration (DOA) providing weatherization services to low-income persons.
5. Tribal agencies administering DHS programs.
6. General relief/assistance agencies.
7. State of Wisconsin DCF staff for administering W-2.
8. FoodShare Employment and Training (FSET) agencies administering the FSET program.
9. Any fiscal agent of the state administering benefit payments under the CTS program (currently Gainwell Technologies).
10. The Social Security Administration for administering the Supplemental Security Income (SSI) benefits.
11. Local public housing authorities where the member applies for public housing or for federal rent assistance.
12. DWD, Division of Unemployment Insurance (DUI) for computer matching to Unemployment Insurance Benefit payments.
13. Job Training Partnership Act (JTPA) agencies to the extent that the information is necessary to determine JTPA program eligibility.
14. Any other federally assisted program providing cash or in-kind assistance or services directly to people on the basis of need. Federally-assisted school food service programs are included in this category. Families may apply for free or reduced meals in that program. Do not provide a school or school district with a list of students receiving FoodShare. However, if the school requests you to confirm the recipient status of a child or a list of children who have applied for free or reduced meals, provide the confirmation.
15. US Comptroller General's Office.
16. Any official conducting an investigation, prosecution, or civil proceeding in connection with the administration of an Income Maintenance (IM) program. The official must submit to the agency a written request to obtain information. The request must include the identity of the person requesting the information, their

authority to request, the violation being investigated, and identify the person being investigated. Do not apply this restriction to the agency's District Attorney or fraud investigator.

17. Persons directly connected with the administration or enforcement of the programs which are required to participate in the state income and eligibility verification system (IEVS), to the extent that the information is used to establish or verify eligibility or benefit amounts under those programs.

18. Staff of any public or private agency for the administration of the Federal Title IV-E Foster Care program or Adoption Assistance program.

No other routine disclosure from client records is approved. The member or guardian must authorize all other disclosures.

4.9.2 Disclosure with Consent

A member may authorize the disclosure of information of record about their self to a third party. Require the member or guardian's written authorization. The Confidential Information Release Authorization and Confidential Information Release Authorization to Agency may be used for this purpose. A copy of the authorization should be provided to the agency that collected the information. The authorization must specify the information to be disclosed, to whom it is to be disclosed, and for what period of time.

4.9.3 Emergencies

Other circumstances may arise when disclosure must be given without consent because a person's health or safety is in imminent danger. When there is reason to believe a health or safety emergency exists, the agency director (or designee) may authorize disclosure. Notify the person in writing within 72 hours of this disclosure.

4.9.4 Special Circumstances

4.9.4.1 Legislative Committees

Don't disclose information for the broad investigatory purposes of legislative committees. Federal legislation prohibits disclosure to any committee or committee's legislative body (federal, state, or local) of any information that identifies an applicant or recipient by address or name.

4.9.4.2 Crime Victim's Compensation Program

The Crime Victim's Compensation (CVC) Program is administered by the Wisconsin Department of Justice (DOJ), Crime Victims Services. Its intent is to provide financial support to victims of crime within Wisconsin.

DOJ is required to determine a person's W-2, CTS, FoodShare, and/or Medicaid eligibility status and benefit amount before it may dispose of someone's application for

CVC. As part of the application process for CVC, the applicant must sign an authorization of release of confidential information.

Information should only be released to CVC program staff about CVC applicants and recipients when the CVC applicants and recipients have signed a release of confidential information for the CVC program. Eligibility information and the amount of benefits in the W-2, CTS, FoodShare, and Medicaid eligibility programs are the only information that can be released to CVC staff.

4.9.4.3 Law Enforcement

45 CFR §205.50(a)(1)(v) permits agencies to provide the current address of a CTS recipient to a law enforcement officer when the officer does all of the following:

1. Provides the agency, in writing, the name of the recipient or participant.
2. Demonstrates, in writing, to the agency's satisfaction, that the recipient or participant is a fugitive felon under 42 USC 608(a)(9) and at least one of the following applies:
 - a. The recipient or participant violated a condition of probation or parole imposed under state or federal law.
 - b. The recipient or participant has information that is necessary for the officer to conduct the official duties of that officer.
3. Has within their official duties the location or apprehension of the felon, AND
4. Is making the request in the proper exercise of their duties.

Seek the advice of legal counsel if there is a question about the appropriateness of a request for this information.

