

Frequently Asked Questions about the Difficulty of Care Tax Exclusion for Consumer-Directed Attendant Support Services

Key Terms

DOC (Difficulty of Care) - A federal tax rule that may let caregivers be excluded from paying income tax if they live in the same home as the person they care for, and they provide services through a Medicaid waiver program like CDASS. DOC only applies to federal and sometimes state income taxes—not Social Security, Medicare, or unemployment taxes.

CDASS (Consumer-Directed Attendant Support Services) - A Medicaid program in Colorado that lets people hire and manage their own caregivers instead of using an agency. Medicaid members have access to CDASS through a Medicaid waiver or Community First Choice.

CFC (Community First Choice) - Another Medicaid program in Colorado that offers a variety of service delivery options and benefits. CFC is not a waiver program. CFC allows more people to be eligible for and access CDASS

FMS (Financial Management Services) - A company that helps CDASS members with things like paying caregivers, handling taxes, filing forms, and conducting attendant background checks. FMS companies in Colorado are contracted by the Department of Health Care Policy and Financing.

IRS (Internal Revenue Service) - The federal government agency in charge of collecting taxes and creating tax regulations.

HCPF (Department of Health Care Policy and Financing) - The Colorado state agency that runs Medicaid programs, including CDASS and CFC

Private Letter Ruling (PLR) - A request sent to the IRS asking for a written decision about how a tax rule should apply in a specific situation.

W-2 Form - A yearly tax form you get from your FMS. It shows wages earned, taxes taken out, and other details from the tax year.

W-4 Form - A form that tells your FMS how much income tax to take out of your paycheck.

IRS Form 1040 - The main form used to file your federal income tax return. You can use it to report income and claim refunds.

Questions and Answers about Difficulty of Care

1. What is Difficulty of Care (DOC)?

- DOC is a special Internal Revenue Service (IRS) rule. If you live with a Medicaid waiver member and provide them with waiver services, you may not have to pay federal income tax.

- As a Consumer-Directed Attendant Support Services (CDASS) attendant, all of the following conditions must be true to qualify for the DOC tax exclusion:
 - a) You provide CDASS care to a CDASS member in a home you two share. It doesn't matter who owns or rents the home.
 - b) You don't live in a different home.
 - c) This is your main home where you eat, sleep, and spend time with your family.
- You do not need to be related to the member to qualify for DOC.
- DOC does not impact Social Security Tax, Medicare Tax or unemployment tax. You may need to pay these taxes even if you qualify for DOC.
- The IRS rule is in [IRS Notice 2014-7](#). The IRS has posted answers to frequently asked questions on its [website](#).

2. What happens if my member is currently in the CDASS program through Community First Choice (CFC) instead of a Home and Community-Based Services (HCBS) waiver?

- DOC is available for members who get services through a Medicaid waiver. Because CFC is not a waiver, DOC is not available for you, the attendant, once your member has transitioned to CFC. **This means that when you or your member makes the switch to CFC, you will no longer qualify for DOC and will have federal income tax taken out of your paycheck.**
- **Important:** The Department of Health Care Policy and Financing (HCPF) sent the IRS a request (called a Private Letter Ruling) asking for it to allow attendants to qualify for DOC if they provide care to CFC members.
 - An IRS Private Letter Ruling is a written statement issued by the IRS that explains certain tax laws and how they apply to a specific taxpayer's or set of taxpayers' specific circumstances.
- The IRS has not given HCPF a date it will get a response to HCPF's Private Letter Ruling. It generally takes the IRS up to 6 months to give a response; however, this timeline is not promised. HCPF is optimistic that it will get a response before the end of 2025.

3. Does my member have to switch to CFC? When will they have to switch?

- Yes, as of July 1, 2025, CDASS is provided exclusively through CFC. Current CDASS members must enroll in CFC to receive CDASS.
- Current members in the CDASS program will begin receiving CDASS through CFC, instead of through their waiver, at their next scheduled Continued Stay Review (CSR).

- A CSR meeting is scheduled by the member's case manager and is when the member's needs will be reviewed and a new certification period set.
- **Important:** A member might still be on an HCBS waiver for other Medicaid services even though they switched to CFC for CDASS.

4. Why is the DOC exclusion not allowed for CFC?

- The CFC program is separate from Medicaid HCBS waivers and the IRS's DOC rules only allow workers to receive the tax exclusion if their member receives services through a waiver.¹
- As mentioned above, HCPF has submitted a Private Letter Ruling to the IRS asking for the DOC exclusion to be allowed for CFC.

5. What happens if the IRS approves HCPF's request to allow DOC for CFC?

- Your FMS will work with HCPF to implement DOC in the CFC program.
- Any wages that were taxed during the time the IRS was reviewing the request will need to be addressed through your tax return (IRS Form 1040) and any needed amendments to Form 1040. See questions 9 and 10 for more information on what you should do.

