

	MENTAL RETARDATION BULLETIN COMMONWEALTH OF PENNSYLVANIA * DEPARTMENT OF PUBLIC WELFARE	
	SUBJECT Foster Care Tax Reform as it relates to the Lifesharing/Family Living program	BY  Nancy R. Thaler Deputy Secretary for Mental Retardation
NUMBER:	00-02-10	
ISSUE DATE:	May 20, 2002	
EFFECTIVE DATE:	Immediately	

SCOPE:

County MH/MR Administrators
 Base Service Unit Directors
 Lifesharing/Family Living Providers

PURPOSE:

The purpose of this Bulletin is to clarify foster care tax reform as the result of a recent change in the law.

BACKGROUND:

The Job Creation and Worker Assistance Act of 2002 (P.L. 107-147), signed into law by President Bush on March 9, 2002, made two changes in the way the federal government taxes foster care payments. First, foster families may now exclude foster care payments from their gross income regardless of the age of the individual receiving care. Previously, foster care payments could only be excluded from gross income if the individual receiving services was younger than 19 years-old. Second, foster care payments are exempt from taxation regardless of whether a state run or private agency is making the payments. Previously, only payments for foster care from state or local government agencies were exempt.

DISCUSSION:

The Job Creation and Worker Assistance Act of 2002 is H.R. 3090. Section 404 of H.R. 3090 cites the recent changes and is included with this bulletin as Attachment 1.

The exclusion of foster care payments under this Act applies to qualified foster care payments made to families and lifesharers funded under the County Mental Health/Mental Retardation Program, including payments made for services licensed under 55 Pa. Code chapter 6500 regulations. Qualified foster care payments also include payments to families and lifesharers who are not subject to licensing under these regulations when services in the home of the family or lifesharer are authorized by the County Mental Health/Mental Retardation Program.

Job Creation and Worker Assistance Act of 2002 (From H.R.3090)

SEC. 404. EXCLUSION FOR FOSTER CARE PAYMENTS TO APPLY TO PAYMENTS BY QUALIFIED PLACEMENT AGENCIES

- a. IN GENERAL - The matter preceding subparagraph (B) of section 131(b)(1) (defining qualified foster care payment) is amended to read as follows:
 - 1. IN GENERAL - The term 'qualified foster care payment' means any payment made pursuant to a foster care program of a State or political subdivision thereof--
 - A. which is paid by-
 - i. a State or political subdivision thereof, or
 - ii. a qualified foster care placement agency, and
- b. QUALIFIED FOSTER INDIVIDUALS TO INCLUDE INDIVIDUALS PLACED BY QUALIFIED PLACEMENT AGENCIES - Subparagraph (B) of section 131(b)(2) (defining qualified foster individual) is amended to read as follows:
 - o (B) a qualified foster care placement agency.

- c. QUALIFIED FOSTER CARE PLACEMENT AGENCY DEFINED - Subsection (b) of section 131 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

(3) QUALIFIED FOSTER CARE PLACEMENT AGENCY - The term 'qualified foster care placement agency' means any placement agency which is licensed or certified by-

- a. a State or political subdivision thereof, or
- b. an entity designated by a State or political subdivision thereof,

for the foster care program of such State or political subdivision to make foster care payments to providers of foster care.

- d. EFFECTIVE DATE - The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Appropriate Regional Mental Retardation Program Managers