Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Index Number: 131.02-00, 6041.08-00, 6051.00-00

Colin Laughlin
Community Living Deputy Office Director
State of Colorado
Department of Health Care Policy & Financing
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Denver, CO 80203

Person To Contact:
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(202) 317-7006
Refer Reply To:
CC:ITA:B05
PLR-110311-25
Date:
December 9, 2025

Legend:

Taxpayer	=	State of Colorado, Department of Health Care Policy & Financing (EIN: 81-1725341)
Date	=	January 30, 2025
Program	=	1915(k) Community First Choice Program
State	=	Colorado
State Statute § a	=	CRS §§ 25.5-6-1901 through 1905
State Regulation § j	=	10 CCR 2505-10 § 8.7600

Dear Mr. Laughlin:

This letter refers to Taxpayer's request for a private letter ruling, dated Date, requesting a ruling that certain payments to individual care providers who live in the same home as the person to whom they provide care (members) under the State's in-home supportive care program (Program) are difficulty of care payments excludable from the gross income of the care provider under section 131 of the Internal Revenue Code (Code). Taxpayer requests that if determined to be difficulty of care payments, Taxpayer is not required under section 6041 or 6051 of the Code to report these payments as wages subject to income tax.

This letter ruling is being issued electronically in accordance with Rev. Proc. 2025-1, 2025-1 I.R.B. 1. A paper copy will not be mailed to Taxpayer.

FACTS

Taxpayer is the single state agency responsible for the oversight and management of State's Medicaid program. Taxpayer is responsible for directing and overseeing the Program pursuant to section 1915(k) of the Social Security Act (SSA), which is funded in part by the Federal government through Medicaid. Under the Program, Taxpayer will

only reimburse individual care providers that provide extraordinary care services, meaning a service that exceeds the range of care a family member would ordinarily perform in a household on behalf of a person without a disability or chronic illness of the same age, and which is necessary to assure the health and welfare of the member and avoid institutionalization.

Under State Statute § a and State Regulation § j, Taxpayer is authorized to provide personal care, homemaker, and habitation services under the Program for members who are Medicaid-eligible and meet the institutional level of care. An institutional level of care refers to an individual who has needs that require services in their home and community to keep them from long-term care placement in a nursing home, hospital, intermediate care facility for individuals with intellectual disabilities, or an inpatient mental health facility. Institutional level of care is determined by the state-prescribed level of care assessment.

The services provided through the Program include assistance with activities of daily living and instrumental activities of daily living. These services include assistance with eating, bathing, dressing, toileting, transferring, grocery shopping, using the telephone, medication management, money management, and acquiring and retaining the adaptive skills necessary to reside successfully in home and community-based settings.

In order to receive services under the Program, an applicant must meet financial and level of care eligibility criteria, which is determined using a state-prescribed eligibility assessment tool. Members receive a needs-based assessment, which is reassessed every twelve months. Taxpayer, or a local county office, processes applications for care services, determines income and resource eligibility, and authorizes services under the individual's plan of care. Taxpayer manages certified Medicaid provider enrollments, payments, and audits.

Under the Program, members can access services through three different service delivery options:

(1) Agency-Based – traditional agency care where a member selects a provider agency and the agency employs staff to support members. The provider agency and the assigned staff member is responsible for care provided to a member.

(2) In-Home Support Services – a member-directed service delivery option that allows members to direct and manage their care with the support of an agency. The care provider is an employee of the agency but has an established personal relationship with the member. Members direct and manage the care providers who provide their care.

(3) Consumer-Directed Attendant Support Services – a member-based service-delivery option that does not utilize an agency. Members direct and manage the

care providers who provide their services. Members or their representatives are the employer of record and hire, train, and manage care providers.

Taxpayer issues Medicaid payments to Program provider agencies or a Financial Management Service vendor, and those funds are then issued to individual care providers. Under the agency-provider models of service delivery ((1) and (2), above), care providers can be employed as independent contractors or W-2 employees. Under the member-based model ((3), above), the Financial Management Service vendor provides the member and care provider with a Difficulty of Care payment form, excludes FICA, and reflects this on the care provider's Forms W-2. Program payments compensate a care provider for proving care, according to the care plan, that is required because of a member's physical, mental, or emotional handicap for which the state has determined that there is a need for additional compensation.

LAW

Section 61(a) of the Code provides that, except as otherwise provided, gross income means income from whatever source derived, including compensation for services.

