



CABINET FOR HEALTH
AND FAMILY SERVICES

Provider Tax Overview

Prepared for the Medicaid Advisory Committee (MAC)

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Provider Tax Summary

- States may generate their non-federal share (aka State Share) of Medicaid expenditures through multiple sources, including health care-related taxes, sometimes referred to as provider taxes, fees, or assessments.

- These taxes are imposed on healthcare providers as:
 - A percentage of revenue (i.e. 5% of revenues)
 - Flat taxes (i.e. amount per facility bed or inpatient stay)

- State Medicaid programs utilize health care-related taxes to help accomplish various things:
 - To support Medicaid Payment Rates (most common)
 - To fund Supplemental and/or Directed Payments
 - To avert cuts to Medicaid Benefits
 - To expand Medicaid Benefits

Federal Requirements

- Under 42 CFR 433.56, there are 19 classes of services that are allowed to be utilized for a healthcare provider tax, as listed below:
 - Inpatient hospital services
 - Outpatient hospital services
 - Nursing facility services (other than services of intermediate care facilities for individuals with intellectual disabilities)
 - Intermediate care facility services for individuals with intellectual disabilities, and similar services furnished by community-based residences for individuals with intellectual disabilities, under a waiver under section 1915(c) of the Act, in a State in which, as of December 24, 1992, at least 85 percent of such facilities were classified as ICF/IIDs prior to the grant of the waiver
 - Physician services
 - Home health care services
 - Outpatient prescription drugs
 - Services of managed care organizations

Federal Requirements

- Continued service classes:
 - Ambulatory surgical center services (as described for purposes of the Medicare program in section 1832(a)(2)(F)(i) of the Social Security Act. These services are defined to include facility services only and do not include surgical procedures)
 - Dental services
 - Podiatric services
 - Chiropractic services
 - Optometric/optician services
 - Psychological services
 - Therapist services (defined to include physical therapy, speech therapy, occupational therapy, respiratory therapy, audiological services, and rehabilitative specialist services)
 - Nursing services (defined to include all nursing services, including services of nurse midwives, nurse practitioners, and private duty nurses)

Federal Requirements

- Continued service classes:
 - Laboratory and x-ray services (defined as services provided in a licensed, free-standing laboratory or x-ray facility. This definition does not include laboratory or x-ray services provided in a physician's office, hospital inpatient department, or hospital outpatient department)
 - Emergency ambulance services
 - Other health care items or services not listed above on which the State has enacted a licensing or certification fee, subject to the following:
 - (i) The fee must be broad based and uniform or the State must receive a waiver of these requirements
 - (ii) The payer of the fee cannot be held harmless;
 - (iii) The aggregate amount of the fee cannot exceed the State's estimated cost of operating the licensing or certification program.

Federal Requirements

- Under 42 CFR 433.68, states may use health care-related taxes as a source of non-federal share of Medicaid if they meet all three of the following requirements:
 1. **Broad Based** – tax is imposed on all the non-governmental health care entities, items, and services within a class and throughout the jurisdiction of the applicable unit of government. (i.e. the tax cannot be exclusive to providers that treat a high proportion of Medicaid patients)
 2. **Uniformly Imposed** – A uniform tax applies consistently in amount and scope to the entities, items, and services to which it applies. (i.e. the tax rate cannot be higher on a provider’s Medicaid revenue than on its non-Medicaid revenue)
 3. **Does not hold taxpayers harmless** - Taxpayers cannot be given a direct or indirect guarantee that they will be repaid for all or a portion of the amount of taxes that they contribute.

Illustration of a Permissible Arrangement

- Actual health care-related tax amounts and the distribution of tax revenue vary by each individual tax. However, the arrangement below is an illustrative example of a health care-related tax that would satisfy the applicable federal requirements without a need for a waiver:
 - In this example, for simplicity lets assume that the state has only three providers and their current FMAP is 75%.
 - Each earned \$1,000 in net patient revenue prior to the tax arrangement.
 - Provider 1 has high Medicaid volume (80%) and Medicaid revenues account for \$800 of the net patient revenue.
 - Provider 2 has lower Medicaid volume (20%) and Medicaid revenues account for \$200 of the net patient revenue.
 - Provider 3 does not accept Medicaid and has \$0 in Medicaid revenues.
 - All three providers are assessed a uniform and broad-based tax that totals two percent (2%) of its net patient revenue for a total state-wide tax assessment of \$60.
 - The state uses the \$60 of tax revenue as the state share and then draws down \$180 of federal match to provide a \$240 increase in Medicaid payment rates to these providers.

Illustration of a Permissible Arrangement

Formula

A

Net Patient Revenue

B

Medicaid Revenue

$C = A * 2\%$

Provider Tax Payment (2%)

$D = B * 24\%$

24% Increase to Medicaid Rates

$E = D * 75\%$

Fed Share of Increased Rates (75%)

$F = D * 25\%$

State Share of Increased Rates (25%)

	Provider A (High Medicaid Volume)	Provider B (Low Medicaid Volume)	Provider C (No Medicaid Volume)	Statewide (Total Medicaid Volume)
Net Patient Revenue	\$1,000.00	\$1,000.00	\$1,000.00	\$3,000.00
Medicaid Revenue	\$800.00	\$200.00	\$0.00	\$1,000.00
Provider Tax Payment (2%)	\$20.00	\$20.00	\$20.00	\$60.00
24% Increase to Medicaid Rates	\$192.00	\$48.00	\$0.00	\$240.00
Fed Share of Increased Rates (75%)	\$144.00	\$36.00	\$0.00	\$180.00
State Share of Increased Rates (25%)	\$48.00	\$12.00	\$0.00	\$60.00

Statewide

Total Revenues (SFY 2022)	\$3,000.00
Provider Tax	2%
Provider Tax Revenue	\$60.00
State Funds (25%)	\$60.00
Federal Funds (75%)	\$180.00
Additional Medicaid Funding	\$240.00
Previous Medicaid Funding	\$1,000.00
	\$1,240.00
	24.00%

Federal and State Legislation

Federal Legislation:

- 42 CFR 433.55 Health care-related taxes defined
- 42 CFR 433.56 Classes of health care services and providers defined
- 42 CFR 433.68 Permissible health care-related taxes
- 42 CFR 433.70 Limitation on level of FFP for revenues from health care-related taxes
- 42 CFR 433.72 Waiver provisions applicable to health care-related taxes

State Legislation:

- KRS Chapter 142.301 thru 142.363

**QUESTIONS
and/or
Comments?**