

Family Violence Waiver Questions and Answers

Employment Services (ES) Managers raised concerns with the family violence waiver, mainly in the area of non-compliance from participants and domestic violence (DV) agencies developing and approving safety plans. ES Managers requested a review of the ESM sections 8.27 (Non-Compliance & Family Violence Waiver) and 8.30 (Ending a Family Violence Waiver) at the ES Net Meeting on 8/19/22.

Additional guidance is being requested about situations when the DV agencies are not cooperating with the development (or ending) of the safety plan. Requesting a review of the parameters of the Family Violence Waiver, what constitutes verification, what can be asked of the participant, and when/how the waiver can be stopped. (See Policy Quest Number: 37295 and 37236, which also reference the family violence waiver.)

DHS Response: Family Violence Waivers ensure that participants experiencing family violence receive plans and services that make safety a priority. The safety of the participants and their children is the primary goal. The parameters of the Family Violence waiver are in the Employment Services Manual [Chapter 8 – Family Violence Waiver](#).

Questions and Answers (ES Net Managers Meeting, 8/19/22):

- 1) After initial eligibility for a family violence waiver has been established and documentation has been provided to support that, do we need to request documentation of ongoing family violence waiver at the time the FVW is reviewed (in 6 months, a year, etc.)? The statute around the family violence waiver ([256J.545](#)) indicates that “in order to qualify for a FVW, an individual must provide documentation of past or current family violence which may prevent the individual from participating in certain employment activities.”

Answer: If a participant’s domestic violence has been documented and is still relevant at the time of the review for the Family Violence Waiver review, new documentation is not needed. The employment counselor should consider the situation and determine if updated documentation is needed. The employment counselor should also consider a sworn statement of the participant if updated documentation is difficult to obtain. (See [ESM 8.15 – Verifying Family Violence](#). FSS Eligibility (including the Family Violence Waiver) must be verified at application, recertification, and when it’s claimed as stated in [CM0010.18.01 – Mandatory Verifications – Cash Assistance](#))

- 2) Once family violence has been verified, do we need to ask for ongoing documentation from the participant, or can we continue to refer back to the documentation submitted at the time of initial eligibility? For example, let’s say the participant has had a waiver in place for a year or so. At the time of review, the documentation on file still satisfies the “documentation of past family violence” even though it was received over a year ago.

Answer: See above answer for documentation considerations for the family violence waiver. Additionally, consider if the documentation that is currently on file is still appropriate for the participant's situation, and do not make the participant obtain new documentation that is above and beyond what is required. The employment counselor should discuss the situation with the participant to determine if the documentation is still appropriate for the situation. Document all conversations in case notes.

- 3) Is a Safety Plan required or does a copy of an Order for Protection work as proof for a domestic violence waiver? (We would like to require a safety plan and that it includes at least monthly contact with the DV advocate).

Answer: An Order for Protection should be considered a valid form of documentation for the family violence waiver, as it is considered a court record. A safety plan that is developed together with the participant and a DV Specialist should also be considered a valid form of documentation, as it is considered a statement from a professional whom the participant has turned to for assistance about the violence. The participant is only required to submit one of the above, and cannot be required to submit a safety plan in addition to an Order for Protection. ([ESM 8.15 – Verifying Family Violence](#)) The safety of the participant and their children should be the primary goal of the employment plan ([ESM 8.24 -Employment Plans & Family Violence Waiver, and CM0028.15- Employment Plan](#))

- 4) What do we do if a DV advocate refuses to participate in the development of an MFIP plan?

Answer: If a domestic violence specialist refuses to be a part of the development of the participant's MFIP employment plan, the employment counselor should reach out to another resource to assist in the developing the safety plan with the participant. (Resources can be found in [ESM 8.36 - Resources for Addressing Family Violence](#)). Employment service agencies must ensure someone trained in and specializing in family violence is available to participants ([ESM 8.3 - Family Violence Overview](#)) Additionally, allow flexibilities as needed so the person trained in family violence is able to meet with the participant (including virtual or phone appointments).

