

Apr 30, 1996

Mr. Ed Sager, Commercial Appraiser
Highlands County Property Appraiser
501 S. Commerce Avenue
Sebring, Florida 33870-3899

Re: Total and Permanent Disability
Gross Income - Medicare;
Sections 196.012(10); 196.101(4); Florida Statutes

Dear Mr. Sager:

Thank you for your letter dated March 20, 1996, addressed to Mr. John Everton, requesting assistance from the Department of Revenue with respect to ad valorem tax exemption issues.

ISSUE

Are Medicare payments made on behalf of a recipient to be included as part of Social Security income when determining gross income of an applicant for the total and permanent disability exemption from ad valorem taxation provided by section 196.101, Florida Statutes?

LAW

In order to determine whether any applicant for an exemption as a totally and permanently disabled person is within the income limitations prescribed by section 196.101, Florida Statutes, it is necessary to consider the definition of "Gross Income" provided by section 196.012(10), Florida Statutes, as follows:

"Gross income" means all income from whatever source derived, including, but not limited to, the following items, whether actually owned by or received by, or not received by but available to, any person or couple: earned

income, income from investments, gains derived from dealings in property, interest, rents, royalties, dividends, annuities, income from retirement plans, pensions, trusts, estates and inheritances, and direct and indirect gifts. Gross income specifically does not include payments made for the medical care of the individual, return of principal on the sale of a home, social security benefits, or public assistance payments payable to the person or assigned to an organization designated specifically for the support or benefit of that person.

Section 196.101(4)(a), Florida Statutes, specifies that for the purposes of this section, the term "gross income" includes Veterans Administration benefits and any social security benefits paid to those persons who may be eligible for the exemption.

ANALYSIS

Title 42 USC, section 1395, describes the Medicare program as an insurance program to provide basic protection against the costs of hospital, related post-hospital, home health services, and hospice care for certain individuals meeting certain eligibility requirements, including individuals entitled to social security benefits. Title 42 USC, section 1395, provides the scope of medical benefits; premium amount determination; deductible amount determination; schedules and maximum payments allowable for health care services rendered; and, among other provisions, further directs that payments made under the program for covered medical services must be made directly to the health care provider. As in most medical insurance programs, the health care provider files a claim and is directly reimbursed by the Medicare program for services provided to eligible individuals.

CONCLUSION

It is my opinion that payments made under the Medicare program constitute "payments made for the medical care of the individual" which are excluded from "Gross Income" under the provisions of section 196.012(10), Florida Statutes.

You also expressed concerns regarding ambiguities that may arise from the absence of a definition of "legal blindness" under s. 196.101(5), Florida Statutes, even though that term is defined specifically in Rule 12D-7.003(1)(c), F.A.C. You ask if the Department would attempt to have the definition of "legal blindness" included in s. 196.101(5), F.S., through legislative processes.

Although "legally blind" is not defined under Chapter 196, F.S., the definition of "blind" is provided under section 413.033(1), Florida Statutes. Also see references in sections 413.021 and 233.0561, Florida Statutes. The Department adopted this definition in the promulgation of Rule 12D-7.003(1)(c), F.A.C.

It is my opinion that since a definition of "blind" is provided in the rule consistently with a definition given statutorily under section 413.033(1), Florida Statutes, the term "legally blind," as used under section 196.101, Florida Statutes, is not ambiguous.

This response constitutes technical advice which may be determinative with respect to the Department only under the facts and circumstances described in the request for advice. This response is predicated upon those facts and the specific situations summarized herein. Subsequent statutory or administrative rule changes or judicial interpretation of the statutes or rules upon which this advice is based may subject similar future transactions to a different treatment than expressed in this response.

If you would like to discuss this matter or if I may be of further assistance, please call this office at (904) 414-6100. Written inquiries should be addressed to Department of Revenue, Tax Policy and Dispute Resolution, Property Tax Section, Post Office Box 7443, Tallahassee, Florida 32314-7443.

Sincerely,

Sharon Gallops
Senior Tax Specialist

SG/sg

Cont. #96009