

# Good Cause & Noncooperation

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## Contents

\*\*\*Click the topic to go to that section\*\*\*

1.0	Introduction.....	1
2.0	Policy Authority.....	2
2.1	Citations.....	2
2.2	Federal.....	2
2.3	State.....	3
3.0	Noncooperation.....	3
3.1	Definition: CP Cooperation and Acts of Cooperation.....	3
3.2	Definition: CP Noncooperation.....	4
3.3	Definition: NCP Cooperation and Acts of Cooperation.....	4
3.4	Definition: NCP Noncooperation.....	4
3.5	Adequate Reason.....	5
3.6	Affidavit Attesting to Full Cooperation.....	5
3.7	Notification.....	5
3.8	Remedying Noncooperation.....	5
3.9	Program Sanctions.....	6
3.10	Exemptions for Cooperation.....	6
3.11	Noncooperation Disputes.....	6
3.12	Process for Reviewing Noncooperation Determinations.....	6
4.0	Good Cause.....	7
4.1	Criteria for Determining Good Cause.....	7
4.2	Good Cause Determination.....	8
4.3	Good Cause Does Not Exist.....	8
4.4	Good Cause Exists.....	9
4.5	Review of Good Cause Decision.....	9
5.0	Timelines.....	9
5.1	Filing a Good Cause Claim.....	9
5.2	Notifying the Child Support Agency.....	9
5.3	45 Days to Decide a Claim.....	9
5.4	Submitting Corroborative Evidence.....	10
5.5	Good Cause Does Not Exist.....	10

## 1.0 Introduction

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As a condition of eligibility, any custodial parent (CP) who applies for or is receiving assistance from W-2/TANF (Temporary Assistance for Needy Families), Foster Care, and Medicaid must cooperate with the child support agency (CSA) handling his/her IV-D case in establishing paternity and obtaining child and/or medical support. However, an individual may claim that she or he has good cause for refusing to cooperate with the

CSA. In this instance, the individual feels that cooperating with the CSA would not be in the child's best interest because of the possibility of physical or emotional harm to the child(ren) or to the parent. Cooperation requirements also apply to noncustodial parents (NCP). In Wisconsin, child support agencies decide noncooperation and W-2 agencies determine whether the noncooperation is a product of good cause. This chapter highlights federal and state policies governing noncooperation and good cause. Information on procedures and other sources for noncooperation/good cause information are found in the [Good Cause & Noncooperation](#) factsheet, and the [Good Cause](#) and [Noncooperation](#) resource pages on the [Child Support Workweb](#).

## 2.0 Policy Authority

### 2.1 Citations

Citations	Topic
Social Security Act 654(29)	CSA determines noncooperation
Public Law 109-68	TANF Emergency Response & Recovery Act 05 2005 (Hurricane Katrina emergency benefits)
45 CFR 302.31	State plan requirements: establishing paternity & support
45 CFR 302.70(5)	Required state laws
45 CFR 303.5	Establishment of paternity
§ 48.57, Wis. Stats.	Cooperation for kinship care
§ 49.145, Wis. Stats.	Cooperation for W-2
§ 49.19(4), Wis. Stats.	Cooperation for Caretaker Supplement (CTS)
§ 49.22, Wis. Stats.	Child and spousal support; establish paternity; medical liability
§ 49.45(19), Wis. Stats.	Cooperation for Medicaid
DCF 58, Wis. Admin. Code	Kinship care child support cooperation
DCF 102.03, Wis. Admin. Code	W-2 child support cooperation
DCF 102.10, Wis. Admin. Code	Review of agency decision for W-2

### 2.2 Federal

Citations	Topic
<a href="#">Social Security Act 654(29)</a>	CSA determines noncooperation
<a href="#">45 CFR 302.31(b)(c)</a>	State plan requirements: establishing paternity & support
<a href="#">45 CFR 302.70(5)</a>	Required state laws
<a href="#">45 CFR 303.5(d)(1)</a>	Establishment of paternity

Section 654(29) of the Social Security Act establishes child support agencies as the authority for determining cooperation and noncooperation. The Act states that CSAs must decide whether an individual who has applied for or is receiving assistance under

state programs funded under Part A (TANF/W-2), Part E (Foster Care), and Title XIX (Medicaid) is “cooperating in good faith” with the CSA. The Act leaves it to states to define “cooperating in good faith.” Federal law also establishes the exception for cooperation with the CSA if there has been a determination of “good cause” for not cooperating.