- 5) What if a client refuses to work with the Domestic Violence Advocate or DV Agency?

Answer: Utilize the resources in [ESM 8.36 – Resources for Addressing Family Violence](#) or on the [Office of Justice Programs Website](#). Or, utilize another person who is trained in domestic violence, as long as they meet the criteria in the [ESM 8.21 – Family Violence Specialists](#).

- 6) Can we end the DV waiver if the MFIP participant asks that an OFP be stopped?

Answer: No. The Family Violence Waiver should not end due to an OFP being stopped. Eligibility for the Family Violence Waiver is not dependent on an OFP being in place, and the participant can utilize an alternative to document violence if necessary. Also, agencies should note that if an OFP ends/is stopped, it does not mean that violence is no longer present. Additionally, an expired OFP may still meet the requirements of documentation under "past proof" of violence.

- 7) Should we still follow FSS procedures if the waiver ends?

Answer: Yes, still follow FSS procedures if the waiver ends. See [ESM 8.27 – Non-Compliance & Family Violence Waiver](#) for more info.

- 8) What should we do if we have a DV Provider/Advocate who is unwilling to share a safety plan or information with employment services? (The agency reports that the more people they share the information with, the less safe it is).

Answer: Some suggested options to address this situation might include obtaining a signed release to communicate with a Domestic Violence Advocacy agency, and allowing flexibility once that release is obtained. This can include: speaking to the DV agency by phone to get review the plan verbally, or to request the participant get a hard copy of the safety plan to share. Flexibility should be used in how the EC obtains the information, so that it does not cause additional burden on the participant and does not endanger their safety. (Sometimes there may be an abuser in the home or who monitors phone calls, caution must always be used when supporting the participant in safety situations)

- 9) If a waiver has been in place for many years, such as when a participant is on an extension, are there any additional guidelines about how often documentation should be reviewed? Is it appropriate to refer back to a previous piece of documentation (such as a previous sworn statement) to renew a family violence waiver and determine if it is still relevant?

Answer: There are no additional guidelines about how often documentation for the family violence waiver should be reviewed by the employment counselor. The employment counselor can refer back to a previous document to verify the family violence waiver if it remains relevant to the participant's situation. Case note all actions taken.

- 10) Can activity logs be required to document contact with the Domestic Violence Agency?

Answer: No, activity logs cannot be required and a participant cannot be sanctioned for failing to submit FSS activity logs. However, an employment counselor can add monthly contact with the DV advocate, submitting activity logs, etc. into the employment plan/safety plan and use other ways to engage the participant outside of submitting activity logs (such as phone call attempts, emails, etc.)

- 11) What do we do if participants who are on the family violence waiver stop contacting us and fail to respond to any attempts of contact?

Answer: Use as much flexibility as possible in these cases and grant good cause when participants are not able to follow their employment plan for reasons beyond their control. The employment counselor must continue to make attempts to re-engage the participant, case note the attempts, and continually reassess the participant's situation. End the family violence waiver when appropriate and follow guidance in the [ESM 8.30 \(Ending a Family Violence Waiver\)](#).

Questions and Answers (ES Advisory Meeting, 8/26/22):

- 1) Do we have to keep documentation of domestic violence in the case file?

Answer: Documentation of safety concerns should be kept in the case file, and the type of documentation that is accepted by the employment counselor should be case noted in Workforce One. This is not a required document to be uploaded to Workforce One EDS, but the documentation used to verify family violence should be kept in a paper file for the participant.

- 2) What if we can't communicate with FW specialist to agree to end the FVW? In our County we can't get an ROI signed for longer than 1-3 months. If we can't get a hold of the participant for Months nor do we have an ROI on file to speak with the DV advocate, what do we do?

Answer: The agency will need to work directly with the DV agency/specialist to determine how communication can be improved. If the ROI is only valid for 1-3 months, the agencies may need to revise the policy to extend this timeline so the participant's FVW can be reviewed/updated/removed at longer intervals.

