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An **ANCOR** publication of private provider practice and federal policy issues.

FEE'S TO PROVIDER FAMILIES

Public Policy Update



Victory—Congress Passes & President Signs Bunning/Lewis Foster Care Tax Bill

A Big Win!

Victory was achieved on a long-standing ANCOR legislative initiative March 9th when President Bush signed into law an economic stimulus package (P.L. 107-147) that included a foster care tax bill championed for many years by Senator Jim Bunning (R-KY) and Representative Ron Lewis (R-KY). The new law allows payments to foster care families to be excluded from the gross income of a foster family regardless of the age of the individual receiving foster care services and regardless of whether a private entity makes the placement and payments. To achieve this, the new law alters the definitions of qualified foster care payment, qualified foster individuals, and qualified foster care placement agency.

Many ANCOR private providers across the nation help children and adults with mental retardation and other disabilities live in a home in their community—thus, avoiding institutional services—by assisting state and local governments with placements and transmission of payments to foster care families. However, Federal tax law has restricted the exclusion from taxable income of payments only to certain foster care family providers. This inequity in the law has created confusion, unfair tax treatment, and significant problems for certain foster care families who opened their homes to individuals with significant disabilities.

For more than six years ANCOR has actively worked to change the Internal

Revenue Code to create fairness in Federal income tax law and to simplify the tax treatment of foster care payments for children and adults whose placement and payments to foster care family providers (also known in some states as host homes or developmental homes) are made by state/local government licensed or certified private agencies.

With the commencement of the 107th Congress in January 2001, the dedication and commitment of Senator Bunning and Representative Lewis were unwavering as they again reintroduced their legislation and shepherded it through their respective chambers of Congress. Their efforts and those of a core group of ANCOR members paid off when the House of Representatives approved March 7th its fourth attempt at an economic stimulus bill—the Job Creation and Worker Assistance Act of 2002 (H.R. 3090)—by a vote of 417-3 and when the Senate followed the House's lead the next day with a vote of 95-9 for the same legislation.

Changes in the Law

Thanks to the ANCOR initiative, the law is retroactive to December 31, 2001, providing the tax exclusion for foster care payments for the tax year beginning 2002. The amendment to Federal tax law eliminates present restrictions on tax exclusions. Current tax law excludes from taxation only foster care placements/payments made to a foster care family by a state agency or a

political subdivision of a state, or placements/payments made in behalf of children (under age 19) by tax-exempt child care placement agencies.

New Law: Qualified foster care payment now means any payment made pursuant to a foster care program of a State or political subdivision thereof which is paid by a State or political subdivision or a qualified foster care placement agency, and now defines qualified foster individuals to include individuals placed by qualified placement agencies. The term qualified foster care placement agency now 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.

The Pursuit of Victory Through a Coalition

Throughout 1996 and 1997 ANCOR began exploring a remedy to the foster care tax inequity. Then in 1998, ANCOR assembled a core group of ANCOR providers involved in foster care services to individuals with disabilities to focus a concerted effort in changing Federal tax law. Known as the ANCOR Foster Care Coalition, these private providers worked tirelessly and in concert with the 105th, 106th, and 107th Congresses to achieve a statutory change to

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Bunning/Lewis Foster Care Tax Bill Passes *continued from page 1*

the IRS code on behalf of thousands of foster care families nationwide who provide supports to people with mental retardation and other disabilities. Combining their financial resources, legislative advocacy skills with their Representatives and Senators, and grassroots support from their home states, the ANCOR Foster Care Coalition proved that working together, providers can make a difference in Federal law.

Many ANCOR members contacted their members of Congress on this issue over the years and ANCOR extends its appreciation. Special recognition, however, is due to those members whose legislative advocacy and/or financial contributions made the road to victory possible.

Congratulations to ANCOR Foster Care Coalition

Dave Toeniskoetter of Dungarvin has served as the Administrative Chair of the ANCOR Foster Care Coalition. Overall legislative strategy was developed under the capable leadership of Legislative Committee Co-chairs Kelley Abell of ResCare and Rich Carman of Bethphage. Current Coalition

activists include the following: Tim Sullivan (The Institute of Professional Practice, Inc.), Larry Durbin and Julie Fay (Mentor), Barbara Pilarcik (The Association for Community Living), Sharon Walters (Bethphage), Doug Miller (REM), John Voit (Seguin Services), Joe Woodward (Danville Services). Special thanks to the hard work of the Private Providers Association of Texas. In past years, the Coalition was also assisted by Ray Anderson (formerly of VOCA) and Skip Sajevic (formerly of Nekton). A list of organizations providing financial contributions is below.

ANCOR is grateful to Janet Boyd and Janine Jones of the firm of Alvin, Gump, Strauss, Hauer & Feld, L.L.P. for their knowledge and expertise on this issue during 1998-2000.

ANCOR extends a special thanks to former ANCOR Executive Director Joni Fritz for her leadership in identifying this

ANCOR extends thanks to the following organizations for financial contributions over the years to the Foster Care issue.

Bethphage	PARC (IL)
Dungarvin	Omnivisions (TN)
Institute of Professional Practice, Inc.	Verland (PA)
Mentor	OPRA (OH)
Nekton (MN)	Pejus
REM, Inc.	Serrona Center (IL)
ResCare, Inc.	Easter Seals (NH)
Seguin	Opportunity House
VOCA/EduCare	Warren Achievement Center
CSNI	SPARC
AHS	Residential Support Services
Mike-An Group	Grafton School
Vermont Council	Brass
Adelante (NM)	LifeSkills, Inc.
The Association (IL)	The ARC-PA
Brown Schools (TX)	
Martin Luther Homes (NE)	

issue as a problem in 1993, for devoting ANCOR resources toward a remedy in 1996-1997, enlisting the help of consultant Tom Arnold, and assembling the ANCOR Foster Care Coalition in 1998. ■

DOL Conducting Random Investigations of CRPs to Survey Compliance with Section 14(c)

The Department of Labor's Wage and Hour Division (WHD) recently announced it will conduct a *National Baseline Survey* of community rehabilitation programs (CRPs) to determine the level of compliance with the Fair Labor Standards Act (FLSA) Section 14(c) special certificate program. *The National Baseline Survey—which will be conducted in Spring 2002—is the first-ever compliance survey of the Section 14(c) program.* WHD will investigate approximately 70 CRPs at random for the survey. Results from the survey will provide WHD and the public with information about program's effectiveness and quality.

ANCOR learned of this national survey from with WHD—the entity responsible

for administration and enforcement of the program—at a stakeholders meeting February 21st. The Division's new Administrator, Tammy McCutchen, made the announcement. ANCOR first notified its members of WHD's intent in a faxed alert, dated March 3, 2002.

Reasons for Conducting a National Survey

The WHD is conducting a national compliance survey of the Section 14(c) program for several reasons:

- *DOL is committed to protecting employment opportunities of workers with disabilities:* As part of this commitment, the WHD has made increased compliance with Section 14(c) one of its five national priorities in 2002. The *National Baseline Survey* is

one part of WHD's on-going effort to bring about improved compliance with Section 14(c).

- *Government Performance Results Act:* WHD is required by law to measure the effectiveness of the programs it oversees under the Government Performance Results Act. WHD uses compliance surveys to measure the level of compliance in an industry and the effectiveness of the Division's interventions (e.g., technical assistance) to achieve compliance.

- *GAO Recommendation:* The General Accounting Office (GAO) recommended in its September 2001 report on the Section 14(c) program that DOL conduct a survey to measure program compliance as a means of gathering needed data to effectively manage the program.