### 2.3 State

Citations	Topic
<a href="#">§ 48.57(3m)5, Wis. Stats.</a>	Cooperation for kinship care
<a href="#">§ 49.145(2), Wis. Stats.</a>	W-2 child support cooperation
<a href="#">§ 49.19(4)(h), Wis. Stats.</a>	Cooperation for Caretaker Supplement (CTS)
<a href="#">§ 49.45(19), Wis. Stats.</a>	Cooperation for Medicaid
<a href="#">DCF 58, Wis. Admin. Code</a>	Kinship care child support cooperation
<a href="#">DCF 102, Wis. Admin. Code</a>	Child support cooperation for W-2

State statutes support Social Security Act requirements for cooperation and noncooperation; however, the statutes do not define what constitutes “cooperating in good faith.” These definitions are found in Administrative Rule DCF 102, “Child Support Cooperation for W-2.”

The administrative rules for MA and CTS (Caretaker Supplement) do not define cooperation and noncooperation, but Wisconsin statutes make it clear that CTS and MA recipients in *current assistance cases* must cooperate with the CSA unless there is good cause not to cooperate.

### 3.0 Noncooperation

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Citations	Topic
<a href="#">§ 767.80, Wis. Stats.</a>	Establishment of paternity
<a href="#">DCF 102.03, Wis. Admin. Code</a>	Cooperation as a condition of eligibility for W-2

#### 3.1 Definition: CP Cooperation and Acts of Cooperation

State law and administrative rule define cooperation and acts of cooperation as:

- Identifying and locating an absent parent.
- Establishing paternity of a child of a CP parent.
- Establishing and enforcing a support order.
- Obtaining other payments or property to which the CP and or child may have rights.

- Acts of cooperation include any action that is relevant to achieving the above objectives including providing verbal and written information, attending interviews, and submitting to court-ordered genetic tests.

### 3.2 Definition: CP Noncooperation

State law and administrative rule define CP noncooperation as:

- Missing two consecutive agency appointments.
- Missing one agency appointment and failing to respond to a written communication within a 90-day period.
- Failing to appear for a hearing or other legal proceeding or genetic testing.

Adequate reasons for not responding appropriately to the CSA include illness or injury (either personal or family), family crisis, or breakdown in transportation arrangements.

### 3.3 Definition: NCP Cooperation and Acts of Cooperation

State law and administrative rule define NCP cooperation and acts of cooperation as:

- Obtaining support payment or any other payments or property for which that parent may be responsible.
- For an alleged father, cooperating with efforts directed at establishing the paternity of a child. **Note:** A man is considered an alleged father if a court action naming him has been filed under § 767.80, Wis. Stats. For those alleged fathers, cooperation requirements are the same as for an established NCP.
- An NCP mother must cooperate with efforts directed at establishing paternity of the child.
- Acts of cooperation include any action that is relevant to achieve the above objectives including paying court-ordered child support to the department or its designee.

### 3.4 Definition: NCP Noncooperation

State law and administrative rule define NCP noncooperation as:

- NCP is subject to a warrant relating to paternity or support including a criminal, civil, and arrest warrant.
- NCP is delinquent on ordered support payments, and there is no alternative payment plan in effect.
- NCP fails to pay court-ordered child support so that the delinquency balance is three months or more of the court-ordered payment amount, unless the court or CSA is allowing the NCP to delay payments or the NCP is in compliance with a payment plan approved by the CSA or court.

Refusal by an NCP or alleged father to do any of the following does **not** constitute noncooperation:

1. participate in a polygraph examination;
2. sign a voluntary statement of paternity;
3. relinquish the right to request a genetic test; and/or
4. sign a stipulation for child support, physical placement, or custody.

### **3.5 Adequate Reason**

Under DCF 102.03(5) , any **one** of the following is considered adequate reason for a custodial parent's failure to respond to a written communication or failure to attend an appointment, hearing, or genetic test:

- Personal or family illness or injury or other family crisis;
- Breakdown of transportation arrangements or inclement weather that causes breakdown in travel;
- Failure to receive notice or request for information because of an address change, or extended time away from home;
- Other reasonable circumstances as determined by the CSA.

The CSA may request evidence verifying adequate reason if there are repeated instances of failure to respond.