Section 131(a) excludes qualified foster care payments from the gross income of a foster care provider.

Section 131(b) defines a "qualified foster care payment," in part, as any payment under a foster care program of a state or a political subdivision of a state that is either (1) paid to the foster care provider for caring for a qualified foster individual in the foster care provider's home, or (2) a difficulty of care payment.

Section 131(c) defines a "difficulty of care payment" as compensation to a foster care provider for the additional care required because the qualified foster individual has a physical, mental, or emotional handicap. The provider must provide the care in the provider's foster family home, a state must determine the need for this compensation, and the payor must designate the compensation for this purpose. In the case of any foster home, difficulty of care payments are not excludable to the extent that the payments are for more than 10 qualified foster individuals who have not attained age 19 or 5 qualified foster individuals who have attained age 19. See section 131(c)(2).

Section 131(b)(2) defines a "qualified foster individual" as any individual who is living in a foster family home in which the individual was placed by an agency of a state or a political subdivision of a state or by a qualified foster care placement agency.

Section 131(b)(3) defines a "qualified foster care placement agency," in part, as a placement agency that is licensed or certified for the foster care program of a state or a political subdivision of a state.

Notice 2014-7, 2014-4 I.R.B. 445, provides that the Internal Revenue Service (Service) will treat qualified Medicaid waiver payments as difficulty of care payments under section 131(c) that are excludable from the gross income of the individual care provider. The Notice defines qualified Medicaid waiver payments as payments by a state, a political subdivision of a state, or an entity that is a certified Medicaid provider, under a Medicaid waiver program to an individual care provider for nonmedical support services provided under a plan of care to an eligible individual (whether related or unrelated) living in the individual care provider's home. The Notice addresses only payments under a state Medicaid Home and Community-Based Services waiver program under section 1915(c) of the SSA.

Q&A1 at www.irs.gov/Individuals/Certain-Medicaid-Waiver-Payments-May-Be-Excludable-From-Income, provides that whether the Service will treat payments received by an individual care provider under a state program other than a section 1915(c) program as difficulty of care payments excludable from the gross income of the provider under section 131 will depend on the nature of the payments and the purpose and design of the program.

Section 3402(a) of the Code, relating to income tax withholding, generally requires every employer making a payment of wages to deduct and withhold upon those wages a tax determined in accordance with prescribed tables or computational procedures.

Section 6041(a) provides, in part, that all persons engaged in a trade or business and making payments in the course of the trade or business to another person of wages or other fixed or determinable gains, profits, and income of $600 or more in any taxable year must render a return of information in the form and manner prescribed by regulations.

Section 1.6041-1(b) of the Income Tax Regulations (regulations) clarifies that the term “all persons engaged in a trade or business” includes states and their subdivisions.

Section 1.6041-1(c) of the regulations provides that income is fixed when it is to be paid in amounts definitely predetermined and that it is determinable whenever there is a basis of calculation by which the amount to be paid may be ascertained.

Section 1.6041-2(a) of the regulations provides that wages, as defined in section 3401, paid to an employee must be reported on Form W-2, “Wage and Tax Statement.”

Section 6051(a) provides that employers must furnish the tax return copy and the employee's copy of Form W-2 to employees for remuneration paid during the calendar year. The Form W-2 must show, among other information, the total amount of wages paid subject to withholding of income tax, the total amount of wages paid subject to social security and Medicare taxes, and the total amounts of income tax and social security and Medicare taxes deducted and withheld. Section 6051(d) and section

31.6051-2(a) of the Employment Tax Regulations provide that employers must file a copy of the Form W-2 with the Social Security Administration.

ANALYSIS

A. Payments under State's In-Home Supportive Care Program Will Be Treated as Excludible Difficulty of Care Payments

The underlying rationale in Notice 2014-7 for treating certain Medicaid waiver payments, pursuant to section 1915(c) of the SSA, as difficulty of care payments excludable from gross income of the provider under section 131 is the similarity in the purpose and design of the Medicaid waiver programs and foster care programs. The Notice provides:

