

TEXAS MEDICAID WAIVERS

Several tax-related items have come to my attention that is relevant to **parents working as paid caregivers through a Medicaid waiver program.**

Difficulty of Care payments exempt as Income

The first applies to a **gross income exemption for caregivers** who live with the person they care for through the Medicaid waiver. **The Difficulty of Care exemption** exempts income from caring for a person living in the same home from being included as Gross Income.

Highlights:

1. If the "provider of care" **lives with** the recipient of care, then their income is NOT part of their gross income.
2. This applies if the "provider of care" is **the parent or a non-related person.**
3. This is not OPTIONAL - if this applies to you, you are legally required to exempt this income from your gross income

Action Steps:

1. If you are the paid "provider of care" for a Medicaid waiver recipient in your home, sign the "[Statement of Eligibility for "Difficulty of Care" Exemption](#)".
2. Turn in the signed statement to the Financial Management Service agency completing payroll for the recipient.
3. File "Form 1040X, Amended U.S. Individual Income Tax Return" for 2014 and 2015, if the living arrangement was the same at that time. (See [Q10 & A10](#)).
 - You will adjust your gross income as described in [Q11 & A11](#).
 - This will result in an adjustment of taxes, deductions, and credits.

Links to pertinent documents, and relevant excerpts

- [Notice 2014-7 Difficulty of Care payment exemption](#)
- [Certain Medicaid Waiver Payments May Be Excludable From Income](#)

Household Employment Tax Exemption

The second exemption applies to the Household Employee Tax Exemption for employees based on **family relationship to the employer**. This exemption applies to parents working for their children, and exempts them from paying federal unemployment taxes (FUTA), and Social Security and Medicare taxes (FICA).

Highlights:

1. Parents **employed by their child** are exempt from FUTA taxes, possibly SUTA taxes, and FICA (Social Security and Medicare tax).
2. This only applies to parents working for their child as part of Consumer-Directed Services. (reference Q12 & A12 above)
 - o The Medicaid waiver recipient becomes the employer for CDS after they turn 18, if they maintain their own guardianship.
3. This does NOT apply if the parents work for their child through the Direct Service Agency, since the agency, not the child, is then the employer.
4. This is not OPTIONAL - if this applies to you, you are legally required to exempt from paying the applicable taxes.

Action Steps:

1. If you are a **parent working for your child under the CDS option**, fill out the "[Fiscal/Employer Agent Household Employee Tax Exemption Information](#)" form
2. Turn in the signed form to the Financial Management Service agency completing payroll for the recipient.
3. Request the FMSA (payroll agency for recipient) refund taxes for 2014, 2015, and 2016, and refer them to instructions for "Form 941-X," to receive a refund of overpayment. (See [Q19 & A19](#)).

Links to pertinent documents, and relevant excerpts

- [Publication 15 \(2017\), \(Circular E\), Employer's Tax Guide - IRS.gov](#)
- [Publication 926 \(2017\), Household Employer's Tax Guide - IRS.gov](#)
- Powerpoint by Mollie Murphy, Financial Management Services Director at the National Resource Center for Participant-Directed Services: [Fiscal/Employer Agents: Challenges in Operations and Compliance](#)

In order to further explain this, and provide the support, [here is a link to this information + additional documentation](#).