### **3.6 Affidavit Attesting to Full Cooperation**

Under DCF 102.03(6), if a custodial parent signs an affidavit attesting to full cooperation (KIDS Document NC01) and there is no substantial independent evidence or verifiable information that suggests that the custodial parent is not cooperating, the CSA must conclude that the case participant is cooperating.

### **3.7 Notification**

When a child support agency makes a noncooperation determination, the CSA promptly notifies the individual and the W-2 agency of its decision and the basis for the decision. The notice to the individual must be in writing.

### **3.8 Remediating Noncooperation**

If the noncooperating individual contacts the CSA expressing intent to cooperate, the CSA provides the individual with the opportunity to remedy the noncooperation within 30 days of the contact. When the CSA is unable to reschedule a missed court appearance within 30 days, the CSA shall either lift the noncooperation determination, or allow the individual to perform some other required activity that demonstrates cooperation within 30 days of the contact. The noncooperation determination is lifted when the individual

completes the activity. An appeals process can also be undertaken by a parent. This process is discussed in section 3.1.

### 3.9 Program Sanctions

Citations	Topic
<a href="#">DCF 102.09, Wis. Admin. Code</a>	W-2 program sanctions

When individuals refuse to cooperate and they **do not have good cause** for not cooperating, the W-2 agency may apply sanctions, making them ineligible for public assistance. Upon receipt of the notice of noncooperation from the CSA, the W-2 agency is required to apply sanctions as provided under the administrative rule. The W-2 group is ineligible to receive W-2 benefits until cooperation occurs.

### 3.10 Exemptions for Cooperation

- A W-2 participant who is a custodial parent of a child under 60 days old is exempt from having to cooperate for that child.
- Children, pregnant women, and women who gave birth within the last 60 days cannot be denied or removed from Medicaid benefits because of noncooperation with child support.
- MA-only participants, who choose to accept only medical support services (medical support order established and/or enforced), are required to cooperate with child support only for activities related to medical support.
- In Healthy Start cases, and MARF (or MAFN, if case is open), the children are still eligible for MA even if the mother does not cooperate.

### 3.11 Noncooperation Disputes

Sometimes, after receiving notice of the determination of noncooperation or the notice of sanction, the case participant disputes the determination of noncooperation. If the participant had adequate reason for failing to cooperate, the CSA must lift the determination of noncooperation. In the alternative, the administrative rules also permit the participant to request a formal review of the noncooperation determination.

### 3.12 Process for Reviewing Noncooperation Determinations

Citations	Topic
<a href="#">DCF 101.22, Wis. Admin. Code</a>	Review of W-2 agency application decisions
<a href="#">DCF 102.10, Wis. Admin. Code</a>	Review of W-2 agency good-cause & noncooperation decisions

DCF 102 provides that a W-2 recipient may request a review of a noncooperation determination from the CSA. The rule specifies that noncooperation determinations must be reviewed by the CSA, but the CSA must use the procedures under DCF 101.22

to conduct the review. These procedures are similar to the CSA's regular administrative complaint procedure, but differ in the following respects:

- The review is to be conducted as soon as possible, which is interpreted to mean within 15 working days.
- The W-2 recipient is to be notified by certified letter of the decision.
- If the decision is negative, the W-2 recipient needs to be told of his or her right to request a Departmental (Fair Hearing) review.
- The Wisconsin Department of Administration conducts the Fair Hearings.
- The Fair Hearing request must be made in writing within 15 days from the date of the certified letter.

## 4.0 Good Cause

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### 4.1 Criteria for Determining Good Cause

Citations	Topic
<a href="#">DCF 102.05, Wis. Admin. Code</a>	Good cause criteria
<a href="#">Medicaid Eligibility Handbook</a> , Section 8.3	Claiming good cause

The administrative rule for W-2 contains the following criteria for determining if a CP or NCP has good cause for not cooperating, if;

1. Cooperation is reasonably anticipated to result in either physical or emotional harm to the child, including threats of domestic abuse or child kidnapping.
2. Cooperation is reasonably anticipated to result in either physical or emotional harm to the parent, including domestic abuse.
3. Cooperating with the child support agency would make it more difficult for the individual to escape domestic abuse or unfairly penalize the individual who is or has been victimized by such abuse, or the individual who is at risk of further domestic abuse.
4. The child was conceived as a result of incest or sexual assault.
5. The parent is considering whether to terminate parental rights and sought the assistance of a public or licensed private social services agency not more than three (3) months ago.
6. A petition for the adoption of the child has been filed with a court. This does **not** apply as a good-cause exemption from the responsibility to make payments under an existing court order.