4.9.4.4 Subpoenas and Records Requests

In the event of the issuance of a subpoena for the case record or for any agency representative to testify concerning an applicant or recipient, the IM Agency is to only provide the court with the statutory provisions and the policies or rules and regulations against disclosure of information.

4.9.5 Prohibited Disclosure

Examples in which disclosure is prohibited are:

1. Requests from an official not connected with the agency for privileged information.
2. Requests from private citizens for case information frequently related to business or personal matters, such as the collection of bills from the recipient.
3. IM agencies are not authorized to provide information about the receipt of benefits or the dollar amount of those benefits to the U.S. Citizenship and Immigration Services (USCIS), the U.S. State Department, or immigration judges unless that information will assist Wisconsin in collecting outstanding debts. Even

if the request is for documentation of the amount of benefits received, this information is not to be released as the disclosure is not directly connected to the administration of the program about which information is requested.

4.9.6 Data Exchanges

4.9.6.1 Introduction

CWW Data Exchanges provide query access to databases that store employment information, unemployment income, and Social Security and SSI income (including social security number, citizenship/identification, and Medicare verification) information.

The rules of confidentiality apply to all data obtained from these queries. In addition, because of the sensitive nature of the data available, rules have been established for accessing the data as well as release of data obtained from these queries.

4.9.6.2 Use of Data

Data exchanges can only be accessed for official program purposes. No one is permitted to browse the records of any query, even if there are no intentions to share the data.

4.9.6.3 Query Access

Take all precautions necessary to ensure that only authorized agency staff have access to the online queries.

4.9.6.4 Release of Data

Only release data received from a query to:

- The person who is the subject of the data.
- The person's attorney or other duly authorized representative who needs the data in connection with that person's fair hearing.
- Another county, state, or federal agency administering the FoodShare, child support, SSI, or Medicaid programs.
- A criminal or civil authority that agrees in writing to protect the confidentiality of the data provided.

4.10 Applicant and Member Access Rights

4.10.1 Introduction

An applicant or member has the right to see their entire case record to verify that its content is accurate with respect to their statements and that documentation of facts about them from other sources is correct.

When an applicant or member requests access to the record for reasons not related to preparation for a fair hearing, the agency does not have to show them the entire record. Ask the applicant or member what part they want to review, and, if practical, show them only that portion of the record.

4.10.2 Fair Hearings

Don't withhold any part of the record from the client when, they are preparing for a fair hearing.

4.10.3 Sensitive Medical Information

Confidential information release authorization forms do not promise the medical reporting source that information won't be revealed to the applicant or member if they request to see it. In most cases, the applicant or member has direct access to the information.

In some cases, IM agencies may determine that the requested medical information is of a "sensitive" nature and that its release directly to the applicant or member may not be in their best interest. When this occurs, request the applicant or member to name, in writing, a representative. This representative may be a physician or other responsible person (for example, a clergyman or attorney). Release the requested information to the representative with the instruction that they review it and inform the applicant or member of the content at the representative's discretion.

Retain the applicant or member's authorization to release this information to their representative in the case record.

4.10.4 Access by Representative

An applicant or member may authorize a representative, either an attorney or non-attorney, to act on their behalf in gaining access to the applicant or member's case record. The right of access by the representative is the same as that of the applicant or member's and is unrelated to any pending fair hearing.

When a non-attorney is to act for the applicant or member, require a signed authorization from the applicant or member.

When the person authorized by the member to access case information is the authorized representative who signed the application, the condition of a written authorization is already met, and no additional form needs to be signed.

An attorney representing the applicant or member doesn't need a separate written authorization. When there is a reason to doubt a representative's statement that they are the applicant or member's attorney, the agency may request proof of their licensure and/or that they are representing the person.

4.11 Documents

4.11.1 Date Stamping Documents

All paper documents received by an agency must have the received date on the cover page or first page of each document. Prior to scanning, IM workers should date stamp or write the date the document was received on the front of the document.

4.11.2 Photocopying Vital Records

§69.30 Wis. Stats. permits DHS, county, W-2, and tribal social and human service agencies to photocopy vital records for administrative use.

Vital records include:

- Birth certificates
- Death certificates
- Marriage documents
- Divorce and annulment certificates
- Data related to any of the above documents

This statute exempts agencies from its restrictions if there is an administrative need for the copy and it's marked "For Administrative Use." Penalties for improperly photocopying vital records include fines and imprisonment.