> Section 131 does not explicitly address whether payments under Medicaid waiver programs are qualified foster care payments. Medicaid waiver programs and state foster care programs, however, share similar oversight and purposes. The purpose of Medicaid waiver programs and the legislative history of section 131 reflect the fact that home care programs prevent the institutionalization of individuals with physical, mental, or emotional handicaps. See 128 Cong. Rec. 26905 (1982) (stating that "[difficulty of care payments] are not income to the [foster] parents, regardless of whether they, dollar for dollar only cover expenses. [These] parents are saving the taxpayers' money by preventing institutionalization of these children."); S. Rep. No. 97-139 at 481 (1981) (describing the purpose of the amendment to 42 USC § 1396n, allowing Medicaid waivers for home and community-based services, as "[permitting] the Secretary to waive the current definition of covered [M]edicaid services to include certain nonmedical support services, other than room and board, which are provided pursuant to a plan of care to an individual otherwise at risk of being institutionalized and who would, in the absence of such services be institutionalized"). Both programs require state approval and oversight of the care of the individual in the provider's home. The programs share the objective of enabling individuals who otherwise would be institutionalized to live in a family home setting rather than in an institution, and both difficulty of care payments and Medicaid waiver payments compensate for the additional care required.

Whether payments under Program will be treated as difficulty of care payments excludable from the gross income of the provider under section 131 depends on an analysis of the purpose and design of the program and the nature of the payments.

1. Purpose of State's In-Home Supportive Care Program

The purpose of Program is to provide home and community-based services to members who are Medicaid eligible and meet the institutional level of care. An institutional level of care refers to an individual who has needs that require services in their home and

community to keep them from long-term institutionalization through placement in a nursing home, hospital, intermediate care facility for individuals with intellectual disabilities, or an inpatient mental health facility.

Thus, the purpose of State's in-home supportive care program is similar to the purpose of foster care programs as stated in Notice 2014-7. That is, both State's in-home supportive care program and foster care programs prevent institutionalization of individuals with physical, mental, or emotional handicaps and enable such individuals to be cared for in a home setting.

2. Design of State's In-Home Supportive Care Program

Taxpayer, a department of State, is responsible for the oversight and management of State's Medicaid program, including directing and overseeing the Program. Taxpayer processes the applications for care services, determines income and resource eligibility, and authorizes services under the individual's plan of care. Taxpayer determines eligibility based on the state-prescribed level of care assessment and a needs-based assessment, which is administered every twelve months.

Thus, the design of State's in-home supportive care program is similar to the design of foster care programs. That is, both State's in-home supportive care program and foster care programs require state approval and oversight of the care in the care provider's home.

3. Nature of Payments under State's In-Home Supportive Care Program

Taxpayer reimburses providers that provide extraordinary care services to members, meaning a service which exceeds the range of care a family member would ordinarily perform in a household on behalf of a person without a disability or chronic illness of the same age, and which is necessary to assure the health and welfare of the member and avoid institutionalization. Care includes assistance with activities of daily living and instrumental activities of daily living.

The nature of the payments to individual care providers under State's in-home supportive care program is similar to the nature of difficulty of care payments. Difficulty of care payments compensate a provider for the additional care required because an individual has a physical, mental, or emotional handicap. Similarly, an in-home supportive care provider receives compensation for the additional care required by an individual who needs assistance with one or more activities of daily living to remain safely at home and to prevent institutionalization.

In summary, the purpose and design of Program are similar to the purpose and design of foster care programs, and the nature of the described payments to care providers is similar to the nature of difficulty of care payments under section 131. Therefore, payments made under State's in-home supportive care program to an individual care

provider for in-home supportive care provided for a Program member who resides in the same home as their care provider will be treated as difficulty of care payments excludable from the gross income of the care provider under section 131.

B. Taxpayer's Reporting and Withholding Obligations in General

In general, payments made to an individual care provider as an employee are wages that would be: (1) includable in the care provider's gross income and subject to income tax under section 61(a)(1), (2) reportable on Form W-2 under sections 6041 and 6051, and (3) subject to income tax withholding under section 3402. However, payments made to an individual care provider that are excludable from gross income of the provider under section 131 are not reportable under section 6041 or 6051 as wages subject to tax and income tax withholding. Nevertheless, payments made to an individual care provider are wages subject to taxes under the Federal Insurance Contributions Act (FICA) (also known as social security and Medicare taxes) and the Federal Unemployment Tax Act (FUTA) unless an exception applies.

