



**AGENCY OF HUMAN SERVICES
DEPARTMENT OF DISABILITIES, AGING AND
INDEPENDENT LIVING**

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**Report on
Adult Disability Care Payments in
Household Income**

**Submitted to:
House Committees on Appropriations, Human
Services, and Ways and Means
and
Senate Committees on Appropriations, Finance,
and Health and Welfare**

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I. Introduction

During the 2005-2006 legislative session Act No. 185 relating to education finance simplification (H.880) contained language instructing the Commissioner of the Department of Disabilities, Aging and Independent Living (DAIL) to study whether some or all of “adult disability care payments” should be included in household income for purposes of calculating the education property tax adjustment and whether exclusion of the payments from that calculation was integral to maintaining the system of care for adults with developmental disabilities. Specifically, H.880, Section 15 states:

The commissioner of disabilities, aging, and independent living shall research further, including discussions with providers, the issue of whether household income for purposes of property tax adjustment claims should include state payments for care of disabled adults, or should include any portion of such payments, and whether the continuing exclusion of such income is necessary to maintain the system of care for developmentally disabled adults. The commissioner shall also analyze the types of payments made under various adult “homeshare” agreements with the state or other state agreements which may be referred to as “adult foster care,” and shall define these types of agreements and report the amount of payments made under such agreements and to whom these payments may be made, and shall recommend whether these payments should be included or excluded, in whole or in part, from household income for purposes of property tax adjustments in Title 32.

II. Background Information

The use of a contracted care model to provide twenty-four hour/day residential services to adults and children with developmental disabilities who are unable to live with family or other unpaid caregivers has been in place for over twenty-five years. The service began originally as a method to place children who were residents of the state’s institution for people with developmental disabilities, the Brandon Training School.

Initially beginning in Rutland and Chittenden Counties as the Child and Adolescent Developmental Home Program, it soon expanded statewide as the model became a viable option for supporting children *and* adults with developmental disabilities in regular family homes in local communities. In 1986 changes to the IRS Codes expanded the income tax exemption already in place for child foster care, to individuals of all ages if:

- “(i) required by reason of a physical, mental, or emotional handicap of such individual with respect to which the State has determined that there is a need for additional compensation, and
- (ii) provided in the home of the foster care provider...”¹

This change enhanced the developmental services system’s ability to recruit home providers. The number of people served by this residential option has grown from 10 in

¹ IRS Code, Section 132.

the original pilot sites in 1979-80 to 1,048 at the end of state fiscal year 2006. In the vast majority of situations, it is the preferred model providing stability, integration into family and community life, and quality supports and services that assist the person with a disability to learn new skills, take care of health issues, and become meaningful members of their communities.

The value of people who choose to open their home to another individual in need cannot be understated. Perhaps it is best summarized by a home provider who wrote:

“Some very special people moved into our homes and we in turn opened the windows on to a world that didn’t exist. We are the voice of encouragement where there was none, the pat on the back for a job well done, the smile of encouragement. We are the shoulder to cry on, the hug in the thunderstorm. We do our best to keep the monsters away. I hold up a mirror in front of an individual every day that says, ‘Yes, you have worth.’ We deliver quality of life.”²

At the end of state fiscal year 2006, there were 915 developmental homes providing “quality of life” for the people they serve.

Developmental home providers³ are independent contractors who receive no benefits from the State or through the designated/specialized developmental service agencies. Any insurance coverage that home providers have is purchased privately. The payments are exempt from all federal and Vermont State income tax. This means that there is no FICA contribution. Therefore, home providers will receive no Social Security payment at retirement age based on their home provider income. As independent contractors, home providers receive a contractual payment, set on an annual basis by the designated/specialized developmental service agencies. They do not receive an hourly wage.

Vermont makes extensive use of the developmental home model for a variety of reasons including, but not limited to:

- Homes are integrated into the normal communities of the state;
- Developmental homes provide a nurturing family environment where skills are learned throughout the course of regular, everyday life;
- Often extended family and friends of the home provider broaden the social relationships of the person with a disability;
- The contracted care model is a cost effective way of providing residential services that are individualized to the specific needs of the person with a disability.

Contract payments totaling \$24,554,867 were made to home providers for a total of 11,905 months of service during calendar year 2005. The average annual payment to home providers during 2005 was \$24,751. The Vermont Council of Developmental and

² Correspondence from home provider, L.G., December 7, 2006.

³ The term “developmental home provider” is used throughout this report; however, it should be noted that the model of service is also used on a limited basis for children and adults with mental health issues.

Mental Health Services estimated that as of December 2005, it would cost an *additional* \$41,241,354 to convert the contracted developmental home model to staffed residences/group homes, bringing the total cost to \$66,010,459 – exceeding 260% more than what was actually paid. In a shift staff service model such as is used in traditional group homes and other staffed residences, it is more expensive because of wage and hour rules, benefits and other employee related expenses.

The extensive use of developmental homes, as a way to provide support and supervision to individuals who require that level of service, achieves the goal of providing high quality service in the most cost effective way. We would be remiss if we said that the developmental home model is the exclusive model of residential services used in Vermont. In addition to the 1,048 individuals living in developmental home settings at the end of state fiscal year 2006, an additional 311 people were living in a variety of other settings including group homes, an Intermediate Care Facility, staffed apartments/homes, and supervised apartments.

III. Other Home Sharing Arrangements

In addition to developmental homes, DAIL also supports similar home sharing arrangements provided to people with traumatic brain injuries, people with physical disabilities and elders.

For people with traumatic brain injuries (TBI), the program is very similar to the developmental home model; however contractual payments are made through traumatic brain injury providers. There are approximately 35 individuals receiving contracted home provider payments in the TBI program.

