

**DEPARTMENT OF HEALTH AND WELFARE  
FOSTER CARE AND DIFFICULTY OF CARE PAYMENTS  
1099 MISC and W-2 FORMS**

**(Revised on 3-3-2020)**

IRS Notice 2014-7 ruled "qualified Medicaid waiver payments" (difficulty of care payments) can be excluded from gross income under § 131 of the Internal Revenue Code. A more recent 2019 court ruled Medicaid waiver payments can (a) be treated as earned income if that optimizes the tax return, (b) be excluded from earned income if that optimizes the tax return, and (c) be excluded from adjusted gross income (AGI) if that optimizes the tax return. Prior year tax returns may be amended for years open to the amendment process.

Earned Income Credit, Additional Child tax credit and Child and Dependent Care Credits can be impacted by treating the medical waiver payments as earned income. Many other credits hinge upon AGI. Most refundable credits and many nonrefundable (as well as federal/state tax liability) will be optimized by excluding Medicaid waiver payments (MWP) from AGI.

Do not ignore MWP income when reported to the IRS by way of a W-2 or a 1099-Misc form. The IRS may not have sufficient information to determine whether the taxpayer is in the business of providing home care.

As shown below, TaxSlayer W-2 and 1099 Misc form input menus were modified in 2019. Near the bottom of the W-2 and 1099-Misc menus a new check box and Medicaid Waiver Payment (Box 3 or 7) have been added.

Do you want to include Medicaid Waiver payments in the calculation of earned income?

Medicaid Waiver Payment (Box 3 or 7)

\$|

1. After the rest of the return is completed, input **all** Box 3 or 7 MWP income in the new MWP box.
2. Make note of total federal and state tax liability and/or refunds due.
3. Check the "[ ] Do you want to include Medicaid waiver payments in the calculation of earned income?" box.
4. Make note of whether total federal and state tax liability and/or refunds went up or down after step 3.
5. Reverse step 3 (don't include MWP in earned income) if that optimizes the taxpayer's outcome.

**Note 1:** The additional income on line 7 is considered to be income by the spouse (for MFJ returns) and will count toward the spouse's income for enabling Child and Dependent care benefits if the taxpayers are entitled to non-refundable CDC benefits.

**Note 2:** If there are other forms of optional Adjustments to Income or education credits included on the tax return, trial and error procedure may be necessary to optimize the tax return.

**Note 3:** If the taxpayer is not in the business of providing home care services, exclude the \$10 "Building Fund" tax from Idaho returns as follows: Edit "Basic Information" within the Idaho State menu and answer "yes" to the question "Is the taxpayer is receiving state assistance payments".

**Note 4.** If the payments are reported on Form 1099-MISC: Box 6 and the taxpayer is not in the business of providing home care services, report the MWP income in Box 3 instead of Box 6.

**Note 5:** If the payments are reported on Form 1099-MISC: Box 7 - Other Income and the **tax** payer is in the business of providing home care services, follow the instructions in Resource Manual Tab D, scenario C. The taxpayer can then list off-setting expenses such as food, shelter and transportation as a business expense. The Business Code for this is 623000. The return is out of scope if shelter expenses involve depreciation or employees.