6. What will my Financial Management Services (FMS) contractor do while HCPF is waiting for an answer from the IRS?

- Your FMS contractor processes DOC for qualified attendants and makes sure taxes are properly calculated. Because the FMS is the member's fiscal agent, they are required to follow all IRS rules about DOC. This means that until HCPF receives a response about the Private Letter, it must follow the current rule to not apply DOC for attendants who are working with members on CFC.
- If your FMS fails to withhold income tax while HCPF waits for a decision from the IRS, the attendant may owe these taxes when filing their tax return and the FMS may face penalties. This is why it is important that CDASS participants understand why DOC is not available for members getting CDASS through CFC at this time.

7. When will DOC end? If I currently get DOC when will it be discontinued? What paycheck will I see income tax be taken out?

- For members enrolling in CDASS on or after July 1, 2025, none of their attendants will have the option to request DOC.

¹ DOC payments only apply to the 1915 (c) HCBS waiver authority, not the 1915 (k) CFC authority.

- For attendants who currently serve members on a waiver, their DOC exclusion will end when the member transitions to CFC. Current waiver members will transition to CFC at their next scheduled Continued Stay Review.
- Attendants currently receiving the DOC exclusion will see income tax withheld starting the date the member transitioned to CFC. If this date happens in the middle or end of a pay period, only the days the attendant was providing care through CFC CDASS will be taxed.

8. What if I work for two members, one who is on CDASS through a waiver and the other through CFC?

- If you work for two members but have one CDASS employer, your wages for dates you worked for the member on the waiver will be excluded from income tax withholding and the wages for dates worked for the CFC member will be taxed. Because you have one CDASS employer, you will receive one W-2.
 - DOC excluded wages will be shown in Box 12 ii of the W-2.
 - Taxable wages will be shown in Box 1 of the W-2.
 - Income tax withheld will be shown in Box 2.
- If you have two different employers, the information above is still true but you will receive two separate W-2s.
- Income tax will be withheld according to the attendant's W-4.

9. How will this affect me if half of the year I qualified for DOC?

- If part of this tax year you qualified for DOC (so you had zero income tax withheld from your paychecks), then the exclusion will still be in place for dates you worked while your member was on CDASS through a waiver. For the dates this year when your member was on CDASS through CFC, the DOC exclusion will be removed, and your wages will have income tax withheld.
- Your W-2 will show:
 - The total amount of wages that qualified in for the DOC exclusion in Box 12 ii.
 - The total amount of income tax withheld in Box 2 for the wages that the DOC exclusion was removed and according to your set W-4 withholdings.

10. Will my FMS issue me a refund if the IRS approves HCPF's request to allow DOC for CFC?

- **Your FMS will not issue you a refund of the income tax it withheld from your paychecks.** However, you may receive a refund (depending on your personal tax circumstances) from the IRS when you submit your 1040 tax return for the tax year.

- Neither your FMS nor HCPF can give you tax guidance. You should get help from a tax advisor to submit your return if you plan to claim your DOC refund on your 1040. Visit the Colorado Department of Revenue's website (<https://tax.colorado.gov/community-tax-help>) for low cost and free tax resources.

11. What if the IRS gives its approval next year (2026) or even the year after?

- You may file an amended tax return for previous years, up to 3 years after the date you first filed, to claim the DOC exclusion.
- You should get help from a tax advisor to submit an amended return. Visit the [Colorado Department of Revenue's website](https://tax.colorado.gov/community-tax-help) for low cost and free tax resources.

12. Do I need to submit an updated W-4 (Employee's Withholding Allowance Certificate) to my FMS?

- If you have DOC and are currently working and your member has recently switched from their waiver to CFC or will be switching soon, you should review your current W-4 to make sure the withholdings you chose are correct when your DOC exclusion is removed.
 - If you choose not to submit a new W-4, your FMS will apply the income tax withholding selection from your current W-4.
- If your member enrolled or will enroll in CDASS through CFC on July 1, 2025, or after, you do not need to submit a new W-4.
 - If you have not submitted a W-4 at all to your FMS, it will apply the Single with 0 Dependents/Exemptions income tax withholding selection for you.
- To complete a new W-4, contact Public Partnerships LLC. (PPL):

Email: ppcdass@pplfirst.com

Phone: 1-888-752-8250
- If you believe you are exempt from income tax for any other reason, you must submit a new W-4 each year by February 15th. Your new W-4 must have the word "Exempt" written under Line 4(c). No other fields other than Name, Address, and your signature should be filled out for an Exempt W-4.
- The Federal Form W-4 applies to Colorado State withholdings as well.

If you have questions about the information in this document, please contact PPL.

The Colorado Department of Health Care Policy and Financing has posted an Informational Memo with more information about Difficulty of Care on its HCPF's Memo Series webpage (<https://hcpf.colorado.gov/memo-series>). The memo is [IM 25-018](#).