For elders or people with physical disabilities, the concept behind home sharing is to match an individual with a person seeking affordable housing. Each match is individualized to the participants. Depending on the circumstances, the person seeking a home usually makes an affordable rental payment to the elder or person with a disability and usually provides some or all of the following types of support: homemaker services, assistance with yard work; help with local travel; home maintenance, etc.

These home sharing arrangements have been facilitated by two programs – HomeShare Vermont in operation for over twenty-five years and Central Vermont HomeShare, established three years ago. Between the two programs it is expected this year that 164 Vermonters will be served by the two programs in Chittenden, Addison, Washington, Orange and Lamoille Counties. An additional 800 people will receive other services including home share/match counseling assistance and referral services related to housing needs.

In addition to home sharing matches, HomeShare Vermont also makes care giving matches where some personal, nonmedical care is provided in the home and the homeowner pays the care providers a salary in addition to room and board. Some care giving matches are not live-in. This is a self-directed model where the homeowner

decides what types of support he/she needs and the caregivers are employed by the homeowner.

Although not facilitated through DAIL, there are a number of adults with serious mental illness supported through the contracted home provider model. These arrangements are managed by the Division of Mental Health at the Health Department. According to designated agency reports, approximately 11 individuals received support in this model in calendar year 2005.

IV. Process Used

The Department of Disabilities, Aging and Independent Living convened an advisory group of interested individuals representing the following constituents:

- Consumers of developmental disability services
- Developmental home providers
- Designated developmental services agencies
- Department of Taxes
- Department of Finance and Management
- Department for Children and Families
- Vermont League of Cities and Towns

The advisory group met four times from September – December 2006. At the November meeting a number of additional home providers and consumers of service attended to provide feedback and input to the Department. The group provided feedback in two main areas: (1) the impact of the \$6,500 income exemption for the *property tax* relief program; and (2) a concern about any change that might negatively impact the full exemption from state and federal *income taxes*. Even though the second concern was outside the scope of the request from the Legislature, the Department did review the concerns (see Income Tax Concerns) and proposes a specific recommendation to address the issue.

V. Impact of \$6,500 Income Exemption for Adult Foster Care Providers (Developmental Homes) for Property Tax Relief

Feedback from developmental home providers indicated that many were confused about the changes being made. They expressed a concern around insufficient communication to home providers and a lack of equity compared to other populations served. Further, there seemed to be some frustration of not being valued as individuals who do the “State’s work”. They provided information that the reduction in property tax relief means that they have fewer resources to purchase necessary items for themselves and the individuals under their care. Almost unanimously, home providers said that they did not “do this for the money” but for the satisfaction of helping another person have a good quality of life.

People with disabilities said that they like living with their home providers and talked about them like family. They said it was important for the State to treat home providers fairly.

Designated/specialized developmental service agencies reported that they would not be able to provide the level of service to the number of people that they currently support without use of the contracted developmental home model. They also acknowledged that developmental home providers perform an enormous and very valuable service for people with developmental disabilities. As noted earlier, designated/specialized service agencies report that the cost for replacing the current method of service would be more than 2.6 times the current cost.

The Vermont League of Cities and Towns, Tax Department and Finance and Management Department all expressed concern about any exemptions that impact the Education Fund. The Tax Department reported that prior to the \$6,500 exemption, there had not actually been any statutory exemption from household income for payments made to developmental home providers. However, due to language in the tax instructions issued to the public⁴, many home providers believed there was an exemption and acted accordingly. The Administration believes very strongly that Vermont tax policy should not add new tax exemptions that reduce funding to the Education Fund, and expressed concerns that allowing an exemption greater than \$6,500 would open the door to others. The Tax Department indicated that the \$6,500 exemption is consistent with other exemptions provided in the property tax relief program.

VI. Concern About Income Tax Exemption

As stated earlier, in 1986 the federal government exempted foster care and difficulty of care payments to foster care providers for individuals 18 and older. Because Vermont taxable income is based on federal-taxable income, the payments are also exempt from state income tax:

During the course of the last year, concern started to arise about the potential for the federal government to declare developmental home provider payments taxable. This concern was heightened when Tax Department Technical Bulletin No. 31 was issued highlighting that in Vermont statutes, the term foster care only refers to children.

Since it was not the intent of the Administration to negatively impact the income tax exemption for developmental home providers, it was suggested that a definition for adult foster care be created and introduced into legislation. The creation of a definition for adult foster care in state statute will solidify the income tax exempt status of developmental home providers. The following definition has received support from the

⁴ Although the law only excluded payments made to a *family* for the support of an eligible person with a developmental disability, the instructions for several years contained the following language “Not part of household income are:payments made by the State for foster care or for care of developmentally disabled persons...” (Tax Instructions 1999, 2000, 2001, 2002, 2003, 2004, 2005).

advisory group, including the Tax Department and the Department of Finance and Management:

“Adult Foster Care” means twenty-four hour home care services for an individual 18 years of age or older provided in the residence of a home care provider. Home care services include room, board, safety, household services and any specialized services to meet the unique needs of the individual. Adult foster care can be provided to no more than two individuals in the same home.

VII. Recommendations

Based on the feedback received from people with developmental disabilities, developmental home providers, designated/specialized developmental service agencies and other affected departments/organizations, the Department of Disabilities, Aging and Independent Living makes the following recommendations:

1. That the definition of “adult foster care” as noted above be passed into law during the first half of the 2007-2008 biennium.
2. That the current full income exclusion for adult home sharing agreements be maintained as is.
3. That the \$6,500 income exclusion for ‘adult disability care payments’ enacted in the 2006 legislative session be maintained.
4. In recognition of the impact on developmental home providers of this change, a payment adjustment be made for all home providers who would be eligible for the property tax relief program and who had active contracts as of December 31, 2006.