Specifically, if the Program member (and not an outside agency) is the employer of the individual care provider, the FICA tax rules for domestic service (household work done in or around the Program member employer's home) may apply. Under those rules, payments for services performed for a spouse or a child and services performed for a parent by a child under the age of 21 generally are not subject to FICA tax under section 3121(b)(3)(B) of the Code. In addition, if wages for domestic services paid during a calendar year are below a threshold ($2,800 for 2025), the wages are not subject to FICA tax under sections 3121(a)(7)(B) and 3121(x). Similarly, payments for services performed for a spouse or a child and services performed for a parent by a child under the age of 21 are not subject to FUTA tax under 3306(c)(5) of the Code. In addition, there is a dollar threshold for wages paid to all household employees for purposes of FUTA tax under section 3306(a)(3).

Accordingly, for those payments that are excludable from an individual care provider's gross income under section 131, the Taxpayer is not required under section 6041 or 6051 to report the payments as wages subject to income tax and income tax withholding. However, Taxpayer is required to report payments that are excludable from an individual care provider's gross income in box 12 of Form W-2 with code II. Moreover, taxpayers may be required under sections 6041 and 6051 to report the payments as wages to the individual care provider subject to FICA tax, unless one of the exceptions applies. In addition, Taxpayer may look to the Q&As on Notice 2014-7 (in particular, Q&As 12, 15 - 20), available on irs.gov at https://www.irs.gov/Individuals/Certain-Medicaid-Waiver-Payments-May-Be-Excludable-From-Income, and Publication 926, Household Employer's Tax Guide, also available on irs.gov, for further information on its reporting and withholding obligations.

CONCLUSION

For the reasons explained above, the described payments to individual care providers under State's Program will be treated as difficulty of care payments excludable from the gross income of the provider under section 131. Specifically, the following rulings are granted:

(1) Medicaid payments made under State Program, pursuant to section 1915(k) of the SSA, to an individual care provider for extraordinary care (i.e. care that is related to an individual's disabilities) that are furnish by an individual, whether related or unrelated, who resides in the same home as the care provider will be treated as difficulty of care payments excludable from the gross income of the provider under section 131.

(2) Taxpayer is not required under section 6041 or 6051 to report these payments as wages subject to income tax.

(3) Taxpayer may treat payments to providers as excludable payments described in Notice 2014-7, such that Department may look to the Q&A on the Notice available at irs.gov for information on reporting and withholding obligations.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. All taxpayer identifying information has been redacted as required under section 6110(c).

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Amy J. Pfalzgraf

Digitally signed by Amy J. Pfalzgraf
Date: 2025.12.09 16:18:10 -05'00'

Amy Pfalzgraf
Branch Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: Lana Eggers
Jerrod Cotosman

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Index Number: 131.02-00, 6041.08-00, 6051.00-00

Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:ITA:B05
PLR-110311-25

Date:
December 9, 2025

Legend:

Taxpayer	=
Date	=
Program	=
State	=
State Statute § a	=
State Regulation § j	=

Dear :

This letter refers to Taxpayer's request for a private letter ruling, dated Date, requesting a ruling that certain payments to individual care providers who live in the same home as the person to whom they provide care (members) under the State's in-home supportive care program (Program) are difficulty of care payments excludable from the gross income of the care provider under section 131 of the Internal Revenue Code (Code). Taxpayer requests that if determined to be difficulty of care payments, Taxpayer is not required under section 6041 or 6051 of the Code to report these payments as wages subject to income tax.

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FACTS

Taxpayer is the single state agency responsible for the oversight and management of State's Medicaid program. Taxpayer is responsible for directing and overseeing the Program pursuant to section 1915(k) of the Social Security Act (SSA), which is funded in part by the Federal government through Medicaid. Under the Program, Taxpayer will

only reimburse individual care providers that provide extraordinary care services, meaning a service that exceeds the range of care a family member would ordinarily perform in a household on behalf of a person without a disability or chronic illness of the same age, and which is necessary to assure the health and welfare of the member and avoid institutionalization.

Under State Statute § a and State Regulation § j, Taxpayer is authorized to provide personal care, homemaker, and habitation services under the Program for members who are Medicaid-eligible and meet the institutional level of care. An institutional level of care refers to an individual who has needs that require services in their home and community to keep them from long-term care placement in a nursing home, hospital, intermediate care facility for individuals with intellectual disabilities, or an inpatient mental health facility. Institutional level of care is determined by the state-prescribed level of care assessment.