The [Medicaid Eligibility Handbook, Section 8.3.4 Circumstances](#) states “the “IM agency must determine whether or not cooperation is against the best interests of the child.” They waive cooperation only if:

1. The client’s cooperation is reasonably anticipated to result in physical or emotional harm to the:
  - a. Child. This means that the child is so emotionally impaired, that his or her normal functioning is substantially affected, **or**
  - b. Client. This means the impairment is of such a nature or degree that it reduces that person’s capacity to adequately care for the child, **or**
2. At least one of the following circumstances exists and it is reasonably anticipated that proceeding to establish paternity or secure support or both would be detrimental to the child:
  - a. The child was conceived as a result of incest or sexual assault, **or**
  - b. A petition for the child’s adoption has been filed with a court, **or**
  - c. The parent is being assisted by a public or private social agency in deciding whether or not to terminate parental rights and this has not gone on for more than three months.”

#### 4.2 Good Cause Determination

Citations	Topic
<a href="#">DCF 102.08, Wis. Admin. Code</a>	Good cause determination

In evaluating the good cause claim, the W-2 agency requires an applicant or participant filing a good cause claim to submit at least one document of corroborative evidence and the applicant’s or participant’s statement specifying the circumstances that an applicant or participant believes provide sufficient good cause for not cooperating. In cases where no corroborative evidence is submitted, the W-2 agency notifies the applicant or participant in writing of the requirement for corroborative evidence and outlines the types of evidence that may be used. If the individual is having trouble obtaining evidence, the W-2 agency must make an attempt to assist in obtaining specific documents.

The administrative rule states the CSA must be given an opportunity to review and comment on the findings of the W-2 agency prior to a final determination. The W-2 agency should consider any CSA recommendations.

#### 4.3 Good Cause Does Not Exist

When the W-2 agency determines that good cause does not exist, it must notify the CSA that it can proceed with child support services and require the cooperation of the applicant or participant. It also must notify the applicant or participant of its decision and the right to appeal.



The CSA is not allowed to begin child support services until ten days from the date of the notice to the applicant. The purpose for this is to allow time for applicant or participant to withdraw the application, request the case be closed, or request a review of the agency's decision. If the applicant requests a review of the decision, the W-2 agency will notify the CSA to suspend child support services during the review process.

#### **4.4 Good Cause Exists**

When the W-2 agency determines good cause does exist, it promptly notifies the CSA and applicant or participant. The notification to the CSA should do one of the following:

- Direct the CSA to suspend all further activities if the applicant or participant did not request the child support agency to proceed without his or her cooperation,
- Inform the CSA that it can proceed without the cooperation of the applicant or participant if the individual requested that the CSA proceed without her or his cooperation. In cases where good cause has been granted for criteria 1 – 4 in Section [4.1](#), the CSA must notify the individual alleged to have caused harm that the agency is proceeding without the cooperation of the applicant or participant.

#### **4.5 Review of Good Cause Decision**

An applicant or participant who is denied a good cause claim may petition the W-2 agency for reconsideration.

### **5.0 Timelines**

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#### **5.1 Filing a Good Cause Claim**

If the CP informs the CSA that she or he is going to file a good cause claim, the CSA must stop child support services for a minimum of 15 days to allow the CP to file a good cause claim with the W-2 agency.

#### **5.2 Notifying the Child Support Agency**

On receipt of a good clause claim, the W-2 agency must notify the child support agency within two days.

#### **5.3 45 Days to Decide a Claim**

The W-2 agency has 45 days, from the date the claim was signed, to decide on a good cause claim. However, if they allowed the applicant or participant an extension of time to submit their evidence, the agencies have 85 days from the date the claim was signed to decide.

#### 5.4 Submitting Corroborative Evidence

An applicant or participant may submit corroborative evidence within 20 days from the date the claim was signed. With agency permission, this date can be extended until 60 days.

#### 5.5 Good Cause Does Not Exist

When W-2 agencies notify an applicant or participant of the denial of a good cause claim, the CSA may **not** proceed with child support activities for 10 days from the date of notification.