



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

July 28, 2015

CC:ITA:4
CONEX-123386-15

Number: **2015-0025**
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The Honorable Suzan Delbene
Member, U.S. House of Representatives
22121 17th Avenue SE, Building E, Suite 220
Bothell, WA 98021

Attention:

Dear Representative Delbene

I am responding to your inquiry, dated July 08, 2015, on behalf of your constituent who works as a caregiver in a program administered by the Washington State Department of Social Services (DSHS). Specifically, your constituent asked about the tax treatment of payments received for providing personal care under a state Medicaid program.

Your constituent referred to Notice 2014-7, 2014-4 I.R.B. 445, which concludes that certain Medicaid waiver payments received by an individual care provider are excludable from gross income under section 131 of the Internal Revenue Code (Code) as difficulty of care payments. The text of the notice is available on our website at www.irs.gov/irb/2014-4_IRB/ar06.html.

The notice specifically addresses payments made under section 1915(c) of the Social Security Act (Act), relating to Home and Community-Based Services waivers, and does not specifically address the tax treatment of other state Medicaid programs. Your constituent indicates that the state of Washington will no longer pay for personal care services under section 1915(c) of the Act and will pay for personal care services under section 1915(k) of the Act, relating to the Community First Choice Option.

Whether the Internal Revenue Service (IRS) will treat payments received under a state program other than a section 1915(c) program (such as a section 1915(k) program) as difficulty of care payments excludable from gross income under section 131 of the Code depends on the nature of the payments and the purpose and design of the program.

See Q&A1 at www.irs.gov/Individuals/Certain-Medicaid-Waiver-Payments-May-Be-Excludable-From-Income.

If the state of Washington would like the IRS to address whether payments made under its section 1915(k) program or another program are excludable from gross income under section 131, it may request a private letter ruling on its reporting and withholding obligations for payments under that program. Revenue Procedure 2015-1, 2015-1 I.R.B. 1 (and the first revenue procedure of each year) sets forth the procedures for a taxpayer to request a private letter ruling, including the payment of the appropriate user fee. If the state requests a private letter ruling, the current user fee is \$28,300.

I hope this information is helpful. If you have questions, please contact me or
(Identification Number) at .

Sincerely,

Michael Montemurro
Chief, Branch 4,
Office of Associate Chief Counsel
(Income Tax and Accounting)