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(2) In-Home Support Services – a member-directed service delivery option that allows members to direct and manage their care with the support of an agency. The care provider is an employee of the agency but has an established personal relationship with the member. Members direct and manage the care providers who provide their care.

(3) Consumer-Directed Attendant Support Services – a member-based service-delivery option that does not utilize an agency. Members direct and manage the

care providers who provide their services. Members or their representatives are the employer of record and hire, train, and manage care providers.

Taxpayer issues Medicaid payments to Program provider agencies or a Financial Management Service vendor, and those funds are then issued to individual care providers. Under the agency-provider models of service delivery ((1) and (2), above), care providers can be employed as independent contractors or W-2 employees. Under the member-based model ((3), above), the Financial Management Service vendor provides the member and care provider with a Difficulty of Care payment form, excludes FICA, and reflects this on the care provider's Forms W-2. Program payments compensate a care provider for proving care, according to the care plan, that is required because of a member's physical, mental, or emotional handicap for which the state has determined that there is a need for additional compensation.

LAW

Section 61(a) of the Code provides that, except as otherwise provided, gross income means income from whatever source derived, including compensation for services.

Section 131(a) excludes qualified foster care payments from the gross income of a foster care provider.

Section 131(b) defines a "qualified foster care payment," in part, as any payment under a foster care program of a state or a political subdivision of a state that is either (1) paid to the foster care provider for caring for a qualified foster individual in the foster care provider's home, or (2) a difficulty of care payment.

Section 131(c) defines a "difficulty of care payment" as compensation to a foster care provider for the additional care required because the qualified foster individual has a physical, mental, or emotional handicap. The provider must provide the care in the provider's foster family home, a state must determine the need for this compensation, and the payor must designate the compensation for this purpose. In the case of any foster home, difficulty of care payments are not excludable to the extent that the payments are for more than 10 qualified foster individuals who have not attained age 19 or 5 qualified foster individuals who have attained age 19. See section 131(c)(2).

Section 131(b)(2) defines a "qualified foster individual" as any individual who is living in a foster family home in which the individual was placed by an agency of a state or a political subdivision of a state or by a qualified foster care placement agency.

Section 131(b)(3) defines a "qualified foster care placement agency," in part, as a placement agency that is licensed or certified for the foster care program of a state or a political subdivision of a state.

Notice 2014-7, 2014-4 I.R.B. 445, provides that the Internal Revenue Service (Service) will treat qualified Medicaid waiver payments as difficulty of care payments under section 131(c) that are excludable from the gross income of the individual care provider. The Notice defines qualified Medicaid waiver payments as payments by a state, a political subdivision of a state, or an entity that is a certified Medicaid provider, under a Medicaid waiver program to an individual care provider for nonmedical support services provided under a plan of care to an eligible individual (whether related or unrelated) living in the individual care provider's home. The Notice addresses only payments under a state Medicaid Home and Community-Based Services waiver program under section 1915(c) of the SSA.

Q&A1 at www.irs.gov/Individuals/Certain-Medicaid-Waiver-Payments-May-Be-Excludable-From-Income, provides that whether the Service will treat payments received by an individual care provider under a state program other than a section 1915(c) program as difficulty of care payments excludable from the gross income of the provider under section 131 will depend on the nature of the payments and the purpose and design of the program.

Section 3402(a) of the Code, relating to income tax withholding, generally requires every employer making a payment of wages to deduct and withhold upon those wages a tax determined in accordance with prescribed tables or computational procedures.

Section 6041(a) provides, in part, that all persons engaged in a trade or business and making payments in the course of the trade or business to another person of wages or other fixed or determinable gains, profits, and income of $600 or more in any taxable year must render a return of information in the form and manner prescribed by regulations.

Section 1.6041-1(b) of the Income Tax Regulations (regulations) clarifies that the term “all persons engaged in a trade or business” includes states and their subdivisions.

Section 1.6041-1(c) of the regulations provides that income is fixed when it is to be paid in amounts definitely predetermined and that it is determinable whenever there is a basis of calculation by which the amount to be paid may be ascertained.

Section 1.6041-2(a) of the regulations provides that wages, as defined in section 3401, paid to an employee must be reported on Form W-2, “Wage and Tax Statement.”