- 3) A financial worker approved a Family Violence Waiver for a participant that is post-60 months (and approved the extension) based on a police report received from the participant. There was no safety plan in place. Is this acceptable?

Answer: DHS prefers that PQ's are submitted for case specific questions, with case numbers so we can determine if policy was followed. Family Violence Waiver extension information can be found in the Employment Services Manual, 18.18.36.

- 4) Since documentation of the family violence waiver can be statements from staff at a family violence shelter, a sexual/family violence advocate or specialist with knowledge of the circumstances, what does that look like? Is it just a written statement? What needs to be in the statement?

Answer: The employment services manual indicates a statement from someone with knowledge of the participant's circumstances, but does not state that it needs to be a written statement. However, the statement must be recorded in some way (in case notes, on paper, in email, via a safety plan, etc.) There is no template for what the documentation must include, but some information that may be helpful to develop a safety plan could include: dates, court records, advocate's information, specific barriers, etc. See ESM 8.15 – Verifying Family Violence and CM0010.18.33 – Verifying Family Violence.

- 5) Can Family Violence Waiver employment plans be reviewed at three months, or does DHS require the first review of the FVW Plan at six months from time plan was written?

Answer: Employment plans should be reviewed at 3 months. FSS employment plans should be reviewed every 6 months. Employment plans of any kind that are outdated, or if the participant reports new activities can be updated sooner than that. Additionally, plans should be revised/updated

at least every 12 months (or sooner if circumstances change or new information indicates that a plan update is needed) (See Employment Services Manual 7.12)

- 6) If an OFP is on file does the employment plan have to be signed off by an advocate in order for the client to be in compliance? Do we take the client off of the FV waiver if they are not working with an advocate?

Answer: Employment plans must be signed by the employment counselor, and the participant, and developed with the assistance of a person trained in family violence.

- 7) Does the MFIP employment plan (with a safety plan) need to be signed by the family violence specialist before the Family Violence Waiver can be approved?

Answer: Once the employment plan is signed, the employment counselor should send a status update to the eligibility worker to approve the family violence waiver. Both the participant and the employment counselor must sign the plan and any revisions (ESM 7.3)

- 8) Can FVW be backdated based upon documentation when the violence occurred? Or, does it have to be when the individual became comfortable sharing the safety concerns? EX: police incident occurred 3 months ago but participant just disclosed & is requesting FVW.

Answer: Please submit case specific questions about backdating family violence waivers by submitting a PQ. Since the participant's months will not be counted toward their 60 month limit when approved for a family violence waiver, it would be appropriate to look at details of the case to determine if they were eligible.

- 9) How should the worker address domestic violence if there is inconsistent information?

Answer: Ensure the participant has the resources available to them so they and their family feels safe. The participant and their children's safety is the top priority. Domestic Violence situations are very complex, and often involves more than just physical abuse (including emotional abuse, isolation, financial) and can also traumatize a person for many years. The employment counselor should rely on an expert in domestic violence to determine whether a participant has barriers in returning to work or is ready to return to work.

- 10) Has policy changed to allow a family violence waiver be approved by the eligibility worker at application? The ESM states that the employment plan must be signed and approved before an extension can be approved for the family violence waiver, but I thought that policy had changed?

Answer: The employment plan must be signed/approved prior to the approval of an extension for the family violence waiver (see CM 0011.33.06 and ESM 18.18.36).

- 11) I had a client who was requesting the family violence waiver when living in MN, but the abuser was living permanently in another state and threatening the participant through social media that they would come to Minnesota. Would this person be eligible for a waiver?

Answer: This is a case specific question, and a PQ should be submitted. A domestic violence specialist can assist to determine if the participant needs a safety plan and if a Family Violence Waiver is appropriate. The participant does NOT need to be in imminent danger in order to be eligible for a family violence waiver.