Section 6051(a) provides that employers must furnish the tax return copy and the employee's copy of Form W-2 to employees for remuneration paid during the calendar year. The Form W-2 must show, among other information, the total amount of wages paid subject to withholding of income tax, the total amount of wages paid subject to social security and Medicare taxes, and the total amounts of income tax and social security and Medicare taxes deducted and withheld. Section 6051(d) and section

31.6051-2(a) of the Employment Tax Regulations provide that employers must file a copy of the Form W-2 with the Social Security Administration.

ANALYSIS

A. Payments under State's In-Home Supportive Care Program Will Be Treated as Excludible Difficulty of Care Payments

The underlying rationale in Notice 2014-7 for treating certain Medicaid waiver payments, pursuant to section 1915(c) of the SSA, as difficulty of care payments excludable from gross income of the provider under section 131 is the similarity in the purpose and design of the Medicaid waiver programs and foster care programs. The Notice provides:

> Section 131 does not explicitly address whether payments under Medicaid waiver programs are qualified foster care payments. Medicaid waiver programs and state foster care programs, however, share similar oversight and purposes. The purpose of Medicaid waiver programs and the legislative history of section 131 reflect the fact that home care programs prevent the institutionalization of individuals with physical, mental, or emotional handicaps. See 128 Cong. Rec. 26905 (1982) (stating that "[difficulty of care payments] are not income to the [foster] parents, regardless of whether they, dollar for dollar only cover expenses. [These] parents are saving the taxpayers' money by preventing institutionalization of these children."); S. Rep. No. 97-139 at 481 (1981) (describing the purpose of the amendment to 42 USC § 1396n, allowing Medicaid waivers for home and community-based services, as "[permitting] the Secretary to waive the current definition of covered [M]edicaid services to include certain nonmedical support services, other than room and board, which are provided pursuant to a plan of care to an individual otherwise at risk of being institutionalized and who would, in the absence of such services be institutionalized"). Both programs require state approval and oversight of the care of the individual in the provider's home. The programs share the objective of enabling individuals who otherwise would be institutionalized to live in a family home setting rather than in an institution, and both difficulty of care payments and Medicaid waiver payments compensate for the additional care required.

Whether payments under Program will be treated as difficulty of care payments excludable from the gross income of the provider under section 131 depends on an analysis of the purpose and design of the program and the nature of the payments.

1. Purpose of State's In-Home Supportive Care Program

The purpose of Program is to provide home and community-based services to members who are Medicaid eligible and meet the institutional level of care. An institutional level of care refers to an individual who has needs that require services in their home and

community to keep them from long-term institutionalization through placement in a nursing home, hospital, intermediate care facility for individuals with intellectual disabilities, or an inpatient mental health facility.

Thus, the purpose of State's in-home supportive care program is similar to the purpose of foster care programs as stated in Notice 2014-7. That is, both State's in-home supportive care program and foster care programs prevent institutionalization of individuals with physical, mental, or emotional handicaps and enable such individuals to be cared for in a home setting.

2. Design of State's In-Home Supportive Care Program

Taxpayer, a department of State, is responsible for the oversight and management of State's Medicaid program, including directing and overseeing the Program. Taxpayer processes the applications for care services, determines income and resource eligibility, and authorizes services under the individual's plan of care. Taxpayer determines eligibility based on the state-prescribed level of care assessment and a needs-based assessment, which is administered every twelve months.

Thus, the design of State's in-home supportive care program is similar to the design of foster care programs. That is, both State's in-home supportive care program and foster care programs require state approval and oversight of the care in the care provider's home.

3. Nature of Payments under State's In-Home Supportive Care Program

Taxpayer reimburses providers that provide extraordinary care services to members, meaning a service which exceeds the range of care a family member would ordinarily perform in a household on behalf of a person without a disability or chronic illness of the same age, and which is necessary to assure the health and welfare of the member and avoid institutionalization. Care includes assistance with activities of daily living and instrumental activities of daily living.

The nature of the payments to individual care providers under State's in-home supportive care program is similar to the nature of difficulty of care payments. Difficulty of care payments compensate a provider for the additional care required because an individual has a physical, mental, or emotional handicap. Similarly, an in-home supportive care provider receives compensation for the additional care required by an individual who needs assistance with one or more activities of daily living to remain safely at home and to prevent institutionalization.

In summary, the purpose and design of Program are similar to the purpose and design of foster care programs, and the nature of the described payments to care providers is similar to the nature of difficulty of care payments under section 131. Therefore, payments made under State's in-home supportive care program to an individual care

provider for in-home supportive care provided for a Program member who resides in the same home as their care provider will be treated as difficulty of care payments excludable from the gross income of the care provider under section 131.

B. Taxpayer's Reporting and Withholding Obligations in General

In general, payments made to an individual care provider as an employee are wages that would be: (1) includable in the care provider's gross income and subject to income tax under section 61(a)(1), (2) reportable on Form W-2 under sections 6041 and 6051, and (3) subject to income tax withholding under section 3402. However, payments made to an individual care provider that are excludable from gross income of the provider under section 131 are not reportable under section 6041 or 6051 as wages subject to tax and income tax withholding. Nevertheless, payments made to an individual care provider are wages subject to taxes under the Federal Insurance Contributions Act (FICA) (also known as social security and Medicare taxes) and the Federal Unemployment Tax Act (FUTA) unless an exception applies.

Specifically, if the Program member (and not an outside agency) is the employer of the individual care provider, the FICA tax rules for domestic service (household work done in or around the Program member employer's home) may apply. Under those rules, payments for services performed for a spouse or a child and services performed for a parent by a child under the age of 21 generally are not subject to FICA tax under section 3121(b)(3)(B) of the Code. In addition, if wages for domestic services paid during a calendar year are below a threshold ($2,800 for 2025), the wages are not subject to FICA tax under sections 3121(a)(7)(B) and 3121(x). Similarly, payments for services performed for a spouse or a child and services performed for a parent by a child under the age of 21 are not subject to FUTA tax under 3306(c)(5) of the Code. In addition, there is a dollar threshold for wages paid to all household employees for purposes of FUTA tax under section 3306(a)(3).

Accordingly, for those payments that are excludable from an individual care provider's gross income under section 131, the Taxpayer is not required under section 6041 or 6051 to report the payments as wages subject to income tax and income tax withholding. However, Taxpayer is required to report payments that are excludable from an individual care provider's gross income in box 12 of Form W-2 with code II. Moreover, taxpayers may be required under sections 6041 and 6051 to report the payments as wages to the individual care provider subject to FICA tax, unless one of the exceptions applies. In addition, Taxpayer may look to the Q&As on Notice 2014-7 (in particular, Q&As 12, 15 - 20), available on irs.gov at https://www.irs.gov/Individuals/Certain-Medicaid-Waiver-Payments-May-Be-Excludable-From-Income, and Publication 926, Household Employer's Tax Guide, also available on irs.gov, for further information on its reporting and withholding obligations.

CONCLUSION

For the reasons explained above, the described payments to individual care providers under State's Program will be treated as difficulty of care payments excludable from the gross income of the provider under section 131. Specifically, the following rulings are granted:

(1) Medicaid payments made under State Program, pursuant to section 1915(k) of the SSA, to an individual care provider for extraordinary care (i.e. care that is related to an individual's disabilities) that are furnish by an individual, whether related or unrelated, who resides in the same home as the care provider will be treated as difficulty of care payments excludable from the gross income of the provider under section 131.

(2) Taxpayer is not required under section 6041 or 6051 to report these payments as wages subject to income tax.

(3) Taxpayer may treat payments to providers as excludable payments described in Notice 2014-7, such that Department may look to the Q&A on the Notice available at irs.gov for information on reporting and withholding obligations.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. All taxpayer identifying information has been redacted as required under section 6110(c).

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Amy Pfalzgraf
Branch Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc:

Internal Revenue Service

Department of the Treasury

Washington, D.C. 20224

Via E-Fax
(303) 866-2828

Lana Eggers
State of Colorado – Dept of Healthcare Policy and Financing
303 E.17th Ave.
Denver, CO 80203

Person to Contact:
Madeline Padner, ID No. 1004551253
Telephone Number/Fax Number:
(202) 317-7006//(855) 576-2339
Refer Reply To:
CC:ITA:5 PLR-110311-25
DATE:
December 9, 2025

Re: State of Colorado – Dept of Healthcare Policy and Financing
(EIN: 81-1725341)

Dear Ms. Eggers:

This cover letter relates to a letter faxed to you under the provisions of the power of attorney and declaration of representative, or other proper authorization, currently on file with the Internal Revenue Service.

Sincerely,

Amy J. Pfalzgraf

Digitally signed by Amy J. Pfalzgraf
Date: 2025.12.09 16:27:34 -05'00'

Amy Pfalzgraf
Branch Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax and Accounting)

Enclosure